

**Department of Public Works  
City Engineering Division**

November 1, 2006

Honorable City Council:

Re: Petition No. 4285 — Delta Environmental Consultants, Inc. (together with BP Products North America, Inc.) requesting permission to install and maintain permanent monitoring well(s) encroaching within public rights-of-way in the vicinity of Amoco Service Station No. 6894, located at One East McNichols Road; east side of John R, between E. McNichols and Edgevale.

Petition No. 4285 of "Delta Environmental Consultants, Inc. (together with BP Products North America, Inc.)" requests permission to install and maintain three permanent monitoring wells within the eastern margin of John R Street, 66 feet wide. All three wells are in the vicinity of an Amoco Service Station (address: One East McNichols Road). The purpose of the bored wells is to monitor the existence or extent of soil contamination from leaking underground fuel storage tanks (a/k/a "L.U.S.T.").

The encroachment petition was referred to the City Engineering Division — DPW for investigation and report. This is our report.

Soil borings and monitoring well installations are equivalent to an "open cut" in a public street or alley. Necessary permits have to be obtained for any street or alley opening, backfill, surface restoration, barricade, or occupancy of city rights-of-way to install monitoring wells.

It is the responsibility of "Delta Environmental Consultants, Inc." to give reasonable and proper notice to any other abutting property owner(s) before commencing any open cut or boring operations within public rights-of-way.

The enforcement of fire safety regulations and building codes is the responsibility of the Fire Marshal and Buildings and Safety Engineering Department. Generally, the Fire Marshal and Buildings and Safety Engineering Department report no objections to the placement and maintenance of permanent L.U.S.T. monitoring well encroachments within public rights-of-way.

The AT&T Telecommunications Company, DTE Energy Company — Edison, DTE Energy Company — MichCon Gas, Public Lighting Department, and the Water and Sewerage Department report facilities in the area.

The Public Lighting Department (PLD) reports overhead lines feeding the street lights and traffic signal poles within public street rights-of-way. Monitoring wells drilling equipment must clear PLD overhead power lines; in this installation PLD requires ten feet clearance. The proposed permanent monitoring wells are not allowed to be built over PLD facilities or hinder movement of PLD maintenance equipment.

The Water and Sewerage Department (DWSD) requires free and easy access to water main and/or sewer facilities at all times to permit proper operation, maintenance, alteration or repair of DWSD sewerage facilities.

ers, drains, water mains, fire hydrants, catch basins, sewer and water manholes (and any other DWSD facilities). The proposed permanent monitoring wells are not allowed to be built over DWSD facilities or hinder movement of DWSD maintenance equipment.

AT&T Telecommunications Company reports underground facilities near the proposed monitoring wells. In this installation AT&T requires "care, caution, and hand-digging" instead of drilling (if "Miss Dig" utility markings indicate an area of conflict). All other involved city departments and privately owned utility companies request the petitioner(s) make use of "Miss Dig" facilities before any soil borings or permanent monitoring wells are installed in public (street or alley) rights-of-way.

Finally, the City Engineering Division — DPW requires "Delta Environmental Consultants Inc." to submit certified "as built" drawings, a map and survey, showing the exact location of the petitioner's completed permanent L.U.S.T. monitoring well installations within public rights-of-way.

In accord with the City Council policy adopted on June 6, 1990 (J.C.C. Pgs. 1325-26) and Detroit Code (Sec. 50-1-9), there is an appropriate resolution, granting the encroachment petition, attached for consideration by your Honorable Body.

Respectfully submitted,

NADIM HAIDAR

Acting Head Engineer

City Engineering Division—DPW

STATE OF MICHIGAN) ss.  
CITY OF DETROIT)

I, Janice M. Winfrey

CITY CLERK of the City of Detroit, do

hereby certify that the annexed paper is a True Copy of a Resolution

adopted by the City Council on January 10, 2007

and approved by the Mayor on January 23, 2007

as appears from the [REDACTED] of said City Council, on file in my office.

Returned by:

Drafted by:

Jorossi Watt

200 C.A.Y.M.C.

Detroit, MI 48226

WAP ATTACHED

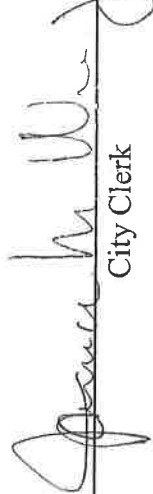
L1 47506

PA 1021-1023

Recd 10/8/08

April, 4, 2007

IN WITNESS WHEREOF, I have hereunto  
Set my hand and affixed the Corporate  
Seal of said City, at Detroit, on

  
City Clerk

By Council Member Kényatta:

Whereas, City Council adopted a resolution (June 6, 1990 — J.C.C. Pgs. 1325-26) urging the Michigan Department of Environmental Quality — Remediation and Redevelopment Division (now "MDEQ — RRD", formerly "MDNR") to investigate, inspect, and remedy all environmental problems in the City of Detroit to ensure public safety; also

Whereas, The State of Michigan requires that all underground storage tanks be registered and inspected for leaks. Also, the "State" has mandated the replacement of leaking tanks including removal (and proper disposal) of contaminated soil; also

Whereas, The owners of certain suspected leaking underground storage tanks ("L.U.S.T.") have been required by "MDEQ — RRD" to place L.U.S.T. monitoring wells "permanently (meaning more than thirty days, or other long-term duration)" on privately owned property, and within dedicated public rights-of-way; also

Whereas, Any L.U.S.T. can contaminate soil and diminish the value of surrounding properties, including public rights-of-way. The taxpayers of Detroit invested substantial capital in the acquisition, site preparation, insurance, and maintenance of public rights-of-way. Finally, it is in the interests of public health, safety, and welfare to detect the presence of hazardous materials and/or soil contamination from L.U.S.T.(s); therefore be it

Resolved, The City Engineering Division — DPW is hereby authorized and directed to issue permits to "BP Products North America, Inc.", owner of the Amoco Service Station at One East McNichols Road Avenue, and/or "Delta Environmental Consultants, Inc.", to install and maintain three monitoring wells encroaching within public rights-of-way for the purpose of detecting the presence of hazardous materials and/or soil contamination from any leaking underground storage tank (L.U.S.T.); said public right-of-way being nearby or adjoining property described as follows:

Land in the City of Detroit, Wayne County, Michigan being Lots 1 through 4 of "North Woodward Subdivision of the West 909.52 feet of the Southwest Quarter of Section 12, Town 1 South, Range 11 East, Greenfield (Township)," as recorded in Liber 26, Page 70, Plats, Wayne County Records;

Encroachment to consist of three "permanently" (meaning more than thirty days, or other long-term duration) installed L.U.S.T. monitoring wells; being nearby or adjoining the above described property, within the following public rights-of-way:

3 wells — Eastern margin (between the lot line and curb face) of John R Street, 66 feet wide, between East McNichols Road and Edgevale Avenue;

Provided, That nothing in this resolution shall be construed as giving any authority, permission or grant to the permittee for any part of the encroaching L.U.S.T. monitoring wells to be placed upon the surface or underground rights of privately owned property. Enforcement of violations of fire safety regulations and building codes is the responsibility of the Fire Marshal and the Buildings and Safety Engineering Department. The petitioner shall apply to the Buildings and Safety Engineering Department for approval and permits to place any monitoring wells on privately owned property (if necessary); and further

Provided, it is the intention of this resolution to authorize the City Engineering Division — DPW (prior to the issuance of "encroachment" permits) to act in behalf of the city and require the permit applicant to perform any reasonable task to protect public property interests including, but not limited to, the submission of engineering plans (containing construction details and distances from property lines) of the proposed encroaching L.U.S.T. monitoring wells. Also, the City Engineering Division — DPW may require the permit applicant to secure approval(s) of said plans from Wayne County, the State of Michigan, any city departments (including commissions, authorities, corporations, councils, boards, contractors, and agencies whenever applicable) and/or utility companies; whether Wayne County, the State of Michigan, city departments and/or utility companies are specifically enumerated in this resolution or not; and further

Provided, Said L.U.S.T. monitoring well encroachments shall be maintained under the rules and regulations of the City Engineering Division — DPW, the Department of Buildings and Safety Engineering, and the Fire Marshal in accord with Detroit Code Section 50-1-9 and 10; and further

Provided, Whenever it becomes necessary to open-cut, drill, bore, jack, occupy or barricade public rights-of-way for additional test holes or maintenance of the monitoring well installation(s), such work shall be according to detailed permit application drawings (to be submitted by the petitioner on their assigns, subject to city department review and stamp approvals) prior to any public right-of-way construction (including, if necessary, adjustments or removals); and further

Provided, It is the responsibility of "Delta Environmental Consultants, Inc." to give reasonable and proper notice to any other abutting property owner before commencing any (permitted) open cut or boring operations within public rights-of-way; and further

Provided, Said encroaching L.U.S.T. monitoring well installations shall be according to the specifications of the Public Lighting Department (PLD); Monitoring wells drilling equipment shall use "care and caution" to clear PLD overhead power lines; PLD requires the installer to maintain a minimum ten feet horizontal clearance at all times. The proposed permanent monitoring wells are not allowed to be built over PLD facilities (maintain a minimum of 4.50 feet horizontal clearance from any underground PLD facilities). The fixed encroachments shall not hinder movement of PLD maintenance equipment; and further

Provided, Said encroaching L.U.S.T. monitoring well installations shall be according to the specifications of the Water and Sewerage Department (DWSD). DWSD requires free and easy access to water main and/or sewer facilities at all times to permit proper operation, maintenance, alteration or repair of DWSD sewers, drains, water mains, fire hydrants, catch basins, sewer and water manholes (and any other DWSD facilities). The proposed permanent monitoring wells are not allowed to be built over DWSD facilities or hinder movement of DWSD maintenance equipment; and further

Provided, Said encroaching L.U.S.T. monitoring well installations shall be according to the specifications of the AT&T Telecommunications Company (AT&T). AT&T reports underground facilities near the proposed monitoring wells. In this installation AT&T requires "care, caution, and hand-digging" instead of drilling (if "Miss Dig" utility markings indicate an area of conflict); and further

Provided, All costs for the construction, maintenance, permits and use of the encroaching L.U.S.T. monitoring wells shall be borne by the petitioner. Should damages to utilities occur, the petitioner shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations; and further

Provided, If it becomes necessary to repair or replace the utilities located or to be located in the public rights-of-way, by the acceptance of this permission, the owners for themselves, their heirs or assigns, waive claims for any damages to the encroaching installations and agree to pay the costs incurred in the removal, if the removal becomes necessary, and to restore the property affected to a condition satisfactory to the City Engineering Division — DPW at the owner's expense; and further

Provided, That the encroaching L.U.S.T. monitoring wells shall be installed and maintained with a secure frame and cover, so as to fit flush within the public sidewalk, berm, or pavement grade. All public rights-of-way shall be maintained safe and convenient for public travel. The petitioner shall be liable for all claims, demands, costs, damages, expenses, and causes of action of every kind and character arising in favor of any person, or other legal entity, on account of personal injuries or death or damage to property caused by or claimed or alleged to have arisen out of failure to properly install and maintain any encroaching L.U.S.T. monitoring well. The installation and maintenance of said encroachments shall comply with the rules and regulations of the City Engineering Division — DPW and Traffic Engineering Division — DPW; and further

Provided, The petitioner shall file with the Finance Department an indemnity agreement approved by the Law Department, saving and protecting the City of Detroit from any and all claims that may arise therefrom. Also, the petitioner shall be required by the Law Department in conjunction with the Finance Department — Risk Management Division to present proof of financial capability (bonds or insurance) to pay any claims, damages or expenses that may arise as a result of L.U.S.T. monitoring well(s) placement, installation or maintenance in public rights-of-way; and further

Provided, That said permittee shall be subject to any tax under the provisions of the General Property Tax Act which may be levied against it pursuant to law; and further

Provided, That no rights in the public streets, alleys or other public places shall be considered waived by this permission which is granted expressly on the condition that said encroachments shall be removed at the expense of the permittee at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to City Engineering Division — DPW at the permittee's sole cost and expense; and further

Provided, That said permits issued by the City Engineering Division — DPW and/or the Buildings and Safety Engineering Department are granted with the distinct understanding that in the event the City Charter, or Detroit Code(s), or ordinance(s), or resolution(s), or City policies (governing the placement of encroachments in public rights-of-way) are amended to provide for levying thereafter, of a fee, charge or rental, to be hereafter determined upon, for the occupancy of public streets, alleys or other public places, that the permittee will pay said fee, charge or rental provided for in said Charter, or code(s), or ordinance(s), or resolution(s), or policies; also said permittee does hereby bind itself thereunto, and to accept said permits on the conditions hereby imposed, and in the event said permittee shall contest the validity of said Charter, or code(s), or ordinance(s), or resolution(s), or policies of said fee, charge or rental, or upon refusal to pay same, these permits shall immediately become void; and further

Provided, This resolution is revocable at the will, whim or caprice of the City Council, and permittee hereby waives any right to claim damages or compensation for removal of encroachment(s), and further, that the permittee acquires no implied or other privileges hereunder not expressly stated herein; and further

Provided, That the petitioner shall apply to and become a participating member of "Miss Dig" to comply with Michigan Public Act 53 of 1974, "Protection of Underground Facilities (460.701-460.718)"; and further

Provided, The filing of the indemnity agreement and the securing of the necessary permit(s) referred to herein shall be construed as acceptance of this resolution by the permittee; and further

Provided, That the encroachment permit shall not be assigned or transferred without the written approval of the City Council; and further

Provided, That the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds; and be it further

Resolved, The petitioner, "BP Products North America, Inc.", owner of the Amoco Service Station at One East McNichols Road Avenue, and/or "Delta Environmental Consultants, Inc.", shall submit "as built" drawing(s) sealed by a professional engineer or surveyor registered in the State of Michigan to the City Engineering Division — DPW within 30 days after obtaining the necessary "encroachment" permit to install three proposed monitoring wells. Said "as built" drawing(s) shall furnish a complete means of identifying and ascertaining the precise position of every part of the "encroachment(s)" with courses, distances, and depth throughout (containing City of Detroit datum), so that it may be determined with certainty where any portion of the "encroachment(s)" has been built. Copies of the certified "as built" map(s) and survey(s) shall be an "appendix" to this City Council resolution. Said "appendix" shall be recorded by the City Engineering Division — DPW in the Wayne County Register of Deeds.

Adopted as follows:  
 Yeas — Council Members S. Cockrel,  
 Collins, Conyers, Jones, Kenyatta,  
 Reeves, Tinsley-Talabi, Watson, and  
 President K. Cockrel, Jr. — 9.  
 Nays — None.

PETITION NO. 4285  
 DELTA ENVIRONMENTAL CONSULT.  
 39810 GRAND RIVER - STE. C-100  
 NOVI, MI 48275  
 C/O WENDY E. BAYLESS  
 PHONE NO. 1-248-689-0240



EDGEVALE 50 FT. WD.



E. McNICHOLS 66 FT. WD.



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