

May 13, 2005

Honorable City Council:

RE: Petition No. 2653 – Delta Environmental Consultants Inc., requesting to install and maintain encroachment of four (4) monitoring wells in the rights-of-way at 17804 West McNichols Avenue, a Amoco Service Station.

Petition No. 2653 of “Delta Environmental Consultants Inc.”, requests permission to install and maintain four (4) monitoring wells within Fenmore Avenue, 60 feet wide, and West McNichols Avenue, 96 feet wide at 17804 West McNichols Avenue. The purpose of the bored wells is to monitor the existence or extent of soil contamination.

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

Soil boring and monitoring wells installations are equivalent to an “open cut” in a public street or alley. Necessary permits will have to be obtained for any street or alley opening, backfill, or occupancy of the City rights-of-way to install monitoring wells.

The Water and Sewage Department (DWSD) will require a minimum vertical clearance of one foot, and a minimum horizontal clearance of three and one half feet between DWSD sewers, drains, water mains, fire hydrants, catch basins, sewer and water manholes (and any other DWSD facility) and the proposed monitoring wells.

All other city departments and privately-owned utility companies have requested that the petitioner make use of the “MISS DIG” facilities before any soil borings or permanent monitoring wells are installed in the public (street or alley) rights-of-way. Should damages to the utilities occur the petitioner shall be liable for all claims and damages to the encroaching installations.

Finally, the City Engineering Division – DPW will require “Delta Environmental Consultants Inc.” to submit certified “as-built” drawings, a map and survey showing exact location of the petitioner’s complete permanent monitoring well installations within the public rights-of-way.

An appropriate resolution, granting the encroachments, is attached for consideration by your Honorable Body.

Respectfully submitted,

A handwritten signature in cursive script that reads "William Talley".

William Talley, Head Engineer
City Engineering Division – DPW

NRP/

Cc: James A. Jackson, Director – DPW
Mayor's Office, City Council Liaison
James D. Foster, Supervisor of Maps and Records

BY COUNCIL MEMBER: _____

WHEREAS, City Council has adopted a resolution (June 6, 1990 – J.C.C. Pgs. 1325-26) urging the Michigan Department of Natural Resources and Environmental Protection Agency (“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 shall be registered and inspected for leaks. Also, the “State” has mandated the replacement of leaking tanks including removal (and proper disposal) of contaminated soil; therefore be it

RESOLVED, The City Engineering Division – DPW is hereby authorized and directed to issue permits to “Delta Environmental Consultants, Inc.” and/or “BP Products north America, Inc.”, to install and maintain four (4) permanent monitoring wells encroaching within public rights-of-way for the purpose of detecting the presence of hazardous materials and/or soil contamination from leaking underground storage tanks; said public rights-of-way being nearby or adjoining property described as follows:

Lying within West McNichols Avenue, 96 feet wide, and Fenmore Avenue, 60 feet wide, North of West McNichols Avenue and between Southfield Freeway and Fenmore Avenue, adjacent to Lots 34 through 37, both inclusive, of the “Palmer – Mill Subdivision of part of the Southwest ¼ of the Southwest ¼ of Section 12 T.1S., R10E. Redford Township (now City of Detroit) Wayne County Michigan” as recorded in Liber 48 Page 47, Plats, Wayne County Records;

Encroachment(s) to consist of “permanently” (meaning more than thirty days, or other long-term duration) installed monitoring wells within public rights-of-way, nearby or adjacent to the above described property;

PROVIDED, That by approval of this petition the Detroit Water and Sewerage Department (DWSD) does not waive any of its rights to its facilities located in the street, and at all time, DWSD, its agents or employees, shall have the right to enter upon the street to maintain, repair, alter service, inspect, or install its facilities. All costs incident to the damaging, dismantling, demolishing, removal and replacement of structures or other improvements herein permitted and incurred in gaining access to DWSD’s facilities for maintenance, repairing alteration, servicing or inspection by DWSD shall be borne by the petitioner. All costs associated with gaining access to DWSD’s facilities which could normally be expected had the petitioner not encroached into the alley shall be borne by DWSD.

PROVIDED, That all construction performed under this petition shall not be commenced until after (5) days written notice to DWSD. Seventy-two (72) hours notice shall also be provided in accordance with P.A. 53 1974, as amended, utilizing the MISS DIG one call system.

PROVIDED, Construction under this petition is subject to inspection and approval by DWSD forces. The cost of such inspection shall, at the discretion of DWSD, be borne by the petitioner.

PROVIDED, If DWSD facilities located within the street shall break or be damaged as the result of any action on the part of the petitioner, then in such event the petitioner agrees to be liable for all costs incident to the repair, replacement or relocation of such broken or damaged DWSD facilities.

PROVIDED, The petitioner shall hold DWSD harmless for any damage to the encroaching device constructed or installed under this petition which may be caused by the failure of DWSD's facilities.

PROVIDED, That if at any time in the future the petitioner shall request removal and/or relocation of DWSD's facilities in the alley being encroached upon the petitioner agrees to pay all costs for such removal and/or relocation.

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 monitoring wells to be places upon the surface or underground rights of privately-owned property. Enforcement of violations of fire safety regulations and buildings code is the responsibility of the Fire Marshal and Buildings and Safety Engineering Department. The petitioner shall apply to the Buildings and Safety 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 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 each proposed encroaching 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 city commissions, authorities, corporations, councils, boards, contractors, and agencies whenever applicable) and/or utility companies are specifically enumerated in this resolution or not; and further

PROVIDED, Said monitoring well encroachment(s) shall be installed and maintained under the rules and regulations of the City Engineering Division – DPW, the Fire Marshal and Buildings and Safety Engineering Department 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 construction of monitoring well installations, such work shall be according to detailed permit application drawings (to be submitted by the petitioner or their assigns, subject to city department review and stamp approvals) prior to any public right-of-way construction; and further

PROVIDED, said encroaching monitoring well installations shall be according to the specifications of the Detroit Water and Sewerage Department (DWSD), including the minimum vertical clearance of one foot, a minimum horizontal clearance of three and one half feet between DWSD sewers, drains, water mains, fire hydrants, catch basins, sewer and water manholes or shut-off (and any other DWSD facilities) and the proposed permanent monitoring well encroaching installations; and further

PROVIDED, All costs for the construction, maintenance, permits and use of the encroaching 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 cost incurred in their removal, if their 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 any encroaching 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, damages, costs, demands, expenses, and cause 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 monitoring wells. The installation and maintenance of said encroachments shall comply with the rules and regulations of the City Engineering and Traffic Engineering Division(s) – DPW; and further

PROVIDED, That the petitioner shall file with the Finance Department an indemnity agreement in form approved by the Law Department. The agreement shall save and protect the City of Detroit from any and all claims, damages or expenses that may arise by reason of the issuance of the permits and faithful or unfaithful performance by the petitioner of the terms thereof. Further, the petitioner shall agree to pay all claims, damages, or expenses that may arise out of the maintenance of the proposed encroachments; and further

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

PROVIDED, That no other rights in the public streets, alley or other public places shall be consider waived by this permission which is granted expressly 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 – DWP at the permittee sole cost and expense; and further

PROVIDED, That the petitioner shall apply to become a participating member of the "MISS DIG" organization (if necessary); and further

PROVIDED, That said permits issued by the City Engineering Division – DPW and/or the Buildings and Safety Engineering Department(s) 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 the public rights-of-ways) are amended to provide for levying thereafter, of 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 do hereby bind itself thereunto, and 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, 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, The installation and maintenance of the encroachments referred to herein shall be construed as acceptance of this resolution by the permittee; and further

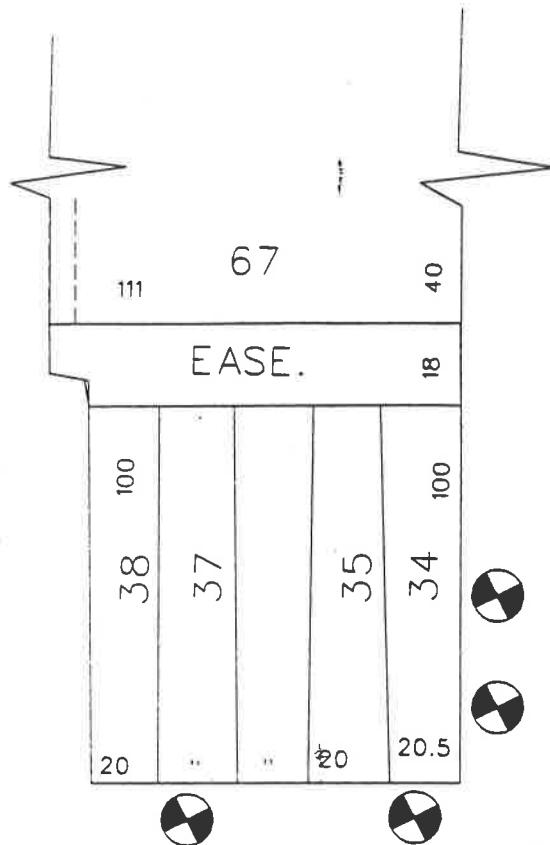
PROVIDED, That the encroachment permits shall be assigned or transferred without the written approval of the City Council; and further

PROVIDED, That the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds.

PETITION NO. 2653
 DELTA ENVIRONMENTAL CONSULT.
 39810 GRAND RIVER
 NOVI, MI 48375-2138
 c/o IVY MILLER
 PHONE NO. 248.699.0231



SOUTHFIELD FWY.



FENMORE 60 FT. WD.

W. McNICHOLS 96 FT. WD.

 - AREA OF ENCROACHMENT(S)
 (MONITORING WELLS)

(FOR OFFICE USE ONLY)

CARTO 104 E

B					
A					
DESCRIPTION	DRWN	CHKD	APPD	DATE	
REVISIONS					
DRAWN BY	CHECKED				
DATE	APPROVED				
8-19-04					

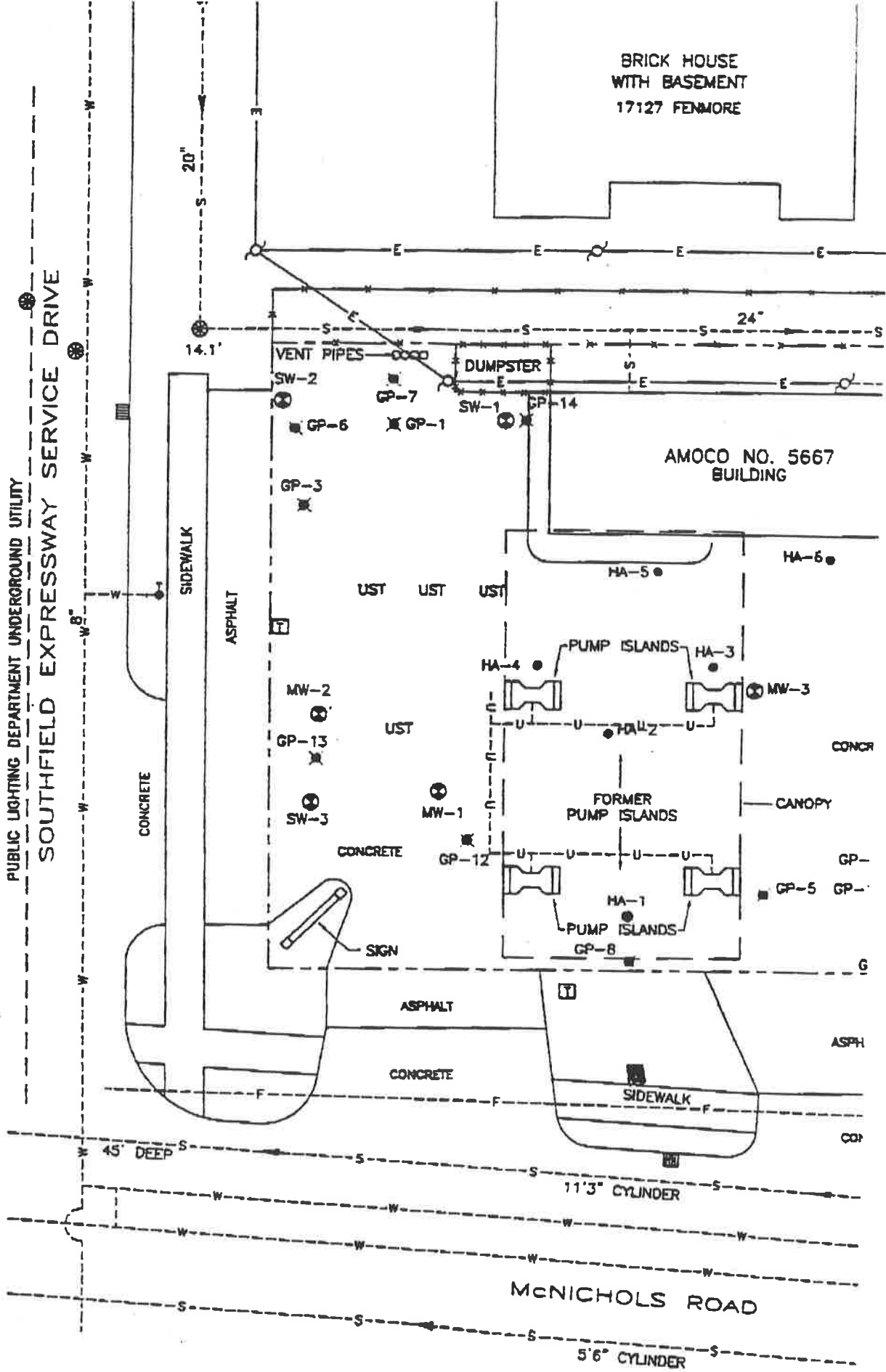
REQUESTED TO ENCROACH INTO
 FENMORE AND W. McNICHOLS
 WITH MONITORING WELLS IN THE
 AREA OF SOUTHFIELD FWY., FENMORE
 AND W. McNICHOLS.

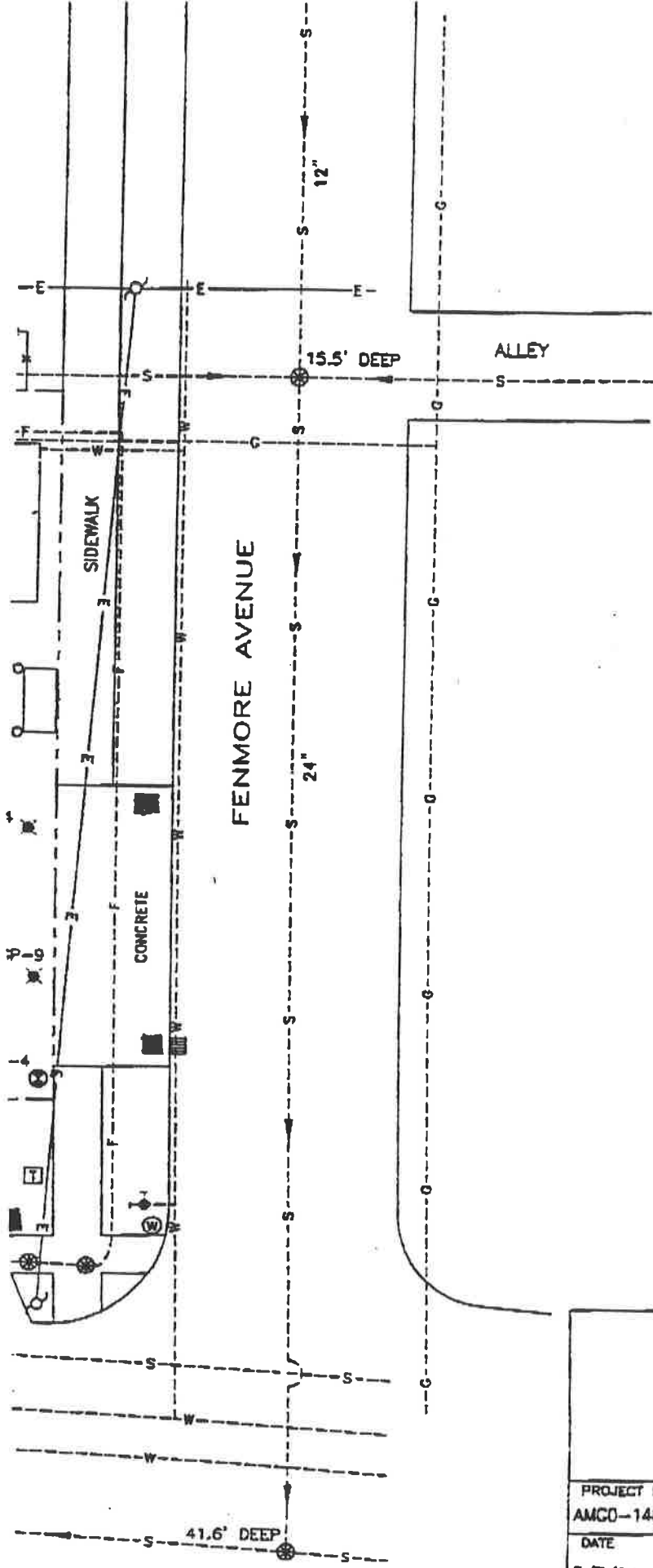
CITY OF DETROIT
 CITY ENGINEERING DEPARTMENT
 SURVEY BUREAU
 JOB NO. 01-01
 DRWG. NO. x2653.dgn

BRICK HOUSE WITH BASEMENT
17127 FENMORE

PUBLIC LIGHTING DEPARTMENT UNDERGROUND UTILITY
SOUTHFIELD EXPRESSWAY SERVICE DRIVE

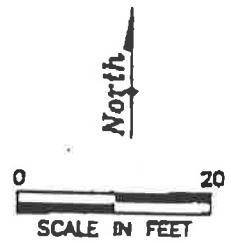
AMOCO NO. 5667
BUILDING





LEGEND:

- PROPERTY BOUNDARY
- FENCE
- ⊙ MONITORING WELL
- ⊗ GEOPROBE
- HAND AUGER
- S--- COMBINATION SEWER LINE
- W--- WATER LINE
- E--- ELECTRIC LINE
- G--- GAS LINE
- F--- FIBER OPTIC LINE
- U--- APPROXIMATE LOCATION OF UST LINES
- CATCH BASIN
- ⊙ MANHOLE
- ⊕ HYDRANT
- ⊗ WATER VALVE
- ⊕ UTILITY POLE
- ⊕ PUBLIC TELEPHONE
- Proposed monitoring well

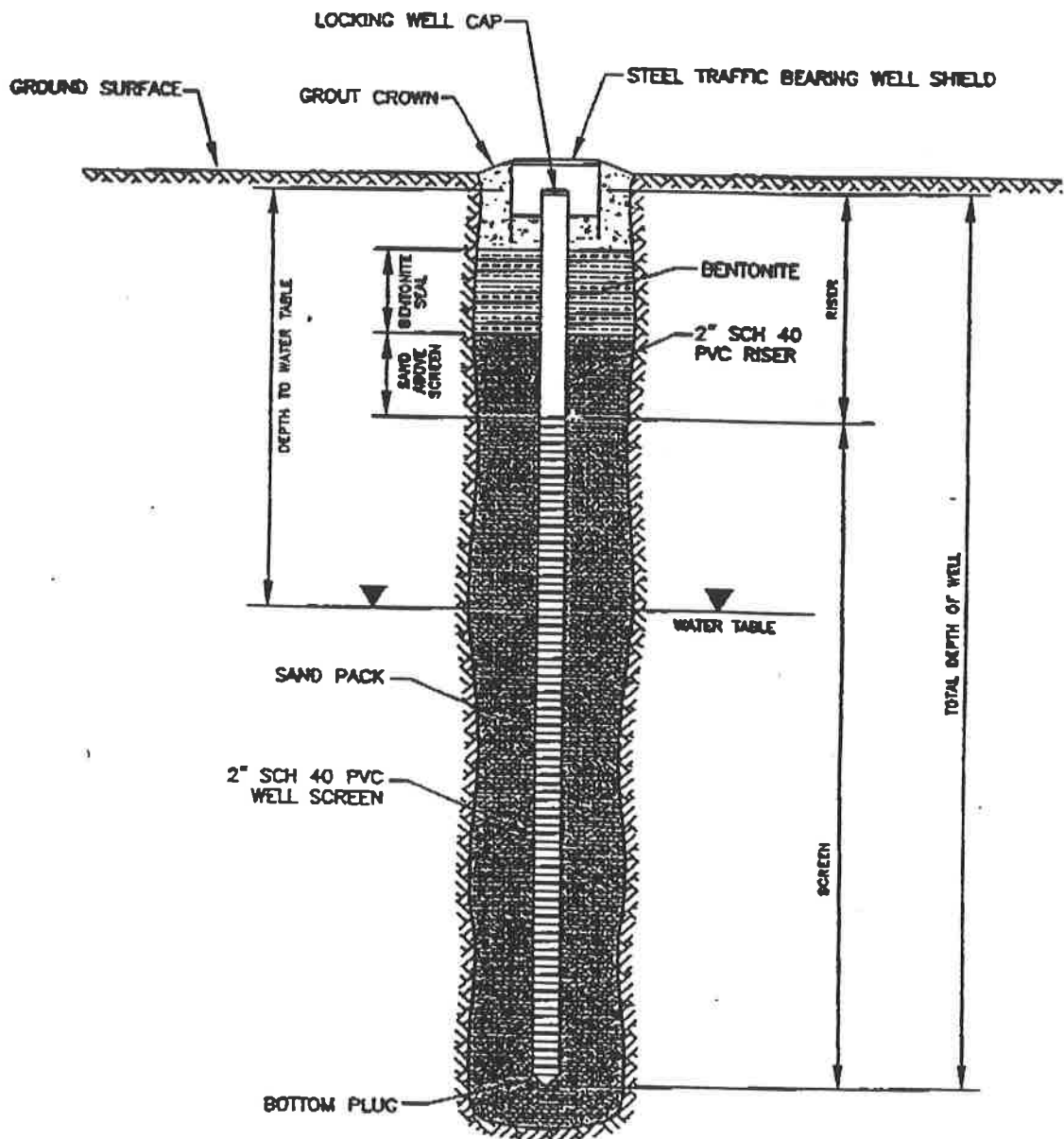



**FIGURE 2
SITE MAP**

**AMOCO SERVICE STATION NO. 5667
17804 WEST McNICHOLS ROAD
DETROIT, MICHIGAN**

PROJECT NO. AMCO-14G-5	PREPARED BY IM	DRAWN BY JB
DATE 5/5/04	REVIEWED BY	FILE NAME 14342SM





 Delta Environmental Consultants, Inc. 38810 Grand River Avenue, Suite C-100 Novi, Michigan 48375			
PROJECT NO.	PERM NO.	OWNER/AGENCY	
PROJECT MANAGER	1		
DESIGNED BY	DRAWING DESCRIPTION		
DD	AS-BUILT MONITORING WELL DETAIL		
REVIEWED BY	DATE	SCALE	GRID NO.
	10/14/02	NONE	MW-GEN

**WRITTEN ACCEPTANCE OF THE TERMS AND CONDITIONS OF DETROIT
CITY COUNCIL RESOLUTION PETITION NUMBER 2653, ADOPTED _____**

Atlantic Richfield Company an affiliate of BP Products North America, Inc. ("Permittee") whose address is Post Office Box 352917, Toledo, Ohio, 43635-2917, by and through Kevin Endriss, its Environmental Business Manager does hereby accept the terms and conditions of the City Council Resolution granting Petition Number 2653, and agrees to comply with its requirements; and further, that pursuant to the said Resolution, Permittee does hereby agree to save harmless the City of Detroit ("The City") from any and all liabilities, obligations, penalties, costs, changes, losses, damages, or expenses (including without limitation, fees and expenses of attorneys, expert witnesses and other consultants) which may be imposed upon, incurred by or asserted against the City by reason of the issuance of said permit(s), or the performance or non-performance by the Permittee of the terms of the permit(s) hereof, or that may rise out of the maintenance of the above described easement by Permittee's personnel, agents, and employees; and Further, that in accordance with the said Resolution, a certified copy of the aforementioned City Council resolution will be recorded in the Office of the Register of Deeds of Wayne County by the City Clerk.

Wherefore, we have hereunto set our hands on this ____ day of _____, 2005.

Witnessed By:

Permittee: Atlantic Richfield Company an affiliate
of BP Products North America, Inc.

By: _____

Its: _____

Approved as to form and execution:



Name

Date:

Title: Environmental Business Manager

STATE OF MICHIGAN }
 }ss.
COUNTY OF WAYNE }

On this __ day of _____, 2005, before me, a Notary Public in and for said County, appeared _____ to me known personally, who being duly sworn, did say that he is the Environmental Business Manager of Atlantic Richfield Company an affiliate of BP Products North America, Inc. and that the Written Acceptance of the Terms and Conditions of the City of Council Resolution Approving Petition No. 2651, adopted on _____, was signed on behalf of said corporation be authority of its Board of Directors

Notary Public