

September 25, 2006

Honorable City Council:

RE: Petition No. 3858 – Delta Environmental Consultants, Inc., requesting to encroach in the area of 6150 Chalmers (Amoco Service Station No. 5284) to conduct environmental assessment by installing and maintaining monitoring wells within the public rights-of-way.

Petition No. 3858 of "Delta Environmental Consultants, Inc.," 39810 Grand River, Suite C-100, Novi, Michigan 48375-2138, on behalf of their client, BP Products North America, Inc. (BP), is requesting permission to install and maintain three (3) permanent monitoring wells within certain public streets (two (2) in Chalmers Ave., and one (1) in Harper Ave.), all in the vicinity of 6150 Chalmers 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:

The monitoring wells will be approximately six inches in diameter and installed at a total depth of approximately 8 feet below grade. The monitoring wells will be covered with an 8" steel, flush mounted well vault, set in a 2'x2' concrete pad.

Soil borings and monitoring well 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 City rights-of-way to install monitoring wells.

The Detroit Water and Sewerage Department (DWSD) report an existing 15'-3" sewer directly under the proposed monitoring wells. DWSD has no objection to the proposed encroachments provided minimum clearances are maintained and certain provisions of the attached resolution are followed. Said clearances are to be maintained between DWSD sewers, drains, water mains, fire hydrants, catch basins, sewer and water manholes (and any other DWSD facility) and the proposed monitoring wells.

The Public Lighting Department (PLD) reports having manholes, traffic signal and a cable pole in the area of the proposed monitoring well encroachments. The proposed encroachments and any associated activity should not hamper PLD's 24 hour heavy vehicle access to its facilities.

Also, PLD has high voltage (4800 V) overhead line in the area where construction is proposed. The petitioner is required to keep all equipment at least 10 feet away from overhead lines and to be especially cautious when moving equipment or materials. Any damage to PLD property will be the contractor's liability.

The Traffic Engineering Division – DPW has no objections provided the existing grade shall be maintained and flush mounted covers are installed after the installation of the proposed monitoring wells.

DTE Energy Gas reports having an existing 12" Cast Iron (2 psig) gas main installed in 1925, 11 feet north of the south Harper Ave. right-of-way line. However, DTE Energy Gas has no objections, provided that the proposed monitoring well encroachments are not located closer than 3 feet to the gas main.

DTE Energy Electric reports having an overhead line on the east side of Chalmers, in the area where construction is proposed. However, DTE Energy Electric has no objections, provided the overhead lines are not disturbed.

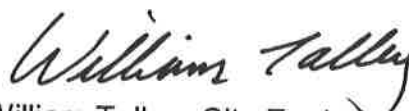
SBC reports that the petitioner relocates, at their expense, SBC facilities in area of the proposed encroachments. However, satisfactory arrangements have been reported between SBC and the petitioner.

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 public (street or alley) rights-of-way. Should damage to 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.," 39810 Grand River, Suite C-100, Novi, Michigan 48375-2138, on behalf of their client, BP Products North America, Inc., to submit certified "as-built" drawings, a map and survey showing the exact location of each of the petitioner's completed permanent monitoring well installations within public rights-of-way.

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

Respectfully submitted,



William Talley, City Engineer
City Engineering Division – DPW

JDF: NP

cc: Cathy Square, Director – DPW
Mayor's Office, City Council Liaison

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.," 39810 Grand River, Suite C-100, Novi, Michigan 48375-2138, on behalf of their client, BP Products North America, Inc., to install and maintain three (3) permanent 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; said public rights-of-way being nearby or adjoining property described as follows:

Lying within Chalmers Avenue, variable width, and Harper Avenue, 86 feet wide, adjacent to Lots 9 and 10 of "Sefton Park Subdivision of Lot 4 of Plat of North-East ½ of front and rear concession of P. C. 321, City of Detroit, Wayne County, Michigan, as recorded in Liber 38, Page 86 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 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 placed upon the surface or underground rights of privately-owned property. Enforcement of violations of fire safety regulations and building codes are 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 each proposed encroaching monitoring well. 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; 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 monitoring well encroachment(s) shall be installed and maintained under the rules and regulations of the City Engineering Division – DPW, the Fire Marshal and the 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 installation, 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 encroachments; 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 costs 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 well 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 well. 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 the 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, alleys or other public places shall be considered waived by this permission which is granted expressly on the condition that said encroachment 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 the City Engineering Division – DPW at the permittee's 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 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 the 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, The installation and maintenance of the encroachments referred to herein shall be construed as acceptance of this resolution by the permittee; and further

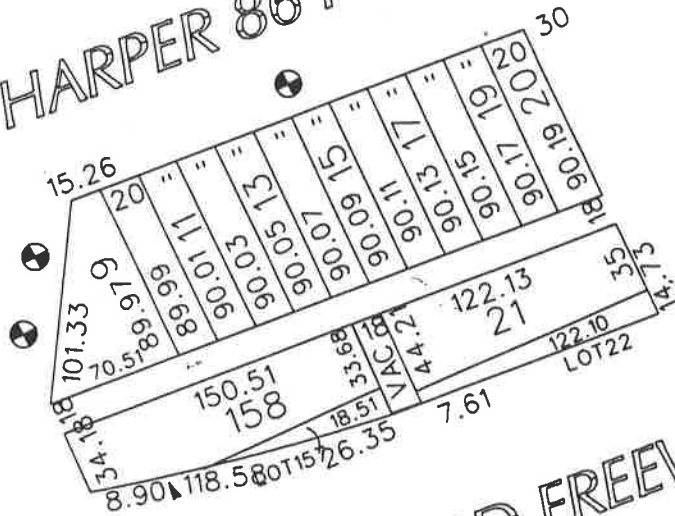
PROVIDED, That the encroachment permits shall not be assigned or transferred without the written approval of the City Council; and further

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

PETITION NO. 3858
 DELTA ENVIRONMENTAL CON.
 39810 W. GRAND RIVER - SUITE C-100
 NOVI, MICH. 48375
 c/o SHAWN BOBICK
 PHONE NO. 1-248-699-0266

HARPER 86 FT. WD.

CHALMERS



- AREA OF ENCROACHMENT(S)
 (WITH MONITORING WELLS)

(FOR OFFICE USE ONLY)

CATRO 65 E

B					
A					
DESCRIPTION		DRWN	CHKD	APPD	DATE
REVISIONS					
DRAWN BY	NP	CHECKED			
DATE	8-8-05	APPROVED			

REQUEST TO ENCROACH INTO HARPER AND
 CHALMER WITH MONITORING WELLS
 IN THE ARE OF CHALMERS, HARPER, AND
 EDSEL FORD FREEWAY.

CITY OF DETROIT	
CITY ENGINEERING DEPARTMENT	
SURVEY BUREAU	
JOB NO.	01-01
DRWG. NO.	x3858.dgn