

**Memorandum
Public Works Department**



To: City Manager
Subject: Request for Memorandum of Understanding
Date: October 31, 2012
Number: 2012-241

The City Engineer has been contacted by American Environmental Corporation, regarding a petroleum product release at Circle K #1230, located at 4423 11th Street. The Illinois Environmental Protection Agency (IEPA) reviewed the test data and asked that the City pass an ordinance prohibiting the drilling of potable water wells within the area bounded by 12th Street, the Rock River, 37th Avenue extended to the Rock River, and 48th Avenue extended to the Rock River as shown on the attached diagram. The City Council passed Ordinance 010-2011 on February 14, 2011 and it was approved on February 15, 2011.

The IEPA is now requesting that the City enter into a Memorandum of Understanding in regards to the ordinance in order to satisfy the requirements of 35 Ill. Adm. Code 742.1015 for the use of groundwater or water well ordinances as environmental institutional controls.

Recommendation

The Public Works Department recommends that the City Council pass the attached Memorandum of Understanding between the City of Rock Island and the Illinois Environmental Protection Agency.

Submitted by: Robert T. Hawes, P.E., Assistant City Manager/Public Works Director
Michael J, Kane, P.E., City Engineer

Approved by: Thomas Thomas, City Manager

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ROCK ISLAND,
ILLINOIS AND THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
REGARDING THE USE OF A LOCAL GROUNDWATER OR WATER WELL
ORDINANCE AS AN ENVIRONMENTAL INSTITUTIONAL CONTROL**

I. PURPOSE AND INTENT

- A. This Memorandum of Understanding (“MOU”) between The City of Rock Island, Illinois and the Illinois Environmental Protection Agency (“Illinois EPA”) is entered into for the purpose of satisfying the requirements of 35 Ill. Adm. Code 742.1015 for the use of groundwater or water well ordinances as environmental institutional controls. The Illinois EPA has reviewed the groundwater or water well Ordinance 010-2011 of February 14, 2011 (Attachment A) and determined that the ordinance prohibits the use of groundwater for potable purposes and/or the installation and use of new potable water supply wells by private entities but does not expressly prohibit those activities by the unit of local government itself. In such cases, 35 Ill. Adm. Code 742.1015(a) provides that the unit of local government may enter into an MOU with the Illinois EPA to allow the use of the ordinance as an institutional control.
- B. The intent of this Memorandum of Understanding is to specify the responsibilities that must be assumed by the unit of local government to satisfy the requirements for MOUs as set forth at 35 Ill. Adm. Code 742.1015(i).

II. DECLARATIONS AND ASSUMPTION OF RESPONSIBILITY

In order to ensure the long-term integrity of the groundwater or water well ordinance as an environmental institutional control and that risk to human health and the environment from contamination left in place in reliance on the groundwater or water well ordinance is effectively managed, the City of Rock Island, Illinois hereby assumes the following responsibilities pursuant to 35 Ill. Adm. Code 742.1015(d)(2) and (i):

- A. The City of Rock Island, Illinois will notify the Illinois EPA Bureau of Land of any proposed ordinance changes or requests for variance at least 30 days prior to the date the local government is scheduled to take action on the proposed change or request (35 Ill. Adm. Code 742.1015(i)(4));

- B. The City of Rock Island, Illinois will maintain a registry of all sites within its corporate limits that have received "No Further Remediation" determinations in reliance on the ordinance from the Illinois EPA (35 Ill. Adm. Code 742.1015(i)(5));
- C. The City of Rock Island, Illinois will review the registry of sites established under paragraph II. B. prior to siting public potable water supply wells within the area covered by the ordinance (35 Ill. Adm. Code 742.1015(i)(6)(A));
- D. The City of Rock Island, Illinois will determine whether the potential source of potable water has been or may be affected by contamination left in place at the sites tracked and reviewed under paragraphs II. B. and C. (35 Ill. Adm. Code 742.1015(i)(6)(B)); and
- E. The City of Rock Island, Illinois will take action as necessary to ensure that the potential source of potable water is protected from contamination or treated before it is used as a potable water supply (35 Ill. Adm. Code 742.1015(i)(6)(C)).

NOTE: Notification under paragraph II. A. above or other communications concerning this MOU should be directed to:

Manager, Division of Remediation Management
Bureau of Land
Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, IL 62794-9276

III. SUPPORTING DOCUMENTATION

The following documentation is required by 35 Ill. Adm. Code 742.1015(i) and is attached to this MOU:

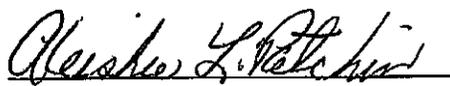
- A. Attachment A: A copy of the groundwater or water well ordinance certified by the city clerk or other official as the current, controlling law (35 Ill. Adm. Code 742.1015(i)(3));
- B. Attachment B: Identification of the legal boundaries within which the ordinance is applicable (certification by city clerk or other official that the ordinance is applicable everywhere within the corporate limits; if ordinance is not applicable throughout the entire city or village, legal description and map of area showing sufficient detail to determine where ordinance is applicable) (35 Ill. Adm. Code 742.1015(i)(2));
- C. Attachment C: A statement of the authority of the unit of local government to enter into the MOU (council resolution, code of ordinances, inherent powers of

CERTIFICATION

I, Aleisha L. Patchin, City Clerk in and for the City of Rock Island, hereby certify the foregoing to be a true and perfect copy of Ordinance No. 010-2011, passed by the Rock Island City Council at their regular meeting of February 14, 2011, which meeting was held by the Rock Island City Council in Council Chambers of Rock Island City Hall.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this 18th day of February 2011.

Seal


Aleisha L. Patchin, City Clerk

ORDINANCE 010-2011

**A SPECIAL ORDINANCE PROHIBITING THE DRILLING
OF POTABLE WATER WELLS WITHIN THE
CITY OF ROCK ISLAND, ILLINOIS**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCK ISLAND, ILLINOIS:

Section One. A special ordinance is hereby established prohibiting the drilling of potable water wells within the area of the city bounded by 12th Street, the Rock River, 37th Avenue extended to the Rock River, and 48th Avenue extended to the Rock River, as shown on the attached map.

Section Two. All ordinances and parts of ordinances in conflict herewith are hereby repealed insofar as they do so conflict.

Section Three. This ordinance shall be in full force and effect from and after its passage and approval, as required by law.

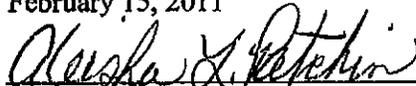


MAYOR OF THE CITY OF ROCK ISLAND

PASSED: February 14, 2011

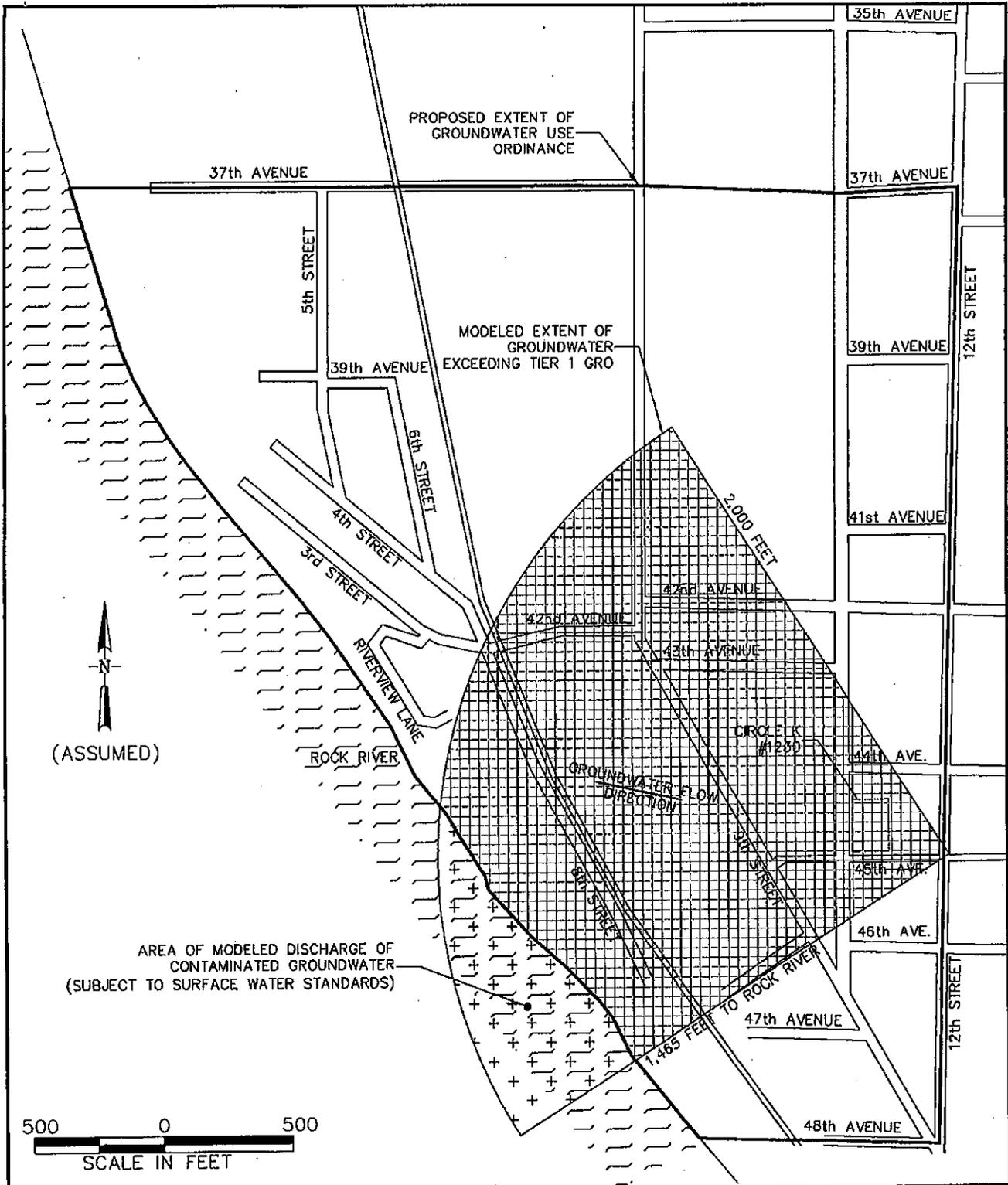
APPROVED: February 15, 2011

ATTEST:


CITY CLERK

AYES: Alderman Brooks
Conroy
Foley
Tollenaer
Jones
Murphy
Austin

NAYS: NONE



American
 Environmental Services
 Indianapolis, Indiana—Corporate Office
 (317) 871-4080
 Louisville, Kentucky—Regional Office
 (502) 491-0144
 Springfield, Illinois—Regional Office
 (217) 585-9517

**PROPOSED EXTENT OF ORDINANCE
 CIRCLE K #1230
 4423 11th STREET
 ROCK ISLAND, ILLINOIS**

Project No.:
257024
 Drawing File:
257024_1
 Date:
11/3/2010

SCALE:
AS SHOWN
 FIGURE:
1