

**Memorandum  
Public Works Department**



**To:** City Manager  
**Subject:** Request for Memorandum of Understanding  
**Date:** December 12, 2011  
**Number:** 2011-344

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The City Engineer has been contacted by Landtech Environmental Services, regarding a petroleum product release at Mother Hubbard's Cupboard #5, located at 1700 18<sup>th</sup> Avenue. 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 18<sup>th</sup> Avenue to the Alley between 18<sup>th</sup> Avenue and 19<sup>th</sup> Avenue and 17<sup>th</sup> Street to a distance of 280 feet east of 17<sup>th</sup> Street. The City Council passed Ordinance 047-2011 on July 7, 2011 and it was approved on July 12, 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

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**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 047-2011 of July 15, 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 mayor or other official signing MOU -- attach copies) (35 Ill. Adm. Code 742.1015(i)(1)).

IN WITNESS WHEREOF, the lawful representatives of the parties have caused this MOU to be signed as follows:

FOR: The City of Rock Island, Illinois

BY: Mr. Michael Kane, City Engineer

DATE: \_\_\_\_\_

FOR: Illinois Environmental Protection Agency

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

Manager, Division of Remediation Management  
Bureau of Land