

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Northern Illinois Gas Company, d/b/a Nicor Gas)
Company)

Plaintiff,)

vs.)

City of Evanston, an Illinois Municipal)
Corporation,)

Defendant.)

Case No. 14 CV 9227

City of Evanston, an Illinois Municipal)
Corporation,)

Judge John Z. Lee

Counter-Plaintiff and Third-)
Party Plaintiff,)

Magistrate Judge Maria Valdez

vs.)

Northern Illinois Gas Company, an Illinois)
corporation, and Commonwealth Edison)
Company, an Illinois corporation.)

Counter-Defendant and Third-)
Party Responsible Parties.)

ANSWER TO AMENDED COMPLAINT

Now comes Defendant, City of Evanston (the “City” or “Evanston”), by its attorneys, Michael S. Blazer, Jeffery D. Jeep, and Jeep & Blazer, LLC, and for its Answer to the Amended Complaint filed by Plaintiff, Northern Illinois Gas Company, d/b/a Nicor Gas Company (“Nicor”), states:

INTRODUCTION

1. This lawsuit arises from the City of Evanston’s factually and legally unfounded efforts to blame Nicor for stray methane gas that has been detected under and in the area of

James Park, a former City-owned landfill, and for alleged “coal tar” material that the City claims to have found under Dodge Avenue on the east side of the park. To that end, the City has served a 90-day notice letter stating that the City will sue Nicor (and others) under the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6972(a)(1)(B). The City also stated that it intends to sue Nicor (and others) under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601-9675, and other “applicable common law and equity.” *See* Oct. 20, 2014 Notice of Intent to Sue (“Notice”) (Exhibit A). Nicor brings this action to resolve an actual controversy with the City and obtain a declaration that it is not liable under RCRA or CERCLA for the presence or remediation of stray methane and alleged “coal tar” material under and in the area of James Park.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. The City admits that it has served a 90-day Notice of Intent to Sue (“NOITS”) in accordance with the provisions of RCRA, and that a copy of the NOITS is attached to the Amended Complaint. For the reasons more fully set forth the Allegations Common to all Counts in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT filed concurrently herewith, the City denies the remaining allegations of ¶1.

2. In 2012, the Metropolitan Water Reclamation District of Greater Chicago (“MWRD”) first discovered stray methane beneath its property, conducted a detailed analysis through two independent scientific consultants, and concluded that the City’s former landfill at James Park was the likely source of the stray methane.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. The City admits that the MWRD discovered petroleum and gas constituents beneath its property in 2012, and that one of the MWRD’s consultants, Tetra Tech, Inc. (“Tetra Tech”) eventually claimed that the James Park Landfill could be the source of the methane. The City denies the remaining allegations of ¶2, and affirmatively states that the Tetra Tech report had limited scientific information and analyses to support the conclusion in their report. The primary data that Tetra Tech relied on was an aerial photo of the clay borrow area filled as part of the landfill operations at James Park in the 1940’s and 1950’s. The aerial photos showed the proximity of the clay borrow area to the general area at the MWRD property where the petroleum and gas were encountered. There was no scale on the photograph. The Tetra Tech report did not propose a distance that these constituents would have to travel to be present at the MWRD site nor did Tetra Tech make any form of analysis to determine that the constituents would be able to travel that distance and occur at the concentrations and pressures found at the MWRD site.

Further, the Tetra Tech report did not offer any relevant data to associate the petroleum and gas found in the borings and probes drilled at the MWRD site with the former landfill in the area of James Park. The actual distance from the project area where the petroleum and gas was encountered at the MWRD site and the closest point at James Park is approximately 1000 feet. The Tetra Tech report also contained no data on the nature and occurrence of either petroleum or gas constituents in the former landfill at James Park in comparison with the constituents found at the MWRD site.

An evaluation of the history of the landfill operations shows that the landfill was only permitted to receive inert waste materials that did not contain petroleum or substantial amounts of putrescible organic materials. Additionally, the landfill ceased receiving waste more than 50 years ago, so the concentration of gas in the landfill and the pressure of these gasses would be expected to be very low even if the landfill had received organic waste materials. The Tetra Tech report did not explore these investigations or lines of logic.

As the result of the foregoing shortcomings and inaccuracies in the Tetra Tech report, among others, the claim that the former landfill at James Park is the source of petroleum and gas in the vicinity is not premised on a scientifically sound basis.

3. In 2013, the City conducted its own analysis, also through a scientific consultant, and concluded that the stray methane was naturally occurring. Under either scenario, the City—as the owner of James Park—would likely bear the legal and financial responsibility for remediating the stray methane.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. The City admits that in 2013 a consultant that it retained, CS Geologic (“CSG”), concluded that the James Park Landfill was not a source of the contaminants found at the MWRD property, and further claimed that the methane at issue was naturally occurring. The City denies the validity or accuracy of this latter claim, and denies the remaining allegations of ¶3. Further answering, the City affirmatively states that no boring information was provided to document the latter statement. CSG did not contend that there was any natural occurrence

of gas that accompanied the presence of alleged petroleum or asphaltic materials found in the upper bedrock in the James Park area.

Further, CSG contended that biodegradation of naturally-occurring asphaltic petroleum residues in the bedrock at the MWRD property was the probable source of the methane gas found at the bedrock-till interface at the Plant. However, natural asphaltic petroleum residues are absent from the site vicinity and therefore cannot be the source of the methane gas. Moreover, the only reference provided by CSG to document the purported liquid-phase petroleum was an 1866 document titled, “History of the Chicago Artesian Well, A Demonstration of the Truth of the Spiritual Philosophy, With an Essay on the Origin and Uses of Petroleum,” by Geo. A. Shufeldt, Jr . According to the text of the document, the boring location for this well was selected during a séance with a spiritual medium. Additionally, a driller’s boring log was presented as an attachment to this paper and it did not identify any petroleum or asphalt at the level that Mr. Shufeldt says that oil was observed. This source lacks scientific credibility.

In summary, and as more fully set forth in the City’s COUNTERCLAIM AND THIRD-PARTY COMPLAINT filed concurrently herewith, the liquid petroleum hydrocarbon materials found in some of the bedrock cores taken from borings made at James Park, and in bedrock cores taken in a boring made by Tetra Tech at the MWRD site, is the result of a release of a petroleum product that is not natural to the James Park area. Based on information and data from the James Park area, the source of the product found in borings in the James Park area is from a release consistent with operations and infrastructure at the Skokie Manufactured Gas Plant (“Skokie MGP”).

4. Facing this prospect, the City retained a new “consulting expert,” hired ostensibly through its attorneys, and now claims that Nicor’s natural gas distribution system and/or a demolished former manufactured gas plant (“MGP”) is actually the source of stray methane at James Park. However, the City has not disclosed to Nicor, the United States Environmental Protection Agency (“EPA”), or the Illinois Environmental Protection Agency (“IEPA”) sampling and data cited in the Notice that purportedly supports the City’s allegations. The City has repeatedly and unjustifiably refused to share the information, including by omitting the information from its response to a Freedom of Information Act (“FOIA”) request from Nicor.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. As more fully set forth in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT filed concurrently herewith, the City admits that its outside counsel retained David Hendron, P.E. with SCS Engineers (“Hendron”), a highly qualified and experienced geotechnical engineer, in order to obtain a thorough and informed assessment of the source(s) of the gas and petroleum waste that had been encountered. The City denies that this retention was as the result of facing any adverse prospect. The City further admits that, after that thorough and informed assessment, the conclusion is that there are only two potential sources of the petroleum and gas found in the area at issue: (1) leakage of natural gas from existing and abandoned natural gas pipelines in the vicinity of James Park; and (2) leakage of petroleum materials from the operational facilities at, and from the maintenance and operation of the pipeline infrastructure systems associated with, the former Skokie MGP.

The City also denies the last two sentences of ¶4, and affirmatively states that it consistently provided all relevant information to both IEPA and Nicor. This resulted in IEPA's advice and concurrence that the presence of methane at high concentration and pressure require ongoing monitoring of whether methane is approaching its lower explosive limit (LEL) of 5% in the basements of Dawes Elementary School and Levy Senior Center. IEPA also provided the City with information on an LEL monitor the City should consider installing at Dawes Elementary School and Levy Senior Center.

The City further denies that it has repeatedly and unjustifiably refused to share information with Nicor, and affirmatively states that the City provided over 40,000 pages of documents to Nicor. Nicor's assertions regarding lack of information are further belied by its unilateral and unsupported conclusion on June 19, 2014 that its "natural gas distribution system is not the source of methane that is currently being detected", and that it had "concluded our investigation". A copy of Nicor's June 19 letter is attached hereto as **Exhibit A**.

5. The City alleges that Nicor is the source of the stray methane despite the fact that the stray methane reportedly has been detected in the bedrock at depths of 40 feet or more below the ground, whereas Nicor's natural gas mains, none of which are located beneath James Park itself, are at an approximate depth of only 3-4 feet. Further, the stray methane, according to the City, has been detected at pressure exceeding 300 inches of water column, whereas the natural gas in Nicor's mains is under pressure of only approximately 7 inches of water column. The City's apparent "magic bullet" theory that natural gas, which is lighter than air, migrated 40 feet or more downward, as well as horizontally to beneath James Park and accumulated at pressure far exceeding the pressure in Nicor's mains, is illogical and defies the laws of physics.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. As more fully set forth in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT filed concurrently herewith, the City admits that the contamination at issue results from operations and instrumentalities owned and operated by Nicor and Commonwealth Edison Company (“ComEd”). The City denies the remaining allegations of ¶5.

Further answering, the City affirmatively states that, after a thorough and informed assessment, the only conclusion is that there are only two potential sources of the petroleum and gas found in the area at issue: (1) leakage of natural gas from existing and abandoned natural gas pipelines in the vicinity of James Park; and (2) leakage of petroleum materials from the operational facilities at, and from the maintenance and operation of the pipeline infrastructure systems associated with, the former Skokie MGP. As more fully set forth in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT filed concurrently herewith, the 1910 Tunnel, Abandoned Gas Line, or the 12-inch diameter gas pipeline running along Dodge Avenue, of which the City learned without the cooperation of Nicor, or other pipelines ComEd and Nicor have also not disclosed, may serve as a conduit for conveying gas from a high pressure gas line(s).

The City further affirmatively states that on May 21, 2014, Greg Stiglic, P.E., Manager of Engineering Design for Nicor, transmitted a map to Hendron depicting gas distribution lines in the vicinity of James Park with pressures of 60, 25 and 0.25 psi.

6. Similarly, the City’s suggestion that a former MGP and/or its former pipelines are the source of stray methane allegedly found at James Park is illogical and defies the laws of

physics. The MGP stopped supplying gas of any kind to any location and was demolished more than 50 years ago. And during the course of the former MGP's environmental remediation under IEPA oversight, stray methane gas has not been detected.

ANSWER: By "stray methane", the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. As more fully set forth in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT filed concurrently herewith, the City admits that that the Skokie MGP and its operations and instrumentalities are one of the only two potential sources of the contaminants at issue. The City further admits that the Skokie MGP ceased active operations in the early 1950's. The City denies the remaining allegations of ¶6. Further answering, the City affirmatively states that the "environmental remediation" of the Skokie MGP "under IEPA oversight" is described in a Site Investigation Report ("SIR") dated November 2008, prepared by Burns & McDonald, , which does not support the conclusion that the Skokie MGP could not be the source the source of the methane gas at issue for the following reasons, among others:

a. The depth of the investigation of the Skokie MGP site was limited to approximately 25 feet below ground surface. Most of the investigation was at depths much less than this. There was no data from bedrock (depth of about 60 to 70 feet below ground surface) at the Skokie MGP site. The only bedrock core samples that were obtained from borings were from the Tetra Tech investigation of the MWRD site and from the CSG and SCS investigations around the entire perimeter of the James Park area.

b. The results of the investigations of the Skokie MGP site indicated the prevalence of contamination with constituents similar to those found in samples tested

from the James Park area – primarily polyaromatic hydrocarbon (PAH) SVOC and the VOC compounds benzene, ethylbenzene, toluene, and xylene (BETX) found by others to be associated with releases from manufactured gas plant operations.

c. The SIR did not consider the impact of the extension of contamination from the Skokie MGP operations by pathways created by the distribution system to the customers of the product created at the site.

d. The SIR did not characterize any of the important elements of the site operations including such factors as the process(es) used to manufacture the gas, the raw materials used in the operation, system efficiency and the nature and extent of the distribution system.

e. The Tetra Tech analyses did not consider the above factors in their assessment of the Skokie MGP site as a potential source of the occurrence of petroleum and gas at the MWRD and other sites in the vicinity of the Skokie MGP site.

7. The City's RCRA claim is groundless. First, as a matter of law, natural gas (which includes methane as a component) is not a "solid waste" or "hazardous waste" under RCRA. *See* 42 U.S.C. §§ 6903(5), (27). Second, the City cannot establish that the stray methane "may present an imminent and substantial endangerment to health or the environment." *Id.* § 6972(a)(1)(B). To the contrary, the City has known about the stray methane for at least two years, has not taken any action to remediate it, and has repeatedly assured the public that it does not present any imminent threat. *See, e.g.*, "Tests at Evanston parks reveal methane gas levels are 'negligible,'" *Daily Northwestern*, May 28, 2014 (Exhibit B); "Evanston chief: James Park methane poses 'no imminent public threat,'" *Evanston Review*, May 28, 2014 (Exhibit C). Third, the City cannot establish that Nicor or its current or former natural gas distribution system

contributed or is contributing to the alleged endangerment. Finally, the Notice itself is fundamentally deficient—and defeats the purpose of RCRA’s pre-suit notice requirement—because the City refuses to share the sampling or data on which it is based.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. The City denies the allegations of ¶7, and further affirmatively states that it has asserted a RCRA claim against Nicor (and ComEd) in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT, which states that the methane gas at issue presents an imminent and substantial endangerment to public health and the environment, for the following reasons, among others: (1) the methane gas at issue is present at an average concentration of 85.25% and pressure at an average of 11 pounds per square inch (“psi”) and 13 psi immediately in front of the Dawes Elementary School; (2) as set forth in the Administrative Order issued by the City’s Fire Chief, he has determined, through information based on appraisal and assessment from reliable resources, that the presence of methane and natural gas at high concentrations and pressure in and around James Park, and specifically in the vicinity of Dawes Elementary School and Levy Senior Center, is likely to create a significant potential or actual hazard to public health, safety, or welfare or to the environment; and (3) on the joint recommendation of Hendron and Evanston’s Fire Chief, the City also began monitoring concentrations of methane as a percent of the lower explosive limit of methane (5%) at the Dawes Elementary School, Levy Senior Center and other locations; (4) IEPA is in agreement with the City that the presence of methane at high concentration and pressure requires ongoing monitoring of whether methane is approaching its lower

explosive limit (LEL) of 5% in the basements of Dawes Elementary School and Levy Senior Center; (5) IEPA recommended to the City a type of LEL monitor with the capacity to communicate directly with the Fire Department; and (6) the City has installed LEL monitors at Dawes Elementary School and the Levy Senior Center with a communication link to the Fire Department. The City further affirmatively states that the May 28, 2014 article in the Evanston [sic] Review was captioned “Explosive findings under park” and quoted the Fire Chief as stating, “Two of the high test results [over 90% methane at GMP8 and GMP10] occurred at drill sites immediately adjacent to the Levy Senior Center and Dawes Elementary School.”

In addition, the Tetra Tech report to MWRD (Exhibit E to Nicor’s Complaint), acknowledges that “Tetra Tech notified District representatives of a cessation of work for safety reasons” after encountering the methane gas, including “potentially explosive conditions” that “continued to exceed the LEL alarm level.”

The City affirmatively states that all of the foregoing reflects a plausible ongoing threat of future harm, which is the basis for a finding of “imminence” under RCRA.

8. The City’s CERCLA claim fails for similar reasons. As a matter of law, CERCLA expressly excludes natural gas from its definition of “hazardous substance.” 42 U.S.C. § 9601(14). The City also cannot establish that Nicor is a responsible party under CERCLA or that the stray methane gas detected at James Park was released from Nicor’s natural gas distribution system or from ownership or operation of the former MGP.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. The City denies the allegations of ¶8,

and further affirmatively states that it has not asserted a CERCLA claim against Nicor in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT so as to not invite unnecessary and wasteful motion practice.

9. In its Notice, the City also alleges that it found “black coal tar crust” on a City water line 5-10 feet beneath the ground while repairing a break in August 2014. The City alleges that coal tar leaked from a Nicor gas pipeline, and states that it intends to seek relief under RCRA and CERCLA for the “black coal tar crust” as well. These claims also fail. On information and belief, the City cannot establish that the “black coal tar crust” it located underground “may present an imminent and substantial endangerment to health or the environment” or that Nicor, its current natural gas distribution system, or the former MGP contributed or is contributing to the alleged endangerment.

ANSWER: The City admits that its claims include those related to the black crust discovered on the City’s Dodge Avenue Water Line. For the reasons more fully set forth in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT, the City denies the remaining allegations of ¶9.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Nicor seeks a declaratory judgment involving the City’s claims under the laws of the United States, including RCRA, 42 U.S.C. § 6972(a)(1)(B), and CERCLA, 42 U.S.C. §§ 9601-9675. The Court’s authority to grant declaratory relief is founded upon 28 U.S.C. §§ 2201 and 2202.

ANSWER: The City admits that this Court has jurisdiction over the City’s RCRA claim. The City denies that Nicor has asserted any valid basis for its preemptive and premature declaratory judgment action. The City further denies that this Court has

jurisdiction pursuant to CERCLA, inasmuch as the City has not asserted a CERCLA claim in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT.

11. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b). The City resides in this district, a substantial part of the events giving rise to the claims occurred in this district, and the property that is the subject of the action is situated in this district. Venue is also proper pursuant to 42 U.S.C. § 6972(a), because this is the district where the alleged endangerment may occur, and pursuant to 42 U.S.C. § 9613(b), because this is the district in which the alleged releases occurred and in which Nicor may be found and has its principal office.

ANSWER: The City admits the allegations of ¶11.

PARTIES

12. Nicor is a corporation organized under the laws of the State of Illinois. Nicor is wholly owned by Ottawa Acquisition LLC, which is wholly owned by AGL Resources Inc. (“AGL”).

ANSWER: The City admits that Nicor is an Illinois Corporation. The City lacks knowledge or information sufficient to form a belief as to the remaining allegations of ¶12 and therefore denies the same.

13. The City of Evanston is a municipal corporation organized and constituted under the Constitution and laws of the State of Illinois.

ANSWER: The City admits the allegations of paragraph 13.

FACTUAL ALLEGATIONS

A. Stray methane under and in the area of James Park is originally attributed to the City’s former landfill or naturally-occurring sources.

14. James Park is a 55-acre recreational park in Evanston bordered by Oakton Street on the north and Dodge Avenue on the east. To the west of James Park is the North Shore

Channel sanitary canal. And to the west of the sanitary canal, across McCormick Boulevard and the border to the Village of Skokie, is the site of a former MGP where Nicor and Commonwealth Edison are conducting an environmental clean-up project under IEPA oversight. The MGP has not conducted significant operations since 1932, was completely dismantled by 1954, and was demolished by the mid 1960s.

ANSWER: The City admits that James Park is a recreational park bordered by Oakton Street on the north and Dodge Avenue on the east. The City admits the North Shore Channel sanitary canal is to the west of James Park. The City admits that the Skokie MGP is to the west of the sanitary canal, across McCormick Boulevard at the border to the Village of Skokie. The City admits that the Skokie MGP is the site of a former MGP where Nicor and ComEd are conducting an environmental clean-up project. The City lacks knowledge or information regarding the allegation that this remedial effort is being conducted under IEPA “oversight”, and therefore denies the same. The City denies the remaining allegations of ¶14. Further answering, topographic maps and aerials from 1954 (and later) reflect above-ground tanks still present at the Skokie MGP.

15. From the late 1800s until the early 1940s, the James Park site was used as a clay pit by the Illinois Brick Company, and had been excavated to depths of up to 80 feet.

ANSWER: The City admits that some, but not all, of the area that is now James Park was used as a clay pit until the early 1940’s. Further answering, the City affirmatively states that clay mining commenced in the late 1880’s and that other companies, in addition to Illinois Brick Company, may have operated the clay pit and manufactured bricks on a portion of what is now James Park, including a company doing business as Lill Brothers Brick Yard, Evanston Brick Company and La Bahn Bros. The City lacks

knowledge or information regarding the remaining allegations of ¶15 and therefore denies the same.

16. The City purchased the James Park site in 1943 and used it as a landfill. The City rented the landfill to private parties to dump waste until 1953, when the City began using the landfill for its own waste disposal. The landfill was constructed and closed prior to current landfill regulations and does not have modern environmental protections that would be required today, including an impermeable liner and methane gas or leachate collection systems.

ANSWER: The City admits that it entered into a contract to purchase a portion of James Park in 1943, but denies taking title to the property in 1943. The City admits that it entered a into a contract with William B. Johnson Dumping Company and later Illinois Disposal Company to dispose of non-putrescible waste in the former clay pit. The City admits that in 1953 it took over the operation of filling the former clay pit with non-putrescible waste. As more fully set forth in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT filed concurrently herewith, the City affirmatively states that in 1931, the City constructed an incinerator to burn its putrescible and other solid waste, and built another solid waste incinerator in 1957.

The last sentence of ¶16 constitutes a legal conclusion with respect to how current regulations would apply to a landfill constructed in competent clay that receives non-putrescible waste and does not require an answer. To the extent an answer may be required, the City denies the same.

17. In 1965, the City closed the landfill and built and opened James Park on top of the landfill material. In addition to various athletic fields and courts, James Park has a sledding hill popularly known as “Mount Trashmore”—a reference to the former landfill beneath it.

ANSWER: The City admits that portions of James Park are constructed over the former clay pit. The City further admits that James Park includes various athletic fields and courts and a sledding hill. The City denies the remaining allegations of ¶17.

18. In November 2012, the MWRD notified the City and the IEPA that it had detected methane gas under pressure and oily material in the bedrock more than 50 feet beneath its water reclamation plant, which is located southwest of James Park and south of the former MGP's location.

ANSWER: The City admits that that on November 29, 2012, Mr. David St. Pierre, Executive Director of the MWRD, sent a letter to the Honorable Elizabeth B. Tisdahl, Mayor, City of Evanston, which letter speaks for itself. The City denies all allegations of ¶18 inconsistent with the terms of said letter.

19. The MWRD concluded that “[t]he location and historical use of the James Park property, the historical photographs, along with our independent chemical analysis and finger printing, suggests that the former landfill is the likely source of the observed methane gas and oily material.” *See* D. St. Pierre letter to E. Tisdahl, Nov. 29, 2012 (Exhibit D). The MWRD also concluded that the stray methane and oily material were not related to its water reclamation plant or properties located to the north of it, including the site of the former MGP. *Id.*

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions are identified in the referenced letter as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The City admits that the MWRD’s consultant, Tetra Tech, opined that the James Park Landfill was the likely source of the gas and oily material, and that the

methane and oily material were not related to its water reclamation plant or properties. As more fully set forth in its Answer to ¶2 hereof, and in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT filed concurrently herewith, Tetra Tech's opinion is not premised on a scientifically sound basis, and the City denies the remaining allegations of ¶19.

20. In particular, the MWRD had retained two consultants—Tetra Tech EM Inc. and Friedman & Bruya, Inc.—to conduct sampling, chemical analysis, and chemical fingerprinting of the methane. Based on that fingerprinting, Friedman & Bruya “concluded that the potential source of the observed bedrock and gas contamination is likely not associated with a release of refined petroleum or marketed natural gas, but is consistent with a release from a landfill source. The basis of this determination was presence of a wide spectrum of petroleum and gas compounds and volatile organic compounds (i.e. vinyl chloride) not typically associated with crude oil, refined petroleum products, or marketed natural gas, but which are observed in landfill releases.” Tetra Tech Phase II Environmental Assessment, Nov. 2012, at 8 (Exhibit E).

ANSWER: The City adopts and realleges its Answer to ¶19 as its Answer to ¶20.

21. On October 3, 2012, after the MWRD initially discovered the stray methane and oily material, it notified Nicor. The same day, Nicor visited the MWRD plant but was unable to identify any Nicor pipelines that could have been contributing to the methane. Nicor suggested that Tetra Tech contact Peoples Gas, which operates a nearby distribution main. According to Tetra Tech, Peoples Gas visited the plant the next day, collected gas samples for analysis, and informed Tetra Tech “that the sampling results did not indicate a mercaptan signature representative of gas conveyed by its nearby pipelines.” Exhibit E at 4-5. Mercaptan is an additive to natural gas to give it a distinctive odor and is also a typical landfill gas component.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The City admits the allegations of the last sentence of ¶21. Further answering, the City affirmatively states that the absence of mercaptan in the sample taken and tested was the only parameter reported in the Tetra Tech report to have been considered in the decision about whether the pipelines are a source of the gas. The very high concentration levels of methane reported in the Tetra Tech report (100 percent in SB-2) were apparently not considered to be significant in the source assessment presented in their report. The absence of mercaptan is not definitive or sufficient to exclude leakage from the nearby natural gas pipelines from consideration given the extremely high concentrations of methane measured. Mercaptans are known to disappear quickly in soils due to adsorption, so their absence is not sufficient to rule out natural gas pipelines as a source of the methane. The Tetra Tech report did not provide any other basis for their exclusion of the pipelines as potential sources of gas in the borings at MWRD site. The City lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 21 and therefore denies the same.

22. In March 2013, five months after the MWRD informed the City of the stray methane and oily material, the City responded to the MWRD.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by

MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The City denies it has ever had a communication with MWRD concerning the subject of “stray methane”. Further answering, the City affirmatively states that on March 29, 2013, CSG transmitted a letter to IEPA, with a copy to MWRD, which letter speaks for itself, and the City denies all allegations of ¶22 inconsistent with the terms thereof.

Further answering, and as more fully set forth in the City’s COUNTERCLAIM AND THIRD-PARTY COMPLAINT, the City has worked collaboratively, and been in regular communication with, IEPA and the MWRD in an effort to address the dangerous conditions at James Park and determine their source.

23. The City had retained its own consultant—CS Geologic LLC—to review and address the MWRD’s analysis. CS Geologic had an “alternative explanation” for the stray methane and oily material. *See* M. Masoncup letter to D. St. Pierre, Mar. 28, 2013, attaching CS Geologic report to G. Farrar, Mar. 27, 2013, at 8 (Exhibit F). According to CS Geologic, “it is apparent that a simpler explanation exists for the petroleum and gaseous conditions observed in the dolomite bedrock. Simply, the petroleum and natural gas conditions described in the bedrock . . . are consistent with more than 100 years of observations of highly biodegraded petroleum occurring in the Niagaran Dolomite throughout the Chicagoland area. The . . . compounds identified by the Friedman and Bruya report are precisely the constituents that introductory organic geochemistry textbooks predict would remain from a highly weathered and biodegraded naturally occurring crude oil sources.” *Id.* at 7.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and

high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The City adopts and realleges its Answer to ¶3 as its Answer to ¶23. Further answering, the City states that, if liquid petroleum were present in the Greater Chicago Area, it would have undoubtedly been encountered and reported in some of the thousands of water wells completed in the Silurian dolomite aquifer, in some of the thousands of geotechnical borings drilled to, or into, the Silurian bedrock, and in some of the hundreds of miles of tunnels bored into the Silurian bedrock in the Chicago area. A review of the historical literature did not reveal any mention of liquid petroleum in the Silurian bedrock besides the unscientific “Artesian Well” reference mentioned by CSG. CSG’s opinion was also invalid for the following reasons:

- A. CSG also incorrectly assumed that the “free product phase” detected in the Silurian bedrock at the wastewater treatment plant by Tetra Tech and Greeley and Hanson was a naturally-occurring asphalt residue like the solid asphalt residues that are reported within the Silurian-age rocks of the Greater Chicago Area. Such asphaltic residues are typically black, solid, tar-like materials at aquifer temperatures (55 degrees Fahrenheit) but no such residues were reported in the Tetra Tech or Greeley and Hanson core logs from the MWRD site. These logs used the terms: “petroleum staining and odors” (one boring), “petroleum impregnated” (three borings), and “petroleum odor” (three borings). The word “petroleum” implies a liquid phase as opposed to a solid, asphalt phase.
- B. Tetra Tech cored one boring into bedrock (SB-1) and took photos of the

cores. Those photos show large pores in the bedrock and a brown stain on the walls of the pores. The pores are not filled with black asphaltic material as asserted by CSG. A review of the core recovered from SB-1 shows alternating porous layers of brown, petroleum-stained dolomite, alternating with light-colored dolomite with less staining.

- C. Tetra Tech reported, “entrained oily material,” in a water sample bailed from bedrock monitoring well MW-1, which was installed in Tetra Tech boring SB 1. This well was installed in the same bedrock interval that Tetra Tech had described as “Dolomite with petroleum staining and odors,” and “oil stain on bedrock surface”. Since the petroleum in the rock was able to flow into the well, it was clearly a liquid, mobile-phase as opposed to an immobile asphalt residuum.
- D. Subsequent to its critique of the Tetra Tech report in March 2013, CSG oversaw bedrock coring operations in GMP-1 in the southwest corner of James Park. CSG reported “non-liquid petroleum asphaltum in vugs and larger pores” in bedrock boring GMP-1 at James Park from 68.5 to 71.7 feet. Immediately below, however, he reported “petroleum oozing from pores.” This description directly conflicts with statements in the report that the asphalt residuum is viscous and immobile.
- E. A thorough examination of the GMP-1 core described by CSG revealed that the “vugs and larger pores” referred to by CSG were empty and no “non-liquid petroleum asphaltum” was present. Rather, the rock was stained dark brown by a low viscosity petroleum, or petroleum distillate,

with a strong fuel-oil type odor. The walls of the pores and vugs were similarly stained. One vug contained remnants of a dark brown hydrocarbon liquid that in no way resembled solid asphalt.

- F. The most recent drilling program at James Park revealed a low-viscosity, dark brown, translucent, non-sticky, free-product phase oozing from the rock that looked nothing like asphalt. All of the pores and vugs were empty, except for a brown staining on the walls of the pores. Some of the cores from exhibited a strong fuel-oil-like hydrocarbon odor and the more porous layers were stained brown. There was no evidence of hydrocarbon staining or petroleum odor in the cores obtained from other borings. This sharp demarcation from stained rock at some borings to unstained rock at others is not what would be expected if the hydrocarbons were natural to the geology of the area. This variation is consistent with a manmade release of hydrocarbon materials from local facilities and infrastructure.
- G. Several of the cores looked very similar to the core obtained from SB-1 by Tetra Tech at the MWRD property. In both cases, the more porous layers in the rock were stained brown, and the vugs were empty, not filled with asphalt. This evidence is consistent with a manmade hydrocarbon spill of fuel-oil-type material that CSG incorrectly identified in his report as natural asphalt.
- H. GC-MS and GC-FID fingerprint tests on samples of rock cores that did not exhibit hydrocarbon staining or petroleum showed no evidence of petroleum or hydrocarbon contamination. This is consistent with the

visual examination of the core samples. The results of tests on tests of cores that did exhibit hydrocarbon staining or petroleum showed that the brown staining on the rock core is a hydrocarbon material consistent with a carbon chemistry of fuel-oil or residual or weathered crude oil product (carbon number of 14 to 37). In either case, the hydrocarbon material is not natural to the geology of the Chicago or James Park areas.

24. In its report, CS Geologic did not identify natural gas pipelines or the former MGP as a potential source of the stray methane and oily material, despite the fact that those possibilities had been raised (and rejected) in the MWRD's letter and Tetra Tech's report on behalf of the MWRD. Thus, in 2012 and 2013, neither the MWRD nor the City attempted to attribute the stray methane to Nicor's natural gas distribution system or the former MGP.

ANSWER: By "stray methane", the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as "concentrated methane-containing gas under "pressure", not as "stray methane". The City denies it has ever had a communication with MWRD or IEPA concerning the subject of "stray methane". The CSG letter speaks for itself, and the City denies all allegations of ¶22 inconsistent with the terms thereof. Further answering, and as more fully set forth in the City's COUNTERCLAIM AND THIRD-PARTY COMPLAINT, the City has worked collaboratively, and been in regular communication with, IEPA and the MWRD in an effort to address the dangerous condition at James Park and determine their source. In addition, the pressures and concentrations of gas are not consistent with landfill gas.

The City further denies the allegations regarding the veracity of the statements in MWRD's letter and Tetra Tech's report on behalf of the MWRD, inasmuch as the report does not present a scientifically sound basis for the conclusion that existing natural gas pipelines in the area are not a source of the petroleum and methane at issue, for the following reasons, among others: The absence of mercaptan in the sample taken and tested by Nicor was the only parameter reported in the Tetra Tech report to have been considered in the decision about whether the pipelines are a source of the gas. The very high concentration levels of methane reported in the Tetra Tech report (100 percent in SB-2) were apparently not considered to be significant in the source assessment presented in their report. The City does not agree that the absence of mercaptan is definitive or sufficient to exclude leakage from the nearby natural gas pipelines from consideration given the extremely high concentrations of methane measured. Mercaptans are known to disappear quickly in soils due to adsorption so their absence is not sufficient to rule out natural gas pipelines as a source of the methane. The Tetra Tech report did not provide any other basis for their exclusion of the pipelines as potential sources of gas in the borings at the MWRD site.

25. Shortly thereafter, in April 2013, IEPA visited the MWRD plant and James Park. IEPA documented that the MWRD's analysis "indicates that James Park is a likely source for the subsurface methane gas and oily material found in the bedrock fractures," while the City's analysis indicates "that the methane gas and oily material is likely naturally occurring." Aug. 12, 2013 IEPA Memo at 2 (Exhibit G). As of a result of its site visit, IEPA did not identify any imminent endangerment at or around James Park. Rather, IEPA noted that a meeting would likely be held between the MWRD and the City to discuss the issue. *Id.*

ANSWER: The City admits that on August 12, 2013 Thomas Rivera, Environmental Protection Specialist at IEPA , prepared a Memorandum on the subject of “0312885011 - Cook County Skokie / MWRDGC Terrence J. O'Brien WRP (North Side WRP) FOS,” which speaks for itself. The City denies all allegations of ¶25 inconsistent with the terms of that Memorandum. The City further adopts its Answer to ¶7 as if set forth herein.

26. Until it sent its Notice, the City repeatedly reassured the public that the stray methane detected at James Park did not present any imminent danger. As recently as May 2014, the City’s Fire Chief reported to the City Council on the results of the City’s testing for stray methane in and around James Park, including at various public buildings in the area. According to the Fire Chief, “What we have found were zero or negligible levels of methane gas inside the facilities, as well as outside,” and “I believe there’s no imminent threat to public safety in and around James Park and the facilities.” Exhibits B-C.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The City admits the allegations of the last two sentences of ¶26. The City denies the remaining allegations of ¶26, and incorporates its Answer to ¶7 as if set forth herein.

B. The City retains a new “consulting expert” through its attorneys, blames Nicor and others for the stray methane, and serves a notice of intent to sue Nicor and others alleging an imminent and substantial endangerment.

27. In May 2014, the City notified Nicor that it had detected stray methane gas at depths of 40 feet or more in monitoring wells at James Park with pressure exceeding 300 inches

of water column. The City indicated that it did “not know the source of the gas” and was trying “to get to the bottom of this problem.” J. Jeep e-mail to M. Partee, May 13, 2014 (Exhibit H).

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The City denies ever describing the methane at issue as “stray methane” to Nicor or any other person. The City admits the remaining allegations of ¶27.

28. Although the City claimed that it was “committed to dealing with this issue in a transparent fashion,” *id.*, the City did not disclose to Nicor CS Geologic’s original analysis concluding that the stray methane and oily material were naturally occurring. Rather, the City’s outside counsel informed Nicor that they had retained a different “consulting expert”—SCS Engineers—who would be working with outside counsel on this matter going forward. *Id.* Nicor only later learned of the CS Geologic analysis through a July 29, 2014 Freedom of Information Act request to the City.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The City states that the May 13, 2014 email speaks for itself, and denies all allegations of ¶28 inconsistent with the terms thereof. The City lacks knowledge or information regarding the timing of Nicor’s awareness of the CSG report, and therefore denies said allegation.

Further answering, given Nicor's failure to provide information, providing incomplete and false information, and failure to cooperate with Evanston's investigative efforts, as more fully set forth in the City's COUNTERCLAIM AND THIRD-PARTY COMPLAINT, the City denies the allegation that the City withheld the CSG analysis or would not have been forthcoming with status of the City's investigation had Nicor been willing to meet with the City and work collaboratively with the City – a possibility that Nicor itself terminated when it pre-emptively and inappropriately “concluded” its investigation as of its June 19, 2014 letter to the City (Exhibit A hereto). Prior to issuance of the NOITS, Nicor only met with the City on one occasion, on June 2, 2014, and as more fully set forth in the City's COUNTERCLAIM AND THIRD-PARTY COMPLAINT, claimed to have no knowledge of the 1910 Tunnel, and made no mention of the Abandoned Gas Line or the 12-inch diameter gas pipeline running along Dodge Avenue

The City further affirmatively states, as more fully set forth in the City's COUNTERCLAIM AND THIRD-PARTY COMPLAINT, as follows: (1) the City has worked collaboratively with IEPA and the MWRD in an effort to address the dangerous conditions at James Park and determine their source; (2) however, the City's similar efforts to work cooperatively with Nicor have been rebuffed; (3) Nicor has delayed providing information to assist in the City's investigation, refused to provide information, and provided misinformation; (4) rather than cooperating, Nicor has repeatedly served the City with lengthy information requests, which resulted in the City providing over 40,000 pages of documents.

29. After the City notified Nicor of the stray methane, Nicor promptly investigated

the location of any of its pipelines in the area of James Park. Nicor confirmed that its natural gas distribution system does not contain any pipelines running beneath James Park itself, but does have pipelines running adjacent to James Park. The mains are at an approximate depth of 3-4 feet, with individual residential service lines lying shallower than the mains, whereas the stray methane gas was reportedly detected at depths of 40 feet or more. The natural gas in Nicor's mains is under pressure of only 7 inches of water column, whereas the stray methane has reportedly been detected at pressure exceeding 300 inches of water column.

ANSWER: By "stray methane", the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as "concentrated methane-containing gas under "pressure", not as "stray methane". The City denies the remaining allegations of ¶29, and further incorporates the last sentence of its Answer to ¶5 as if set forth herein.

30. On May 23, 2014, Nicor also conducted a leak survey on its pipelines adjacent to James Park. Specifically, Nicor used a vehicle-mounted detection instrument to identify leaks on mains and service lines on surrounding streets. The vehicle-mounted instrument can detect methane gas at levels between 10 parts per million and 10,000 parts per million, which is between 1/1000 of a percent and one percent gas in the ambient air. The leak survey did not identify any leaks in the mains and service lines surrounding James Park that could have been contributing to the stray methane issues identified by the City.

ANSWER: By "stray methane", the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by

MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The City lacks knowledge or information to form a belief as to the truth of the remaining allegations of ¶30 and therefore denies the same. Further answering, despite Nicor’s June 19, 2014 assertion that its “natural gas distribution system is not the source of methane”, and that it “found no pipeline system leaks in or around James Park” (Exhibit A), on November 11, 2014 Nicor sent a letter to Evanston acknowledging that a segment of its gas distribution system immediately adjacent to James Park “has a number of leaks”, and the pipe had to be retired “for safety purposes”. A copy of the November 14 letter is attached hereto as **Exhibit B**.

31. Nonetheless, the City continued to press ahead in attempting to attribute the stray methane at James Park to Nicor, as opposed to its former municipal landfill located at the park or to the naturally-occurring sources identified by its consultant CS Geologic.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. With respect to the CSG report, the City incorporates the last paragraph of its Answer to ¶28 as if set forth herein. With respect to the James Park Landfill being the source of the methane at issue, the City incorporates its Answers to ¶¶2 and 3 as if set forth herein. With respect to the City pressing ahead without communicating with Nicor, the City incorporates its Answer to ¶28 as if set forth herein

32. On May 27, 2014, the City Council approved funds and authorized the City Manager to execute an amendment to the contract with CS Geologic for additional testing,

including drilling additional borings, installing gas probes, and performing gas monitoring and gas composition analyses at and around James Park. *See, e.g.*, City Council Regular Meeting Agenda, May 27, 2014, at 2 (Exhibit I).

ANSWER: The May 27, 2014 Meeting Agenda speaks for itself, and the City denies all allegations of ¶35 inconsistent with the terms thereof. The City further affirmatively states that on May 27, 2014, the City Council voted to approve an increase to the authorized amount for CSG to \$58,168.

33. On July 3, 2014, the City's Fire Chief sent Nicor and AGL an Order requesting various documents and additional evaluations concerning the stray methane, and copied Commonwealth Edison. On July 10, 2014, Nicor informed the Fire Chief that it was reviewing the requests and would respond by the end of July. Nicor provided its substantive response on July 29, 2014. Nicor referred to certain documents it had already shared with the City in the course of their discussions, provided additional information, asked for the technical basis for some of the City's requests, and offered to address any questions or concerns the City might have. *See* M. Ter Molen letter to G. Farrar, July 29, 2014 (Exhibit J).

ANSWER: By "stray methane", the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as "concentrated methane-containing gas under "pressure", not as "stray methane". The City denies ever describing the methane at issue as "stray methane" in any communication to Nicor or any other person. The July 3, 2014, July 10, 2014, and July 29, 2014 correspondence speak for themselves, and the City denies all allegations of ¶33 inconsistent with the terms thereof.

Further answering, as more fully set forth in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT, the City affirmatively states that (1) Nicor concluded its letter by offering to meet with the City to discuss its interrogatories and document production request and (2) Nicor did not offer to meet with the City to discuss the substantive issues addressed in the Administrative Order.

With respect to Nicor's alleged offer to address the City's "questions or concerns the City might have," the City further incorporates its Answer to ¶28 as if set forth herein

34. On or about October 20, 2014, the City sent the Notice, stating its intent to file a lawsuit against Nicor, AGL, Commonwealth Edison, and its parent company Exelon Corporation. Pursuant to 42 U.S.C. § 6972(a)(1)(B), "any person may commence a civil action . . . against any person . . . who has contributed or is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment." The Notice is required by 42 U.S.C. § 6972(b)(2), which requires that a party seeking to bring a RCRA claim must first provide "notice of the endangerment to (i) the Administrator [of the EPA]; (ii) the State in which the alleged endangerment may occur; and (iii) any person alleged to have contributed or to be contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in subsection (a)(1)(B) of this section." The RCRA plaintiff must wait at least ninety days after serving its notice before it can file its § 6972(a)(1)(B) claim.

ANSWER: The City admits that 42 U.S.C. 6972(a)(1)(B) provides as follows:

Except as provided in subsection (b) or (c) of this section, any person may commence a civil action on his own behalf--against any person, including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution, and including any past or present generator, past or present transporter, or past or present

owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment....

The City admits the remaining allegations of ¶34, and affirmatively states that it has filed its COUNTERCLAIM AND THIRD-PARTY COMPLAINT upon the expiration of the 90-day notice period.

35. In its Notice, the City alleges that natural gas is a solid or hazardous waste under RCRA. *See* Exhibit A ¶ 39. Contrary to the City’s public statements, the City also alleges that the “[m]ethane gas at the concentrations and pressures detected around the perimeter of James Park and in close proximity to [various facilities] may present an imminent and substantial endangerment to human health or the environment.” *Id.* ¶ 14. Moreover, the City alleges that “the source of the methane gas at issue is leakage from [Nicor’s] aged gas distribution line(s) in the vicinity of James Park, not the James Park Landfill.” *Id.* ¶ 22. The Notice also contains oblique references to the former MGP, although it does not explain how the MGP would have contributed to the stray methane. *Id.* ¶¶ 33(c), 43.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The NOITS speaks for itself, and the City denies all allegations of ¶35 inconsistent with the terms thereof.

36. The Notice never mentions CS Geologic’s conclusion that the stray methane is naturally occurring. Rather, the City alleges that an unnamed “retained geotechnical engineer has conducted an analysis to confirm the source of the methane gas at issue.” *Id.* ¶ 24. The City

alleges that its unnamed consultant compared methane concentrations and pressures in various locations in and around James Park, determined whether the chemistry of samples taken from wells along the perimeter of James Park is consistent with landfill gas, and determined whether the age of gas in wells along the perimeter of James Park is consistent with the age of gas taken from wells in the landfill. *Id.* The City then asserts that all three data sets purportedly confirm that the James Park landfill is not the source of the stray methane. *Id.* ¶ 25. The City never explains how or if its consultant purportedly determined that the source of the methane is Nicor's pipelines, as opposed to a naturally occurring or other source. *Id.* ¶¶ 26-31.

ANSWER: By "stray methane", the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as "concentrated methane-containing gas under "pressure", not as "stray methane". The City admits that the NOITS does not mention CSG's invalid opinion, for the reasons set forth in its Answer to ¶23. Regarding the balance of the allegations, the NOITS speaks for itself, and the City denies all allegations of ¶36 inconsistent with the terms thereof.

37. Although the City attached 17 exhibits to its Notice, the City failed to attach any documents related to its geotechnical engineer's analysis, including the results of the most recent sampling conducted by the City. Thus, despite references in the Notice to a comparison of methane pressure and concentrations, detailed chemistry tests, and isotopic and Carbon 14 testing, the City failed to attach any of this data to the Notice.

ANSWER: The NOITS speaks for itself, and the City denies all allegations of ¶37 inconsistent with the terms thereof. With respect to the alleged omission of data, the City

states that the NOITS meets and exceeds the RCRA's requirements for a notice of intent to sue, and further incorporates its Answer to ¶28 as if set forth herein

38. The Notice also raises another issue which the City had not previously discussed with Nicor or any of the other parties named in the Notice. In its Notice, the City alleges that while it was repairing a water line break in August 2014, it purportedly discovered "black crust" around its water line along Dodge Avenue which "matches identically with the chemical make-up of coal tar produced by MGPs." *Id.* ¶¶ 35-37. The City alleges that a Nicor pipeline in the area "is the source of the black coal tar crust" and that coal tar "leak[ed]" from "gas distribution pipelines that [Nicor and others] have historically operated, or presently operate, in the vicinity of James Park and in Dodge Avenue." *Id.* ¶¶ 38, 47. The City then alleges that the coal tar may present an imminent and substantial endangerment. *Id.* ¶¶ 41-42.

ANSWER: The NOITS speaks for itself, and the City denies all allegations of ¶38 inconsistent with the terms thereof. With respect to the issue of the "black crust," the City further incorporates its Answer to ¶28 as if set forth herein.

39. Again, although the City attached 17 exhibits to its Notice, the City failed to attach any analytical results or other factual support for the "coal tar" allegations.

ANSWER: The NOITS speaks for itself, and the City denies all allegations of ¶38 inconsistent with the terms thereof. With respect to the issue of the "black crust," the City further incorporates its Answer to ¶28 as if set forth herein.

40. In its Notice, in addition to a RCRA imminent and substantial endangerment claim, the City also threatens to file other claims against Nicor and others. First, the City alleges that it has incurred "necessary response costs, within the meaning of CERCLA" and states that it intends to sue under CERCLA. *Id.* at p. 1 & ¶ 50. Second, the City states that it also "intends"

to sue “under applicable common law and equity.” *Id.* ¶ 49.

ANSWER: The NOITS speaks for itself, and the City denies all allegations of ¶40 inconsistent with the terms thereof.

C. After serving its notice of intent to sue, the City withheld the underlying data and delayed Nicor from completing required work on its system.

41. Nicor takes the integrity and safety of its natural gas distribution system seriously. As a result, when the City first suggested that Nicor’s system may be the source of the stray methane, Nicor promptly performed a leak survey and asked the City to share data from any sampling performed by the City. After the City served its Notice, Nicor again requested that the City share the data cited in the Notice that apparently led its consultant to conclude that Nicor’s system is the source of the stray methane. Nicor also requested that the City share information on the “coal tar” mentioned for the first time in the Notice. The City refused.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. Given Nicor’s failure to provide information, providing incomplete and false information, and failure to cooperate with Evanston’s investigative efforts, as more fully set forth in the City’s COUNTERCLAIM AND THIRD-PARTY COMPLAINT, the City denies the allegations of the first sentence of ¶41. The City adopts its Answer to ¶30 as its Answer to the second sentence of ¶41. The City denies the remaining allegations of ¶41, and affirmatively states that it provided Nicor with over 40,000 pages of documents in response to Nicor’s efforts to avoid addressing the endangerment resulting from its systems.

42. After the City declined Nicor's informal requests, Nicor served a FOIA request on the City on October 30, 2014. The City again withheld the information, claiming that records "in the possession of [its attorneys] and their consulting experts . . . do not constitute public records of the City." G. Farrar letter to M. Ter Molen, Nov. 17, 2014, at 4 (Exhibit K). The City took this position despite the fact that (a) its Notice described the data as having been secured by "the City's retained geotechnical engineer," Exhibit A ¶ 24; and (b) FOIA defines "public records" to include records "having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body." 5 ILCS 140/2(c); *see also* 5 ILCS 140/7(2). The City also claimed that communications with its attorneys and their consulting experts are privileged. The City took this position even though underlying facts and data plainly are not privileged. The City therefore again refused to produce information that the City itself expressly referenced in its Notice and, therefore, put at issue.

ANSWER: The City denies the allegations of the first sentence of ¶42 relating to "informal requests". The City admits that FOIA defines certain terms and imposes certain disclosure obligations. The City denies that it has violated any provision of FOIA, as substantiated by the fact that Nicor has not sought any relief for what it claims to be shortcomings in the City's disclosures. Moreover, Nicor's allegations ignore the fact that the City in fact provided over 40,000 pages of documents to Nicor in response to its serial requests for information – a strategy that Nicor pursued in its effort to avoid providing any responsive information to the City. See, for example, November 12, 2014 email from W. Grant Farrar ("Farrar"), Evanston Corporation Counsel, to Michael Partee ("Partee"), Nicor in-house counsel, attached hereto as **Exhibit C** (this correspondence is also Exhibit O to Nicor's Complaint).

43. In a final attempt to evaluate the Notice, Nicor made one further written request for the underlying data and information. *See* M. Ter Molen letter to M. Blazer, Nov. 24, 2014 (Exhibit L). The City denied that request, stating only that “[y]our letter does not warrant further comment.” M. Blazer e-mail to M. Ter Molen, Nov. 24, 2014 (Exhibit M).

ANSWER: The subject letters speak for themselves, and the City denies all allegations of ¶43 inconsistent with the terms thereof. Further answering, the City incorporates its Answer to ¶28 as if set forth herein.

44. The City’s decision to pursue litigation, including by serving the Notice, has already had actual consequences, both for Nicor and for Evanston residents.

ANSWER: Apart from the lingering consequences of the failure by Nicor and ComEd to address and remediate the causes of the imminent and substantial endangerment resulting from the contamination for which they are responsible, the City denies the allegations of ¶44.

45. Federal and state pipeline safety regulations require Nicor to manage the integrity of its natural gas distribution system, including by implementing measures to reduce the risk of pipeline failure, removing unsafe pipelines from service, and phasing out pipeline segments that are in unsatisfactory condition or that pose a risk of failure. *See, e.g.*, 49 U.S.C. §§ 60108(a)(1), 60118(a)(2); 49 C.F.R. §§ 192.613, .703, .755, 1005, .1007; 220 ILCS 20/5; 83 Ill. Admin. Code § 590.10.

ANSWER: The City admits the allegations of ¶45. Further answering, the City states that, had Nicor complied with its obligations, this litigation would not have been necessary.

46. Nicor attempted to complete one such project in the City. The project involved

replacing approximately 10,000 feet of low-pressure cast-iron main with new high-pressure plastic in an approximately 36-square-block total area. That area happened to abut James Park.

ANSWER: The City admits that Nicor attempted to and did complete a leaking pipe replacement project, known as Project 66, encompassing the parameters alleged.

47. Earlier in 2014, before the City approached Nicor about the stray methane, the City granted Nicor excavation permits to do the main replacement work. Pursuant to those permits, Nicor was able to install the new high-pressure plastic main and service lines.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The City admits the remaining allegations of ¶47.

48. Before Nicor could retire the old cast-iron main and associated service lines, however, the City, at the direction of its Corporation Counsel, revoked Nicor’s permits and declared a moratorium on further work. As a result, the cast-iron main and associated service lines—which no longer served customers or any useful purpose—remained an active part of Nicor’s system, containing gas under pressure.

ANSWER: The City admits that it imposed a temporary halt to work Nicor intended to perform because that work was to be performed in close proximity to where the City was conducting its subsurface investigations to determine the source of the high volumes of methane that were being detected. Out of concerns about potential spoliation of evidence, particularly given Nicor’s lack of cooperation and obfuscation up to that point, the City conditioned further work on Nicor’s entry into a reasonable evidence

preservation agreement. Any delay in the performance of the work encompassed by Project 66 was due exclusively to Nicor's initial refusal to enter into the evidence preservation agreement.

49. When the City revoked Nicor's permits and declared a moratorium on future work, the City claimed, without explanation, that Nicor's work "lends itself to a reasonable inference regarding possible spoliation of evidence." G. Farrar e-mail to M. Partee, Oct. 16, 2014 (Exhibit N). Incredibly, the City was therefore preventing Nicor from retiring some of the same cast-iron main and associated service lines that the City itself had alleged in its Notice "present[] an imminent and substantial endangerment." Exhibit A ¶¶ 19-20, 22.

ANSWER: The subject email speaks for itself and the City denies any allegations of ¶49 inconsistent with the terms thereof. The City further adopts and realleges its Answer to ¶48 as its Answer to ¶49 – any delay in the subject work was due exclusively to Nicor's initial refusal to enter into a reasonable evidence preservation agreement.

50. The City's refusal to permit Nicor to perform work that would have addressed the alleged cause of the endangerment—coupled with the City's repeated contradictory public statements and refusal to share sampling and data cited in its Notice—readily illustrates the groundless nature of the City's "imminent and substantial endangerment" allegations.

ANSWER: The City denies the allegations of ¶50.

51. On November 7, 2014, Nicor submitted a new permit application to the City. With its application, Nicor explained that retiring the cast-iron main and associated service lines was required for safety and regulatory compliance reasons and therefore requested a prompt response. The City delayed, however, claiming that Nicor merely "desire[d] to conceal the fact that its leaking infrastructure is the source of the James Park situation." G. Farrar e-mail to M.

Partee, Nov. 12, 2014 (Exhibit O). The City ultimately “enter[ed] and continue[d]” Nicor’s permit application pending Nicor’s agreement to various City demands, including “unconditionally cooperat[ing] with the City during the pendency of the work.” G. Farrar e-mail to M. Partee, Nov. 14, 2014 (Exhibit P).

ANSWER: The subject communications speak for themselves, and the City denies all allegations of ¶51 inconsistent with the terms thereof.

52. Unfortunately, during this delay in the work, a Grade 1 leak was reported to Nicor in one of the residential service lines that Nicor was attempting to retire—a service line that would have been retired already if not for the City’s permit revocation and moratorium. A homeowner smelled gas in his home’s basement and contacted Nicor. Because a Grade 1 leak is a leak that presents an existing or probable hazard to persons or property and requires immediate attention, Nicor went to the home and promptly completed the repair.

ANSWER: The City lacks knowledge or information sufficient to form a belief as to the allegations of paragraph 52 and therefore denies he same. Further answering, any such incident was exclusively the result of Nicor’s initial refusal to enter into a reasonable evidence preservation agreement.

53. The City ultimately agreed to issue Nicor an excavation permit to complete the retirement of the cast-iron main and associated service lines only after Nicor filed its original complaint in this case. The City agreed to issue Nicor the permit approximately three hours after Nicor provided a courtesy copy of the complaint to the City. Nicor has now completed the work to retire the cast-iron main and associated service lines for that project. However, the ongoing dispute between the City and Nicor involving the source of the stray methane under and in the area of James Park, as well as the “coal tar” issue raised in the Notice, still remains.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The City denies the allegations of the first two sentences of ¶53. Further answering, the City affirmatively states that, contrary to said allegations:

A. On November 14, 2014, Farrar sent an email to Partee stating that the City was setting aside the multitude of disagreements between the parties, and proposing a meeting between the parties for November 20. The purpose of the meeting was to address Nicor’s admissions regarding its “leaking infrastructure and all other outstanding issues.” The email also reiterated the basis for the City’s concern regarding spoliation of evidence and reiterating its desire for a evidence preservation agreement. A copy of said email is attached hereto as **Exhibit D**.

B. After a series of communications, Nicor agreed to both the meeting, scheduled for November 20, and to the evidence preservation agreement. This was memorialized in an email dated November 19, attached hereto as **Exhibit E**, in which Farrar confirmed that:

The City’s Engineering Department is prepared to issue the permit for completion of the Project 66 Work. The City agrees to the revised evidence preservation agreement that you submitted just now. Please bring a clean copy of the agreement to tomorrow’s meeting and we can get that executed.

C. Nicor tendered the executed evidence preservation agreement at the meeting the following day, and the permit for the Project 66 work was

immediately issued. The fully executed agreement and work permit were transmitted to Nicor's counsel the following day. A copy of said transmittal is attached hereto as **Exhibit F**.

The City admits the allegations of the last two sentences of ¶53.

COUNT I
(Declaratory Judgment – RCRA)

54. Nicor restates and realleges paragraphs 1-53 as if fully set forth herein.

ANSWER: The City adopts and realleges its Answers to paragraphs 1-53 as if fully set forth herein.

55. The City may bring suit under RCRA, 42 U.S.C. § 6972(a)(1)(B), only if Nicor “has contributed or is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment.” Nicor is not liable under RCRA, for either the stray methane or the “coal tar” the City has allegedly detected near James Park.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The provisions of 42 U.S.C. § 6972(a)(1)(B) speak for themselves, and the City denies all allegations of ¶55 inconsistent with the terms thereof. The City denies the remaining allegations of ¶55.

56. By definition, natural gas is not solid or hazardous waste. RCRA defines “hazardous waste” as a type of “solid waste.” 42 U.S.C. § 6903(5). RCRA then defines “solid waste” as “any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment

plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or *contained gaseous material*. . . .” *Id.* § 6903(27) (emphasis added). Natural gas that has allegedly been released into the environment is not “contained gaseous material.”

ANSWER: The provisions of 42 U.S.C. § 6903 speak for themselves, and the City denies all allegations of ¶56 inconsistent with the terms thereof. The City denies the remaining allegations of ¶56.

57. The City also cannot establish that the stray methane it has detected may present an imminent and substantial endangerment. The City has known about the stray methane for at least two years, has not taken any action to remediate it, and has repeatedly assured the public as recently as May 2014 that it does not present any imminent threat. Those assurances were based on monitoring results which reportedly detected stray methane at facilities in and around James Park at 0% to 4% of the lowest explosive limit for methane gas.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The City denies the allegations of the first sentence of ¶57. The City adopts its Answer to ¶ 7 as its Answer to the remaining allegations of ¶57.

58. Further, the City does not and cannot establish that Nicor or its distribution system contributed or is contributing to the alleged methane detections. To the contrary, the facts—as confirmed by an extensive study by the MWRD in 2012, by a study by the City in 2013, and by a leak survey conducted by Nicor in 2014—all clearly demonstrate that the methane detected in the area of James Park is not, and cannot be, from Nicor’s system.

ANSWER: The City denies the allegations of ¶58.

59. The Notice does not provide the facts to support the City's allegations. The City alleges that its retained geotechnical engineer reviewed three sets of data, all of which purportedly confirm that the City's former landfill is not the source of the stray methane. Exhibit A ¶¶ 26-31. But the City fails to provide the data purportedly demonstrating that the source of the methane is Nicor's pipelines, as opposed to, for example, the naturally-occurring sources identified by the City's consultant, CS Geologic. *Id.* Indeed, the only data produced to date, that from the MWRD and from the City's consultant, CS Geologic, demonstrate that the stray methane is from sources other than Nicor's pipelines. *See* Exhibits D-F.

ANSWER: By "stray methane", the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as "concentrated methane-containing gas under "pressure", not as "stray methane". The City denies the allegations of ¶59.

60. The Notice also does not identify any basis for concluding that the former MGP contributed to the stray methane. The MGP has not conducted significant operations since 1932, was completely dismantled by 1954, and was demolished by the mid 1960s. While it operated, the gas manufactured at the plant contained lower levels of methane and was distributed at lower pressures than modern marketed natural gas. The MGP site is also the subject of an ongoing environmental clean-up project conducted voluntarily by Nicor and Commonwealth Edison under IEPA oversight. The extensive site investigation, approved by IEPA, did not identify any off-site impacts from the MGP east of McCormick Boulevard into the City of Evanston. The extensive site investigation also did not identify any methane detections.

ANSWER: By “stray methane”, the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as “concentrated methane-containing gas under “pressure”, not as “stray methane”. The City admits that the Skokie MGP was closed in the early 1950’s. The City further admits that Nicor has enrolled the Skokie MGP for the purpose of implementing a limited and localized environmental clean-up. The City admits that the site investigation did not address off-site impacts, and affirmatively states that this failure resulted from the failure to conduct the appropriate investigation. The City denies the remaining allegations of ¶60, and affirmatively states that Nicor’s acknowledgment of a present environmental remediation program belies Nicor’s assertion that the Skokie MGP is not and cannot be the source of the subject contamination.

61. Similarly, the City has not established and cannot establish that the “black coal tar crust” may present an imminent or substantial endangerment or that Nicor or its natural gas distribution system contributed or is contributing to the alleged endangerment.

ANSWER: The City denies the allegations of ¶61.

62. The City’s Notice itself is also fundamentally deficient. RCRA requires pre-suit notice by a party alleging an imminent and substantial endangerment in order to allow State and Federal regulators an opportunity to intervene or the alleged contributor to the endangerment an opportunity to address the issue. Rather than provide the information that allegedly supports the basis for its claims and allegations, the City is withholding the information, despite Nicor’s repeated requests. The City’s game of “hide the ball” is contrary to the purposes of RCRA’s requirements for pre-suit disclosure, particularly when, in this case, all other data demonstrates

that Nicor's current and former pipelines, including from the MGP, are not the source of the methane found at James Park and that the methane is not an imminent threat.

ANSWER: The City denies the allegations of ¶62.

63. There is an actual and immediate controversy between Nicor and the City regarding the City's claim that Nicor has contributed or is contributing to the handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment. A declaration of the rights of the parties would resolve all or a substantial part of this controversy.

ANSWER: The City admits that there is an actual and immediate controversy between it and Nicor, which controversy only came to fruition when the City filed its COUNTERCLAIM AND THIRD-PARTY COMPLAINT, and not as a result of Nicor's premature and preemptive Complaint.

WHEREFORE, Evanston prays for judgment in its favor as more fully set forth in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT filed in this action.

COUNT II
(Declaratory Judgment – CERCLA)

64. Nicor restates and realleges paragraphs 1-63 as if fully set forth herein.

ANSWER: The City adopts and realleges its Answers to paragraphs 1-63 as if fully set forth herein.

65. To recover from Nicor under CERCLA, the City would need to establish, at a minimum, that: (1) the site in question is a "facility"; (2) Nicor is a responsible party as defined by CERCLA; (3) there has been a release or threatened release of hazardous substances; and (4) the City has incurred recoverable costs in response. *See* 42 U.S.C. § 9607(a).

ANSWER: The provisions of 42 U.S.C. § 9607 speak for themselves and the City denies all allegations of ¶65 inconsistent with the terms thereof.

66. By definition, natural gas is not a hazardous substance for purposes of CERCLA. CERCLA's definition of hazardous substance expressly "does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas." 42 U.S.C. § 9601(14).

ANSWER: The City denies the allegations of the first sentence of paragraph 66. The provisions of 42 U.S.C. § 9601 speak for themselves and the City denies all allegations of ¶65 inconsistent with the terms thereof.

67. The City also cannot establish that the stray methane gas under and in the area of James Park was released from Nicor's natural gas distribution system. As described above, the facts—as confirmed by an extensive study by the MWRD in 2012, by a study by the City in 2013, and by a leak survey conducted by Nicor in 2014—all clearly demonstrate that the methane detected in the area of James Park is not, and cannot be, from Nicor's system.

ANSWER: By "stray methane", the City assumes Nicor is referring to the large quantities of methane that have been and are being detected at high concentrations and high pressure in and around the James Park Area. These conditions were identified by MWRD as "concentrated methane-containing gas under "pressure", not as "stray methane". The City denies the allegations of ¶67.

68. On information and belief, the City similarly cannot establish that the "black coal tar crust" was released from Nicor's current or former natural gas distribution system.

ANSWER: The City denies the allegations of ¶68.

69. There is an actual and immediate controversy between Nicor and the City regarding the City's claim that Nicor is liable under CERCLA for response costs incurred by the City. A declaration of the rights of the parties would resolve all or a substantial part of this controversy.

ANSWER: The City denies the allegations of ¶69.

WHEREFORE, Evanston prays for judgment in its favor as more fully set forth in its COUNTERCLAIM AND THIRD-PARTY COMPLAINT filed in this action.

Dated: February 2, 2015

The City of Evanston

By: /s/ Michael S. Blazer
One of its Attorneys

Michael S. Blazer (ARDC No. 6183002)
Jeffery D. Jeep (ARDC No. 6182830)
Jeep & Blazer, L.L.C.
24 N. Hillside Ave, Suite A
Hillside, IL 60162
(708) 236-0830
mblazer@enviroatty.com

CERTIFICATE OF SERVICE

I, Michael S. Blazer, an attorney, hereby certify that on February 2, 2015 I caused a copy of the foregoing ANSWER TO AMENDED COMPLAINT to be served upon all counsel of record via the Court's Electronic Filing system, in accordance with Local Rule 5.9.

By: /s/Michael S. Blazer

EXHIBIT A



Nicor Gas™

An AGL Resources Company

1844 Ferry Road
Naperville, IL 60563

630 983.8676 phone
www.nicorgas.com

June 19, 2014

Sent Via E-Mail <jdjeep@enviroatty.com>

Mr. Jeffery D. Jeep
Jeep & Blazer, L.L.C.
24 N. Hillside Avenue, Suite A
Hillside, IL 60162

Subject: Methane Gas in Soil under James Park Landfill Site in Evanston

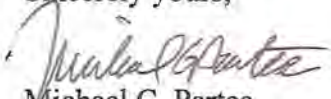
Dear Mr. Jeep:

This letter confirms that Nicor's natural gas distribution system is not the source of methane that is currently being detected in soil at depths of 40 feet or more at the James Park landfill site in Evanston. Evanston's methane data is not consistent with a pipeline leak, but rather than wait until the next scheduled leak survey, Nicor conducted a leak survey specifically to support Evanston's investigation into the source of the methane and found no pipeline system leaks in or around James Park. As we advised on June 2, 2014, we were aware of some distribution and service line leaks in the neighborhood outside of James Park, but they were already scheduled for repair and the repairs have been completed.

You also requested information regarding retirement of the historic tunnel along Oakton Street underneath the North Shore Channel, which was located approximately one quarter mile west of James Park. Based on documentation that you provided after our June 2 meeting, the tunnel was originally constructed in about 1910 by the Northwestern Gas Light & Coke Company, the gas company that served Evanston at that time. The tunnel contained a natural gas distribution pipeline. We located a historic engineering drawing in our files documenting that the tunnel and natural gas pipeline within the tunnel are no longer part of Nicor's pipeline system. The engineering drawing specifically documents the retirement of the tunnel and pipeline in 1969 (the pipeline was cut and capped, tunnel ends were filled with crushed rock, and vaults and manholes were filled with crushed rock and concrete). A copy of the drawing is attached. I believe that you located this same engineering drawing, as well as other documentation from independent sources, which further confirm the retirement of the tunnel and pipeline in 1969.

Without waiving any rights or remedies in the event that the methane gas at James Park enters a Nicor facility or equipment, we have concluded our investigation.

Sincerely yours,

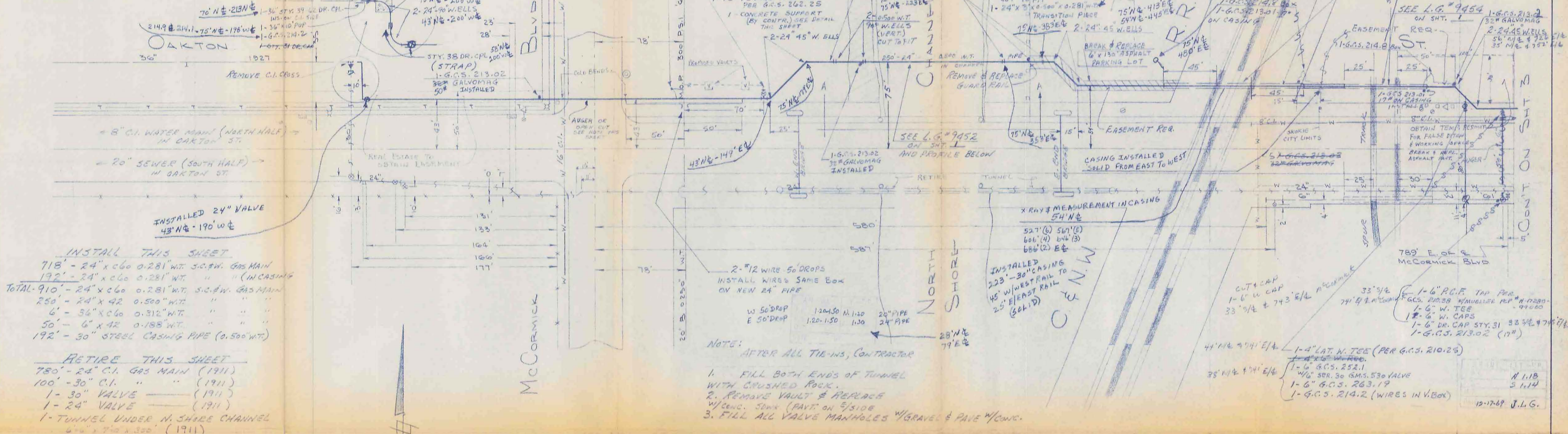


Michael C. Partee
Senior Environmental Counsel
Tel: 630-388-2869
Fax: 630-357-7534
E-Mail: mpartee@aglresources.com

Attachment: as stated

cc: Susan Morakalis, Metropolitan Water Reclamation District

NOTE:
IN ADDITION TO READING SPECIFICATIONS ON SHEET 5 OF 9, G.C.S. DTD. 3-1-1961 AN INTERNALLY EXPANDING MANDREL SHALL BE USED ON 24" PIPE



INSTALL THIS SHEET
 718' - 24" x c60 0.281 W.T. S.C.W. GAS MAIN
 192' - 24" x c60 0.281 W.T. " " (INCASING)
 TOTAL 910' - 24" x c60 0.281 W.T. S.C.W. GAS MAIN
 250' - 24" x 42 0.500 W.T. " " " " " "
 6' - 36" x c60 0.312 W.T. " " " " " "
 50' - 6" x 42 0.188 W.T. " " " " " "
 192' - 30" STEEL CASING PIPE (0.500 W.T.)

RETIRE THIS SHEET
 750' - 24" C.I. GAS MAIN (1911)
 100' - 30" C.I. " " (1911)
 1 - 30" VALVE (1911)
 1 - 24" VALVE (1911)
 1 - TUNNEL UNDER N. SHREE CHANNEL
 6" x 7" x 300' (1911)

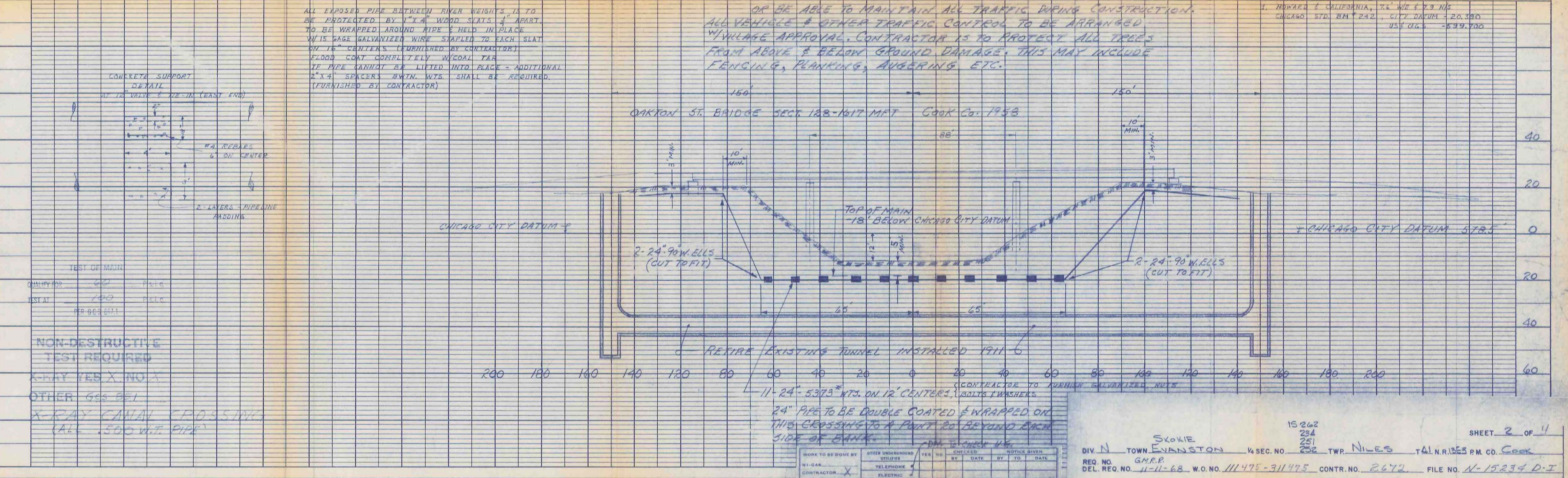
NOTE: AFTER ALL TIE-INS, CONTRACTOR
 1. FILL BOTH ENDS OF TUNNEL WITH CRUSHED ROCK.
 2. REMOVE VAULT & REPLACE W/ CONC. SLOTTED ON 5/8" I/OB.
 3. FILL ALL VALVE MANHOLES W/ GRAVEL & PAVE W/ CONC.

DATE	
BY	
PLAN	
REVISIONS	
NO.	
DATE	
BY	
PLAN	
REVISIONS	
NO.	
DATE	
BY	
PLAN	
REVISIONS	
NO.	

ALL EXPOSED PIPE BETWEEN RIVER WEIGHTS IS TO BE PROTECTED BY 1" x 4" WOOD SLATS 4" APART TO BE WRAPPED AROUND PIPE & HELD IN PLACE W/ IS GAGE GALVANIZED WIRE STAPLED TO EACH SLAT ON 16" CENTERS (FURNISHED BY CONTRACTOR). FLOOD COAT COMPLETELY W/ COAL TAR. PIPE CANNOT BE LIFTED INTO PLACE - ADDITIONAL 2" x 4" SPACERS 8" SW. WTS. SHALL BE REQUIRED. (FURNISHED BY CONTRACTOR)

NOTE: CONTRACTOR TO AUGER ALL STREETS & DRIVEWAYS OR BE ABLE TO MAINTAIN ALL TRAFFIC DURING CONSTRUCTION. ALL VEHICLE & OTHER TRAFFIC CONTROL TO BE ARRANGED W/ VILLAGE APPROVAL. CONTRACTOR IS TO PROTECT ALL TREES FROM ABOVE & BELOW GROUND DAMAGE. THIS MAY INCLUDE FENCING, PLANKING, AUGERING ETC.

NOTE: B.M. LOCATIONS
 1. HOWARD & CALIFORNIA, 7/4" W.I.E. & 9" N.S.
 CHICAGO STD. B.M. #242, CITY DATUM = 20.380
 USE G.C.S. - 539.700



DATE	
BY	
PROFILE	
REVISIONS	
NO.	
DATE	
BY	
PROFILE	
REVISIONS	
NO.	

NON-DSTRUCTIVE TEST REQUIRED
 X-RAY YES X NO X
 OTHER GCS BEI
 X-RAY CANAL CROSSING (ALL 500 W.T. PIPE)

WORK TO BE DONE BY	OTHER UNDERGROUND UTILITIES	YES	NO	CHECKED BY	DATE	NOTICE GIVEN BY	DATE
CONTRACTOR X	ELECTRIC						

15262
 234
 251
 SHEET 2 OF 4
 DIV. N TOWN EVANSTON W. SEC. NO. 252 TWP. NILES T41 N. R. 185 P.M. CO. COOK
 REQ. NO. G.M.R.P.
 DEL. REG. NO. 11-11-68 W.O. NO. 111475-311475 CONTR. NO. 2672 FILE NO. N-15234 D-I
 DATE 6-17-69 DR. DB. ENG. LINENBERGER APPROVED BY J. Knall
 CORROSION APPROVED
 DATE IN SERVICE NORTHERN ILLINOIS GAS COMPANY

EXHIBIT B



Nicor Gas™

An **AGL Resources** Company

1844 Ferry Road
Naperville, IL 60563

630.388.2250 phone
www.nicorgas.com

Sent Via Overnight Mail

November 11, 2014

The Honorable Elizabeth B. Tisdahl, Mayor
City of Evanston
2100 Ridge Ave.
Evanston, IL 60201, #2500

Wally Bobkiewicz, City Manager
City of Evanston
2100 Ridge Ave.
Evanston, IL 60201, #4500

Re: Application for Expedited Permit -- Nicor Gas Project 66

Dear Mayor Tisdahl and Mr. Bobkiewicz:

For many decades, Nicor Gas and the City of Evanston have had a productive relationship. The City has routinely, and to our knowledge without exception, granted Nicor Gas same-day permits to perform public utility work in the streets and rights of way related to our system safety and reliability responsibilities.

This letter is to formally advise you that Nicor Gas has now twice submitted a permit application to retire a segment of cast-iron pipe that has a number of leaks. The pipe, located east of James Park, contains gas but no longer serves customers, and the gas needs to be removed and the pipe retired in place for safety purposes.

During the week of October 13, 2014, the City revoked without explanation Nicor Gas' permit to retire the cast iron pipe. Our request through the City's Corporation Counsel for a meeting with the City to understand the basis for permit revocation and the City's concerns was ignored. We submitted a second and revised permit application on November 7, 2014, and we requested a permit within five (5) business days. To date, we still have no response.

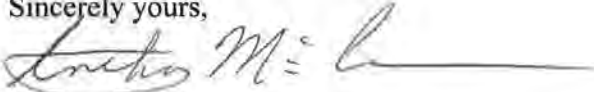
The weather is a reminder that we are rapidly approaching heating season and with heating season comes frost heave. Frost heave is a known risk for cast-iron pipe that has been disturbed, as this pipe has been.

This segment of pipe is one of the highest risk assets under our Distribution Integrity Management Plan, and needs to be made safe through retirement at the earliest opportunity. To be made safe requires the disconnection of the pipe from the distribution system and removal of the gas from the pipe.

The City is impeding our ability to follow our normal processes and procedures, which we have followed routinely over decades, and as such is not acting reasonably within the franchise agreement that governs the relationship between the City and Nicor Gas.

We respectfully request that our revised permit application be approved this week. Please let me know if getting our respective leaders together this week to resolve any concerns that you may have is necessary or helpful. Our most important obligation is to ensure the safety and reliability of our natural gas distribution system, and the City's continued delay creates additional risk for the community.

Sincerely yours,



Anthony McCain
Vice President – Operations
Nicor Gas

cc: Alderman Judy Fiske, City of Evanston
Alderman Peter Braithwaite, City of Evanston
Alderman Melissa Wynne, City of Evanston
Alderman Donald Wilson, City of Evanston
Alderman Delores Holmes, City of Evanston
Alderman Mark Tendam, City of Evanston
Alderman Jane Grover, City of Evanston
Alderman Ann Rainey, City of Evanston
Alderman Coleen Burrus, City of Evanston
Doug Scott, Chairman, Illinois Commerce Commission
Darin Burk, Pipeline Safety Manager, Illinois Commerce Commission
Representative Robyn Gabel, 18th District
Senator Daniel Bliss, 9th District

EXHIBIT C

Subject: RE: Nicor Project 66/City of Evanston

Date: Wednesday, November 12, 2014 at 2:00:01 PM Central Standard Time

From: Farrar, Grant

To: Michael Partee, Bobkiewicz, Wally, Tisdahl, Elizabeth, AMccain@aglresources.com, pshlanta@aglresources.com, breese@aglresources.com, jsomerhalder@aglresources.com

CC: Jeff Jeep, Masoncup, Michelle, Mike Blazer, goren@district65.net

Mr. Partee:

This serves as the City of Evanston's reply to your inaccurate statements below, and to respond to the letter you sent on November 11, 2014 to Mayor Tisdahl and City Manager Bobkiewicz.

Following the issuance of Chief Klaiber's order in July, Nicor never offered in good faith to meet. Rather, the July 29, 2014 letter authored by Nicor's outside attorney merely restated Nicor's baseless argument that it "did not understand". This purported non-comprehension follows the multiple hour meeting convened with you and other Nicor staff at the Civic Center on June 2, 2014 to discuss issues related to the James Park matter. You may not remember that meeting, which was convened at the City's request, but the City does.

The Record reflects that the July 29th letter requested documents, and was subsequently followed by voluminous Nicor FOIA requests. The Record further indicates that the City **responded to those FOIA requests by producing over 40,000 pages of documents**. More recently, Nicor was served on October 20, 2014 with the hundreds of pages in the NOITS. Instead of engaging in a dialog with the City, Nicor issued yet another FOIA, and redoubled its attempts to spoliage evidence.

For Nicor to still contend it does not understand the context of this issue, the context of the site and its work impacting the site, and to pursue its bewildering course of inaction, is simply astounding at this juncture.

Nicor's purported concern over community safety is squarely contradicted by its irreconcilable desire to conceal the fact that its leaking infrastructure is the source of the James Park situation. I again remind you as to the presence of the Dawes Elementary School and the Levy Senior Center at James Park.

The clock is running under applicable Federal law. I suggest yet again that Nicor revisit its posture and improve its approach to this matter. Generating expenses and billable hours to benefit Nicor's outside counsel (and given the City's statutory right to fee shifting) is not well-taken.

If you wish to submit supporting documentation in addition to the conclusory statements made in the November 11, 2014 letter, send it directly to my attention. In the interests of completeness, since Mr. McCain's letter referenced the 1982 franchise agreement, allow this electronic communication to confirm that the City demands that Nicor immediately comply with Section 2 of the agreement.

Finally, with respect to your so-called Project 66, Nicor proposes to perform work in the area the City is finding methane at high concentration and pressure caused by a release from Nicor's distribution lines. Refer to our RCRA Notice. The City is prepared to enter into an agreement to allow the work to proceed in a manner that does not result in the spoliage of evidence. Please provide us with a proposal for doing so.

W. Grant Farrar

Corporation Counsel, City of Evanston

2100 Ridge Avenue

Evanston, Illinois 60201

847.866.2937

The contents of this electronic mail to/from any recipient hereto, any attachments hereto, and any associated metadata pertaining to this electronic mail, may contain attorney-client privileged information, and also be exempt from disclosure for purposes of the Illinois Freedom of Information Act, 5 ILCS 140 *et. seq.*

If you properly received this e-mail as a client, or retained expert, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

If you believe that it has been sent to you in error, please notify the sender by return e-mail and then delete the message. Thank you.

From: Michael Partee [<mailto:MPartee@aglresources.com>]
Sent: Tuesday, November 11, 2014 4:38 PM
To: Farrar, Grant
Cc: jdjeep@enviroatty.com; Masoncup, Michelle; mblazer@enviroatty.com
Subject: RE: Nicor Project 66/City of Evanston

Mr. Farrar,

We appreciate your attention to the Nicor Gas permit application, but your response doesn't indicate what decision you will make in the "due course" or how long it will take. There are safety and compliance reasons for our expedited permit request, so I reiterate our request for a permit within five business days from the submittal of our application. Heretofore, Evanston has granted permits on the same day that Nicor Gas applied for them. Similarly, there are safety and compliance reasons behind all of our permit requests (to varying degrees), yet to my knowledge Nicor Gas has not provided and Evanston has not requested supporting documentation for those safety and compliance reasons with any prior permit application. If you require it here, please let us know when we can meet this week to go over it. The attached letter regarding the permit application was sent to the City today.

Regarding Chief Klaiber's order, we responded to it on July 29, 2014 by providing considerable information. Even before that, Nicor Gas conducted a leak survey and investigation at Evanston's request and reported back to Evanston that Nicor Gas does not have any pipes in James Park or leaking pipes surrounding it. We questioned the technical basis for some of the information requests in the order, but expressly offered to meet and discuss those requests and/or revisit them if the City provided clarification. That offer still stands.

Sincerely,

Michael C. Partee
Senior Environmental Counsel

630-388-2869 office
630-688-1582 mobile
630-357-7534 fax
mpartee@aglresources.com



From: Farrar, Grant [<mailto:gfarrar@cityofevanston.org>]
Sent: Tuesday, November 11, 2014 1:05 PM
To: Michael Partee
Cc: jdjeep@enviroatty.com; Masoncup, Michelle; mblazer@enviroatty.com
Subject: RE: Nicor Project 66/City of Evanston

Mr. Partee:

I am receipt of the application. Be advised as follows:

1. The City is studying the contents of the application. In the application's attachment, it recites that the purported reason for seeking this permit is that "Retirement of low pressure main and services is required for safety and compliance reasons". Of course, the City notes there is no supporting documentation or other indicia of safety or compliance attached to the application.
2. The City is not bound by any artificial deadline set by Nicor regarding this application. Nicor will be notified of the City's decision regarding this application in due course, and only after the City, not Nicor, is satisfied that review of all applicable factors is concluded. This is particularly appropriate given Nicor's ongoing, months long violation of Fire Chief Klaiber's order.

W. Grant Farrar

Corporation Counsel, City of Evanston
2100 Ridge Avenue
Evanston, Illinois 60201
847.866.2937

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From: Michael Partee [<mailto:MPartee@aglresources.com>]
Sent: Friday, November 07, 2014 3:26 PM
To: Farrar, Grant
Subject: RE: Nicor Project 66/City of Evanston

Mr. Farrar,

Please see the attached letter regarding Nicor Gas Project 66 in Evanston.

Sincerely,

Michael C. Partee
Senior Environmental Counsel

630-388-2869 office
630-688-1582 mobile
630-357-7534 fax
mpartee@aglresources.com



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EXHIBIT D

Subject: RE: Nicor Project 66/City of Evanston
Date: Friday, November 14, 2014 at 3:11:02 PM Central Standard Time
From: W. Grant Farrar
To: Michael Partee
CC: Jeff Jeep, Michelle L. Masoncup, Mike Blazer
Category: 00647.2

Mr. Partee:

In this correspondence, the City is setting to the side the multitude of disagreements that exist at this juncture. With that in mind, the City proposes the following:

The City of Evanston will convene a meeting with Nicor next Thursday, November 20th, at 9:00 am here at the Civic Center, 4th floor Law Department conference room. The meeting will address the admissions contained within Mr. McCain's letter regarding Nicor's leaking infrastructure and all other outstanding issues.

I await word from you confirming Nicor's agreement to attend, and the identification of its attendees. I expect you to email me attendance confirmation by 12:00 pm Monday, November 17th.

With respect to spoliation, the NOITS is the best evidence related to that issue. Simply put, leaking infrastructure in the scope of the pending Project 66 permit application is directly related to Nicor's other infrastructure in/around James Park. Expanding upon that point, given Nicor's admission relative to leaks, at minimum, all pipe sections that are removed, as well any other Nicor infrastructure that is to be removed during the work, shall be preserved. Photographic/video documentation of the work Nicor proposes to be done will be necessary. Samples of the pipe, and other materials (including, but not limited to, coal tar as observed on other Nicor infrastructure in the immediate vicinity of James Park) will be necessary to collect for laboratory analysis. All expenses regarding evidence preservation, sampling, and documentation shall be borne by Nicor. Nicor shall agree to the City observing such work, answering the City's questions posed to Nicor during such work, and shall otherwise unconditionally cooperate with the City during the pendency of the work. Work done on Project 66 in the vicinity of the areas depicted in the attached document shall be subject to these evidence preservation obligations. A meeting shall be held between the City and Nicor engineers to coordinate the work, and which would also include a safety plan to be approved by the City to govern the work.

Finally, Nicor shall transmit to me by 12:00 pm Monday the "Assigned Risk Scores" for all infrastructure within a 10 block radius of James Park that is subject to Project 66. This includes work already completed, and shall identify with particularity, every pipe section within the scope of the Project with its related "Risk Score".

We understand these scores are derived from the "Distribution Integrity Management Program", which was referenced in the substantive admissions on leaking infrastructure made by Nicor in its April 4, 2014 ICC Petition.

I look forward to your response, and Nicor finally engaging in an open and constructive discussion. With that meeting in mind, and an anticipated positive outcome of such meeting, the City will enter and continue its consideration of the Project 66 permit application.

Grant

W. Grant Farrar

Corporation Counsel, City of Evanston
2100 Ridge Avenue
Evanston, Illinois 60201
847.866.2937

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From: Michael Partee [<mailto:MPartee@aglresources.com>]
Sent: Thursday, November 13, 2014 7:30 PM
To: Farrar, Grant
Cc: jdjeep@enviroatty.com; Masoncup, Michelle; mblazer@enviroatty.com
Subject: RE: Nicor Project 66/City of Evanston

Dear Mr. Farrar:

We remain puzzled as to why the City continues to misstate the facts of Nicor's extensive cooperation in addressing the City's concerns about the presence of stray methane. To be clear, Nicor met with City representatives and provided them with documentation and evidence which should resolve the concerns that the methane detected may come from Nicor's pipelines. Nicor conducted a leak survey which confirmed that there are no pipeline leaks in the system surrounding the James Park landfill. Further, the gas detected by the City is at depths greater than 40 feet, whereas Nicor's pipes are at depths of only 2 to 4 feet. As a matter of chemistry and physics, gas from Nicor's pipes could not migrate horizontally to the Park and then downward through the soil to the depths at which Evanston has reportedly found methane. Nicor has repeatedly asked for the City to explain its rationale for continuing to assert that the stray methane is natural gas from Nicor's pipelines. To date, the City has failed to provide its theory. You may continue to claim otherwise, but Nicor's cooperation and offers to meet are all documented in written correspondence.

The continued presence of pressurized gas in the cast iron mains within Project 66 presents a risk, as those mains are older and have been disturbed through the recent installation of the new mains that are now in place and serving area residents. This week, a Class 1 leak requiring immediate repair occurred on the older system that requires replacement. There is no reason for the City to delay issuing a permit to Nicor allowing formal retirement of those former mains.

You raise "spoliation of evidence" concerns with this work and ask that Nicor make a proposal. Frankly, your spoliation concerns are unclear to us because you have never identified the "evidence" you are seeking to protect or preserve. In terms of our proposal, the necessary work is clearly set forth in the second set of permit applications that we submitted to Evanston for reconsideration on November 7. The remaining work involves excavations in two areas in order to make separation cuts in the gas mains. The excavations will be approximately eight feet wide by ten feet long. The areas of excavation and separation cuts are clearly identified on Nicor's November 7 permit applications: the first area is on Asbury, approximately four blocks east of James Park; and the second is near the intersection of Dodge and Oakton. In both instances, the work involved will include excavating to expose the gas main. Then, Nicor will make a separation cut in the main and physically remove an approximately three foot segment of the main to prevent further flow of gas into the main that is being retired. The exposed ends of the main will be capped. Nicor will also dig approximately five foot by five foot relief holes to purge the main of natural gas, the location of which holes

are also detailed in Nicor's November 7 permit applications. Purging the main involves cutting a hole in it and introducing air in order to displace the natural gas. We will provide 24 hours notice and City personnel may observe the work. The former mains will remain in the ground, save for the two segments involved in the separation cuts.

As stated in our earlier messages, we expect the City's approval of the second permit application no later five business days from its submittal, or by tomorrow, November 14. You may notice buried utility markings in the areas of the necessary excavations; going on good faith that the City will issue the permit tomorrow, we will be prepared to do the work on Monday, November 17. We still need to resolve our other concerns over the scope of your position that Nicor must cease work around the James Park landfill. We will continue pursue a resolution of those broader concerns. We look forward to your quick response

Sincerely,

Michael C. Partee
Senior Environmental Counsel

630-388-2869 office
630-688-1582 mobile
630-357-7534 fax
mpartee@aglresources.com



From: Farrar, Grant [<mailto:gfarrar@cityofevanston.org>]
Sent: Wednesday, November 12, 2014 2:00 PM
To: Michael Partee; Bobkiewicz, Wally; Tisdahl, Elizabeth; Anthony McCain; Paul Shlanta; Beth Reese; jsomerhalder@aglresources.com
Cc: jdjeep@enviroatty.com; Masoncup, Michelle; mblazer@enviroatty.com; goren@district65.net
Subject: RE: Nicor Project 66/City of Evanston

Mr. Partee:

This serves as the City of Evanston's reply to your inaccurate statements below, and to respond to the letter you sent on November 11, 2014 to Mayor Tisdahl and City Manager Bobkiewicz.

Following the issuance of Chief Klaiber's order in July, Nicor never offered in good faith to meet. Rather, the July 29, 2014 letter authored by Nicor's outside attorney merely restated Nicor's baseless argument that it "did not understand". This purported non-comprehension follows the multiple hour meeting convened with you and other Nicor staff at the Civic Center on June 2, 2014 to discuss issues related to the James Park matter. You may not remember that meeting, which was convened at the City's request, but the City does.

The Record reflects that the July 29th letter requested documents, and was subsequently followed by voluminous Nicor FOIA requests. The Record further indicates that the City **responded to those FOIA requests by producing over 40,000 pages of documents**. More recently, Nicor was served on October 20, 2014 with the hundreds of pages in the NOITS. Instead of engaging in a dialog with the City, Nicor issued yet another FOIA, and redoubled its attempts to spoliage evidence.

For Nicor to still contend it does not understand the context of this issue, the context of the site and its work impacting the site, and to pursue its bewildering course of inaction, is simply astounding at this juncture. Nicor's purported concern over community safety is squarely contradicted by its irreconcilable desire to conceal the fact that its leaking infrastructure is the source of the James Park situation. I again remind you as to the presence of the Dawes Elementary School and the Levy Senior Center at James Park.

The clock is running under applicable Federal law. I suggest yet again that Nicor revisit its posture and improve its approach to this matter. Generating expenses and billable hours to benefit Nicor's outside counsel (and given the City's statutory right to fee shifting) is not well-taken.

If you wish to submit supporting documentation in addition to the conclusory statements made in the November 11, 2014 letter, send it directly to my attention. In the interests of completeness, since Mr. McCain's letter referenced the 1982 franchise agreement, allow this electronic communication to confirm that the City demands that Nicor immediately comply with Section 2 of the agreement.

Finally, with respect to your so-called Project 66, Nicor proposes to perform work in the area the City is finding methane at high concentration and pressure caused by a release from Nicor's distribution lines. Refer to our RCRA Notice. The City is prepared to enter into an agreement to allow the work to proceed in a manner that does not result in the spoliage of evidence. Please provide us with a proposal for doing so.

W. Grant Farrar

Corporation Counsel, City of Evanston
2100 Ridge Avenue
Evanston, Illinois 60201
847.866.2937

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From: Michael Partee [<mailto:MPartee@aglresources.com>]
Sent: Tuesday, November 11, 2014 4:38 PM
To: Farrar, Grant
Cc: jdjeep@enviroatty.com; Masoncup, Michelle; mblazer@enviroatty.com
Subject: RE: Nicor Project 66/City of Evanston

Mr. Farrar,

We appreciate your attention to the Nicor Gas permit application, but your response doesn't indicate what decision you will make in the "due course" or how long it will take. There are safety and compliance reasons for our expedited permit request, so I reiterate our request for a permit within five business days from the submittal of our application. Heretofore, Evanston has granted permits on the same day that Nicor Gas applied for them. Similarly, there are safety and compliance reasons behind all of our permit requests (to varying degrees), yet to my knowledge Nicor Gas has not provided and Evanston has not requested supporting documentation for those safety and compliance reasons with any prior permit application. If you require it here, please let us know when we can meet this week to go over it. The attached letter regarding the permit application was sent to the City today.

Regarding Chief Klaiber's order, we responded to it on July 29, 2014 by providing considerable information. Even before that, Nicor Gas conducted a leak survey and investigation at Evanston's request and reported back to Evanston that Nicor Gas does not have any pipes in James Park or leaking pipes surrounding it. We questioned the technical basis for some of the information requests in the order, but expressly offered to meet and discuss those requests and/or revisit them if the City provided clarification. That offer still stands.

Sincerely,

Michael C. Partee
Senior Environmental Counsel

630-388-2869 office
630-688-1582 mobile
630-357-7534 fax
mpartee@aglresources.com



From: Farrar, Grant [<mailto:gfarrar@cityofevanston.org>]
Sent: Tuesday, November 11, 2014 1:05 PM
To: Michael Partee
Cc: jdjeep@enviroatty.com; Masoncup, Michelle; mblazer@enviroatty.com
Subject: RE: Nicor Project 66/City of Evanston

Mr. Partee:

I am receipt of the application. Be advised as follows:

1. The City is studying the contents of the application. In the application's attachment, it recites that the purported reason for seeking this permit is that "Retirement of low pressure main and services is required for safety and compliance reasons". Of course, the City notes there is no supporting documentation or other indicia of safety or compliance attached to the application.
2. The City is not bound by any artificial deadline set by Nicor regarding this application. Nicor will be notified of the City's decision regarding this application in due course, and only after the City, not Nicor, is satisfied that review of all applicable factors is concluded. This is particularly appropriate given Nicor's ongoing, months long violation of Fire Chief Klaiber's order.

W. Grant Farrar

Corporation Counsel, City of Evanston
2100 Ridge Avenue
Evanston, Illinois 60201
847.866.2937

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From: Michael Partee [<mailto:MPartee@aglresources.com>]
Sent: Friday, November 07, 2014 3:26 PM
To: Farrar, Grant
Subject: RE: Nicor Project 66/City of Evanston

Mr. Farrar,

Please see the attached letter regarding Nicor Gas Project 66 in Evanston.

Sincerely,

Michael C. Partee
Senior Environmental Counsel

630-388-2869 office
630-688-1582 mobile
630-357-7534 fax
mpartee@aglresources.com



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EXHIBIT E

Subject: RE: Nicor Gas Project 66

Date: Wednesday, November 19, 2014 at 5:41:00 PM Central Standard Time

From: Farrar, Grant

To: Michael Partee, Bobkiewicz, Wally

CC: Dahal, Rajeev, d.scott@icc.illinois.gov, d.burk@icc.illinois.gov

Mr. Partee:

Thank you for sending these items to my attention. There was no letter attached as referenced in your prefatory 5:19 pm email, however I reviewed the attachments contained within your 5:21 pm email.

The City's Engineering Department is prepared to issue the permit for completion of the Project 66 Work. The City agrees to the revised evidence preservation agreement that you submitted just now. Please bring a clean copy of the agreement to tomorrow's meeting and we can get that executed.

Grant

W. Grant Farrar

Corporation Counsel, City of Evanston

2100 Ridge Avenue

Evanston, Illinois 60201

847.866.2937

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From: Michael Partee [<mailto:MPartee@aglresources.com>]

Sent: Wednesday, November 19, 2014 5:21 PM

To: Farrar, Grant; Bobkiewicz, Wally

Cc: Dahal, Rajeev

Subject: RE: Nicor Gas Project 66

Mr. Farrar,

As indicated below, attached are the items requested by Evanston and referenced in my cover letter.

Michael C. Partee
Senior Environmental Counsel

630-388-2869 office
630-688-1582 mobile
630-357-7534 fax
mpartee@aglresources.com



From: Michael Partee
Sent: Wednesday, November 19, 2014 5:19 PM
To: 'Farrar, Grant'; Bobkiewicz, Wally
Cc: Anthony McCain; Beth Reese; d.scott@icc.illinois.gov; d.burk@icc.illinois.gov; Dahal, Rajeev
Subject: RE: Nicor Gas Project 66

Mr. Farrar,

Please see the following letter agreeing to provide the three items requested by Evanston in order to immediately issue the permit for completion of Nicor Gas' Project 66. Due to file size, I will send the three items in a separate email.

Regards,

Michael C. Partee
Senior Environmental Counsel

630-388-2869 office
630-688-1582 mobile
630-357-7534 fax
mpartee@aglresources.com



From: Farrar, Grant [<mailto:gfarrar@cityofevanston.org>]
Sent: Tuesday, November 18, 2014 4:44 PM
To: Michael Partee; Bobkiewicz, Wally
Cc: Anthony McCain; Paul Shlanta; Beth Reese; jsomerhalder@aglresources.com; d.scott@icc.illinois.gov; d.burk@icc.illinois.gov; Dahal, Rajeev
Subject: RE: Nicor Gas Project 66

Mr. Partee:

I acknowledge receipt of your correspondence from earlier today and documents responsive to same are attached. We are copying Chairman Scott and Mr. Burk at the Illinois Commerce Commission as well.

I look forward to you immediately confirming who from Nicor will attend the November 20th meeting at the Civic Center.

W. Grant Farrar

Corporation Counsel, City of Evanston
2100 Ridge Avenue
Evanston, Illinois 60201
847.866.2937

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From: Michael Partee [<mailto:MPartee@aglresources.com>]

Sent: Tuesday, November 18, 2014 1:18 PM

To: Farrar, Grant

Cc: Tisdahl, Elizabeth; CityManagersOffice; Fiske, Judy; Braithwaite, Peter; Wynne, Melissa; Wilson, Donald; Holmes, Delores; 'tendam@comcast.net'; Grover, Jane; Rainey, Ann; Burrus, Coleen

Subject: Nicor Gas Project 66

Mr. Farrar,

Attached is a follow up letter on behalf of Nicor Gas regarding completion of Project 66 near James Park. Also attached is a courtesy copy of the complaint that was filed today regarding this same matter.

Michael C. Partee
Senior Environmental Counsel

630-388-2869 office
630-688-1582 mobile
630-357-7534 fax
mpartee@aglresources.com



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EXHIBIT F

Jeep & Blazer, L.L.C.

Jeffery D. Jeep*
Michael S. Blazer**

24 N. Hillside Avenue
Suite A
Hillside, Illinois 60162
(708) 236-0830
(708) 236-0828 Fax

Web Site: www.jeepandblazer.com

* Also admitted in Massachusetts
** Also Admitted in New York and Washington

Michael S. Blazer
email: mblazer@enviroatty.com

November 21, 2014

Via Email Transmission

Mr. Mark Ter Molen
Mayer Brown LLP
71 S. Wacker Drive
Chicago, IL 60606

Re: Nicor Project 66/Nicor v. City of Evanston, No. 14-9227

Mark:

This follows the meeting yesterday morning between representatives of the City and Nicor. First, I enclose a fully executed copy of the Evidence Preservation Agreement (the "Agreement"). We appreciate your client's acknowledgment of the reasonableness of the City's concerns regarding possible spoliation of evidence. It is unfortunate that you and your client were unwilling to proceed in this fashion before your precipitous and unnecessary filing of your complaint, particularly since the resolution of the situation was so clearly within your grasp.

In any event, in consideration of that acknowledgment, I also enclose a copy of the issued Right of Way Permit. The Permit was provided to your client yesterday morning, and we understand that work on Project 66 began yesterday and will be completed today, subject to the terms of the Agreement. As for any future work, we have agreed that routine customer work can proceed unabated. Your client agreed to provide the City with sufficient advance notice of other types of activities, such as, for example, work similar to Project 66, so we can cooperatively determine whether it is of such a nature as to require another evidence preservation agreement.

It is not necessary for me to address the legal and factual inadequacies of your complaint. The sole stated purpose of your complaint is to be allowed to proceed forward with Project 66 and allow Nicor to retire the cast-iron main and associated service lines. That has now occurred, and your claims, regardless of their legal and factual invalidity, are moot. I therefore asked you at our meeting when we could expect to see a nonsuit of your action. You responded that, "We'll get back to you on that." That response, given the circumstances, is fundamentally inappropriate. We expect that you will immediately cause your action to be dismissed. If you refuse to do so, and we are required to appear and seek dismissal based on mootness, we will have no choice but

Jeep & Blazer, L.L.C.


Page 2 of 2

to seek the imposition of sanctions against you, your firm and your client in accordance with Federal Rule 11.

Turning to the real issue between the City and Nicor, we attempted at our meeting yesterday to engage in a rational discussion with you and your client regarding how Nicor intends to remediate the contamination that is the subject of the City's Notice of Intent to Sue ("NOITS"). It became clear very quickly that you and your client are more interested in further obfuscation than in resolution. We were again met with a demand for "information", even though thousands of pages of information have already been provided to you in response to your serial FOIA requests. You claimed that you have already provided information to us, yet ignored, for example, the fact that we had to advise Nicor of the existence of numerous pipelines that Nicor had itself failed to disclose. The bottom line is that your continued demand for "information" regarding the contamination that Nicor and its predecessors created does nothing to foster an amicable resolution. The type of stonewalling with which we have been faced is guaranteed to lead to litigation, and we can only assume that you and your client desire that result. Your client's persistent refusal to acknowledge responsibility for both its methane and its coal tar leaves us little option. We cannot simply ignore an imminent and substantial endangerment to human health and the environment.

It is unfortunate that a company of Nicor's stature is so unwilling to take the necessary actions to ensure that it does not endanger the public, particularly in light of the many admissions of endangerment contained in your complaint and in Anthony McCain's letter of November 11 to Mayor Tisdahl. It seems evident that the City will have no choice but to pursue its remedies in accordance with the applicable environmental statutes as noted in the NOITS, Illinois common law, and the City's franchise agreement with Nicor. We of course remain willing to engage in a rational discussion to avoid that result, and would welcome a proposal from Nicor on how it would remediate the existing contamination. Consistent with the cooperative stance evidenced by Nicor's acknowledgment of our spoliation concerns via its execution of the Agreement, we invite a similar cooperative effort to resolve the much larger issue that is at hand. The choice is yours.

Very truly yours,



Michael S. Blazer

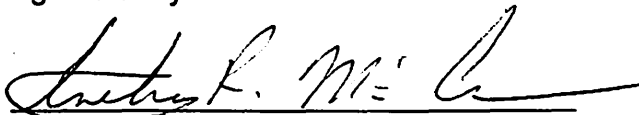
MSB/me
Enclosures

cc: City of Evanston

Evidence Preservation Agreement by and Between Nicor Gas and the City of Evanston
regarding Nicor Work for Project 66 in Evanston, Illinois

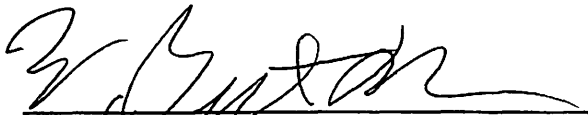
1. The "Work" refers to Nicor Gas' Project 66 main and service line retirement work to be conducted shortly under permits to be issued by Evanston. Concurrent with the Work, Nicor will provide the City with plans showing the location and alignment of the pipes which will be the subject of the Work and other features of the distribution system which is the subject of the Work, including, but not limited to, vaults, valves and instrumentation.
2. All pipe sections that are removed, as well any other Nicor Gas infrastructure that is to be removed during the Work, will be preserved by Nicor Gas. If the pipe sections have coal tar wrap, the wrap will also be preserved. The City shall have the right, based on reasonable notice and other appropriate requirements, to inspect pipe section(s) after they are removed.
3. Video documentation of the Work will be obtained by Nicor Gas, which will include video recording of the Work located within one (1) block of James Park. On request, Nicor shall provide appropriate copies of the video documentation to the City.
4. The City may at its expense observe the Work in compliance with Nicor's safety plan. City personnel shall not be permitted to enter the excavations.
5. The City shall be permitted to take samples for laboratory analysis of soil, water, and air in the areas of the Work, including split samples of any samples collected by Nicor. To the extent that the City wishes to take samples within any excavation, the City shall direct Nicor personnel to the locations at which the City wishes to sample and Nicor personnel shall then take such samples on behalf of the City. Nicor and the City will exchange all documents generated by their engineers associated with this sampling, including field notes, photographs, recordings, sample results and related chain of custody paperwork.
6. Nicor Gas will provide a copy of its safety plan to the City.
7. Nicor Gas will cover all reasonable expenses it incurs regarding evidence preservation and photographic and video documentation.

Agreed to by:



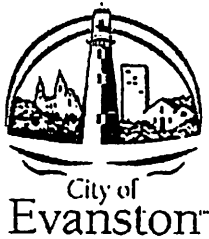
On behalf of Nicor Gas

November 20, 2014



W. Grant Farrar

Corporation Counsel, City of Evanston



Right of Way Permit Application

Department of Public Works
 2100 Ridge Avenue
 Evanston, IL 60201
 Dial 3-1-1 or (847) 448-4311
www.cityofevanston.org

Permit #	<u>14TR0W-0059</u>		
Bond #:	-		
Permit Fee: \$	<u>4</u>	Acc. No:	2630.52126
Winter Fee: \$	<u>4</u>	Acc. No:	2670.53736
Approved by:	<u>[Signature]</u> 11/20		
Start Date:	<u>11/20/14</u>	Expires:	<u>11/24/14</u>

Obstruction Excavation/Opening Utility Agency Driveway

Contractor/Firm: Nicor/NPL Contact Name: Dan Kellogg

Address: 1665 Birchwood Ave., Dec Plaines, IL 60018

Phone: 630-816-5645 Fax: _____ Email: dkellog@agresources.com

SITE LOCATION: Dodge "A" - see attached locations for purge points
 (Street, property address, or distance and direction from nearest public street intersection)

ON SITE/EMERGENCY CONTACT: Name: Dan Kellogg Number 630-816-5645

NATURE OF WORK: Retirement of low pressure gas main and service lines

DESCRIPTION: Please include a detailed description & scaled drawing or plans of the work for all permits including the identification of any structures to be installed, the size and depth of proposed excavation, any changes to existing materials, and the proposed traffic control. A plat of survey must also be submitted for driveway permits. Please indicate below the items to be disturbed and include this information on the drawing/plans of work. See attached description and drawings

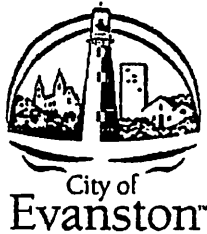
ROW IMPACT	<input type="checkbox"/> Driveway <input type="checkbox"/> Street <input type="checkbox"/> Sidewalk <input checked="" type="checkbox"/> Parkway <input type="checkbox"/> Alley <input type="checkbox"/> Metered Parking
How many linear Feet?	Traffic Lane _____ Parking Lane _____ Sidewalk _____ Parkway <u>10'</u> Alley _____
EXISTING SURFACES/ MATERIALS IMPACTED	<input type="checkbox"/> Asphalt <input type="checkbox"/> Concrete <input type="checkbox"/> Brick Pavers <input type="checkbox"/> Gravel <input checked="" type="checkbox"/> Grass <input type="checkbox"/> Decorative Stone <input type="checkbox"/> Curb <input type="checkbox"/> Curb and Gutter <input type="checkbox"/> Other (specify) _____
UTILITIES	<input type="checkbox"/> Water <input type="checkbox"/> Sewer <input checked="" type="checkbox"/> Gas <input type="checkbox"/> Electric <input type="checkbox"/> Cable/Telephone <input type="checkbox"/> Drainage/Culvert <input type="checkbox"/> Traffic Signals <input type="checkbox"/> Street lights <input type="checkbox"/> Other (specify) _____
OTHER IMPACTS	<input type="checkbox"/> Landscaping <input type="checkbox"/> Trees <input type="checkbox"/> Irrigation <input type="checkbox"/> Signs <input type="checkbox"/> Fire Hydrants
METHOD OF INSTALLATION	<input checked="" type="checkbox"/> Open-Cut <input type="checkbox"/> Directional Bore <input type="checkbox"/> Aerial/Poles Attachment <input type="checkbox"/> Other (specify) _____ Linear feet of buried: _____ Linear feet of aerial: _____ Utility Owner: <u>NICOR</u> Number of Openings: Sidewalk _____ Parkway <u>6</u> Street _____ Alley _____

Dumpster Sidewalk Sign Crane/Mobile Lift Scaffolding/Covered Canopy
 Additional Info: Maintain traffic control at all times. TEMPORARY RESTORED

THE FOLLOWING ITEMS ARE TO BE SUBMITTED WITH THE APPLICATION BY MONDAY 11/24
CERTIFICATE OF INSURANCE valid for permit period, \$1,000,000 naming the "City of Evanston" as additional insured and **BOND** as required by City Engineer.
PROJECT DESCRIPTION to include drawings/plans and schedule for all activities taking place in the public right-of-way.
TRAFFIC CONTROL PLAN for safe movement of pedestrians and vehicles.
Any changes to operations set forth in this application without the prior approval of the City Engineer, may result in citation and fine

Permit Acceptance and Liability Waiver (to be signed by authorized company representative or homeowner)
 I request permission to excavate and/or occupy the public right-of-way in the City of Evanston in accordance with Section 7 of the City Code. For consideration of such permission, I agree to indemnify, hold harmless and defend the City of Evanston, its officers, agents and employees, from any and all claims resulting from injuries, including death, damages or losses, including, but not limited to the general public, which may arise or which may be alleged to have arisen out of, or in connection with such excavation and occupancy. I further agree to do all work in accordance with the conditions, regulations and city standards provided with this application. A copy of this permit shall be available for review at the job site at all times when work is occurring in the right-of-way.

Signature: [Signature] Date: 11/7/14
 Signature of authorized company representative or homeowner



Right of Way Permit Application

Department of Public Works
2100 Ridge Avenue
Evanston, IL 60201
Dial 3-1-1 or (847) 448-4311
www.cityofevanston.org

Permit #: <u>14TR01-0658</u>
Bond #: <u>-</u>
Permit Fee: \$ <u>0</u> Acc. No: 2630.52126
Winter Fee: \$ <u>0</u> Acc. No: 2670.53736
Approved by: <u>[Signature]</u> 11/20
Start Date: <u>11/20/14</u> Expires: <u>11/24/14</u>

Obstruction Excavation/Opening Utility Agency Driveway

Contractor/Firm: Nicor/NPL Contact Name: Dan Kellogg

Address: 1665 Birchwood Ave., Des Plaines, IL 60018

Phone: 630-816-5645 Fax: _____ Email: dkellogg@ag/resources.com

SITE LOCATION: Asbury "B" - see attached locations for purge points
(Street, property address, or distance and direction from nearest public street intersection)

ON SITE/EMERGENCY CONTACT: Name: Dan Kellogg Number 630-816-5645

NATURE OF WORK: Retirement of low pressure gas main and service lines

DESCRIPTION: Please include a detailed description & scaled drawing or plans of the work for all permits including the identification of any structures to be installed, the size and depth of proposed excavation, any changes to existing materials, and the proposed traffic control. A plat of survey must also be submitted for driveway permits. Please indicate below the items to be disturbed and include this information on the drawing/plans of work. See attached description and drawings

ROW IMPACT	<input type="checkbox"/> Driveway <input type="checkbox"/> Street <input type="checkbox"/> Sidewalk <input checked="" type="checkbox"/> Parkway <input type="checkbox"/> Alley <input type="checkbox"/> Metered Parking
How many linear Feet?	Traffic Lane _____ Parking Lane _____ Sidewalk _____ Parkway <u>10'</u> Alley _____
EXISTING SURFACES/ MATERIALS IMPACTED	<input type="checkbox"/> Asphalt <input type="checkbox"/> Concrete <input type="checkbox"/> Brick Pavers <input type="checkbox"/> Gravel <input checked="" type="checkbox"/> Grass <input type="checkbox"/> Decorative Stone <input type="checkbox"/> Curb <input type="checkbox"/> Curb and Gutter <input type="checkbox"/> Other (specify) _____
UTILITIES	<input type="checkbox"/> Water <input type="checkbox"/> Sewer <input checked="" type="checkbox"/> Gas <input type="checkbox"/> Electric <input type="checkbox"/> Cable/Telephone <input type="checkbox"/> Drainage/Culvert <input type="checkbox"/> Traffic Signals <input type="checkbox"/> Street lights <input type="checkbox"/> Other (specify) _____
OTHER IMPACTS	<input type="checkbox"/> Landscaping <input type="checkbox"/> Trees <input type="checkbox"/> Irrigation <input type="checkbox"/> Signs <input type="checkbox"/> Fire Hydrants
METHOD OF INSTALLATION	<input checked="" type="checkbox"/> Open-Cut <input type="checkbox"/> Directional Bore <input type="checkbox"/> Aerial/Poles Attachment <input type="checkbox"/> Other (specify) _____ Linear feet of buried: _____ Linear feet of aerial: _____ Utility Owner: <u>NICOR</u> Number of Openings: Sidewalk _____ Parkway <u>5</u> Street _____ Alley _____

Dumpster Sidewalk Sign Crane/Mobile Lift Scaffolding/Covered Canopy
Additional Info: Maintain traffic control at all times. TEMPORARY RESTORED

THE FOLLOWING ITEMS ARE TO BE SUBMITTED WITH THE APPLICATION By MONDAY 11/24

CERTIFICATE OF INSURANCE valid for permit period, \$1,000,000 naming the "City of Evanston" as additional insured and **BOND** as required by City Engineer.

PROJECT DESCRIPTION to include drawings/plans and schedule for all activities taking place in the public right-of-way.

TRAFFIC CONTROL PLAN for safe movement of pedestrians and vehicles.

Any changes to operations set forth in this application without the prior approval of the City Engineer, may result in citation and fine

Permit Acceptance and Liability Waiver (to be signed by authorized company representative or homeowner)
I request permission to excavate and/or occupy the public right-of-way in the City of Evanston in accordance with Section 7 of the City Code. For consideration of such permission, I agree to indemnify, hold harmless and defend the City of Evanston, its officers, agents and employees, from any and all claims resulting from injuries, including death, damages or losses, including, but not limited to the general public, which may arise or which may be alleged to have arisen out of, or in connection with such excavation and occupancy. I further agree to do all work in accordance with the conditions, regulations and city standards provided with this application. A copy of this permit shall be available for review at the job site at all times when work is occurring in the right-of-way.

Signature: [Signature] Date: 11/7/14
Signature of authorized company representative or homeowner

Attachment to Right of Way Permit Applications

Nicor/NPL Project 66 – Dodge “A” and Asbury “B” Permit Applications

November 7, 2014

Description: Evanston revoked its initial Right of Way Permit to Nicor Gas for Project 66 before the low pressure main and service lines were retired. Retirement of the low pressure main and service lines is required for safety and compliance reasons. ***Accordingly, Nicor Gas requests issuance of the Rights of Way Permits for Nicor/NPL Project 66 (Dodge “A” and Asbury “B” retirement) on an expedited basis and within five business days.*** Drawings showing dig locations are also attached.

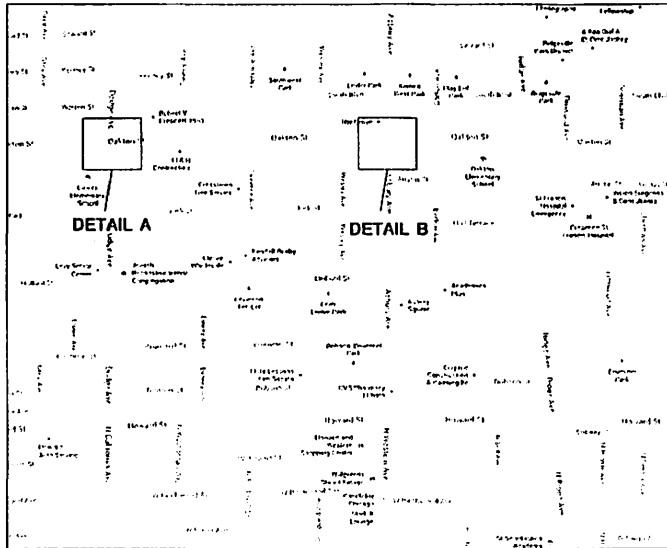
GENERAL NOTES:

- BACKFILL WITH SAND WHERE PIPE TRENCH IS UNDER OR WITHIN 2' OF PAVEMENT, CURB, OR SIDEWALK.
- INSTALL PROPOSED MAN USING ROAD STATIONING WHERE GIVEN. OTHER DIMENSIONS ARE FOR MAPPING PURPOSES ONLY.
- ALL RIGHT-OF-WAY MUST BE STAKED AND STATIONING PROVIDED BEFORE GAS MAIN CAN BE INSTALLED.
- INSTALL ALL MAN WITH A MINIMUM COVER OF 3' UNLESS OTHERWISE NOTED.
- PIPE CONTRACTOR SHALL INSTALL THE PROPOSED GAS MAINS CROSSING CONCRETE, ASPHALT, UNGRAVEL, OR OTHER HARD SURFACED PAVEMENTS, WALKS, OR DRIVEWAYS BY BORING OR PUSHING UNLESS OTHERWISE SPECIFIED. CONTRACTOR WILL INSTALL A TEMPORARY PATCH PER GAS CONSTRUCTION SPECIFICATIONS FOR CONTRACTORS. PERMANENT REPAIRS TO BE COMPLETED BY OTHERS.
- CONTRACTOR SHALL FURNISH AND INSTALL ALL CAPS AND OTHER FITTINGS NECESSARY FOR TESTING THE MAIN.
- PLUS AND/OR CAP RETIRED 6" AND LARGER MAINS EVERY 660' PER GCS 849.
- EXTEND MAIN TO LAST SERVICE.
- INSTALL LOCATING WIRE PER GCS 700.
- RETIRED OLD MAIN PER GCS 849.
- IT IS THE RESPONSIBILITY OF THE NICOR GAS INSPECTOR, CONTRACTOR, AND ANYONE INVOLVED IN THE CONSTRUCTION OF THE FACILITIES TO FOLLOW THE LATEST NICOR GAS GCS AND GCS SPECIFICATIONS. CONTACT NICOR'S TECHNICAL SERVICES DEPARTMENT, MAIN, TUNP, SENIOR CODES AND STANDARDS ENGINEER, AT (830) 388-2322 FOR A COPY OF THE LATEST EDITION.
- COORDINATE WITH NICOR GAS INSPECTOR FOR LOCATION OF UNDERGROUND UTILITIES PRIOR TO STARTING ANY EXCAVATION. EXERCISE CARE WHEN EXCAVATING NEAR EXISTING STRUCTURES.
- ANY PROPOSED DIRECTIONALLY BORED PIPE TO BE INSTALLED PER NICOR GAS DIRECTIONAL BORING GUIDELINES DATED DECEMBER 15, 2009.
- UTILITY LOCATIONS SHOWN ON PLANS ARE APPROXIMATE AND MAY NOT BE ALL INCLUSIVE. CONTRACTOR SHALL CONTACT J.U.L.I.E. AND LOCAL GOVERNMENT AGENCIES PRIOR TO CONSTRUCTION FOR ALL UTILITY LOCATIONS.
- REMOVE TOP SECTION OF THE VALVE BOX FROM VALVES ON THE RETIRED MAIN. BACKFILL WITH SAND AND MATCH EXISTING PAVEMENT IF APPLICABLE.
- IT IS THE RESPONSIBILITY OF THE CREW (INTERNAL OR CONTRACTOR) INSTALLING THE GAS FACILITIES TO LOCATE ALL SEWER MAINS AND LATERALS WITHIN THE SCOPE OF THE PROJECT. NO BORING, DIRECTIONAL DRILLING OR OTHER TRENCH LESS CONSTRUCTION METHODS SHALL BE EMPLOYED WITHOUT EITHER LOCATING SEWERS OR OBTAINING PROOF OF SEPTIC SYSTEMS. THE USE OF A SONDE DEVICE (CALIBRATED DAILY) IS RECOMMENDED FOR LOCATING THE SEWER FACILITIES. SPOTTING OF SEWER FACILITIES IS REQUIRED IF A SONDE DEVICE IS NOT USED (HOWEVER, SPOTTING OF FACILITIES MAY STILL BE REQUIRED WHEN USING A SONDE DEVICE). PROPER CLEARANCE OF GAS FACILITIES AND SEWER MAINS/LATERALS SHALL BE MAINTAINED PER GCS 700 SECTION 10.
- CONTACT INFORMATION:
MR. ARNOLD BOND
DIVISION OF ENGINEERING
PHONE: (847) 448-4311
EMAIL: PUMP.PRODUCT@EVANSTON.ORG

ENVIRONMENTAL NOTES:

- PCB WPT SAMPLES, PERFORMED BY NICOR GAS EMPLOYEES, ARE REQUIRED FOR ALL 4" AND LARGER PIPE THAT IS ABANDONED OR REMOVED ON THIS WORK ORDER. DIRECT QUESTIONS ON PCB WPT SAMPLE PROCEDURES TO THE SYSTEM OPERATIONS DEPARTMENT OF ENVIRONMENTAL, HEALTH AND SAFETY (830) 388-2381.
- COLLECT AND PROPERLY DISPOSE OF ALL LOADS FROM PIPELINES BEING RETIRED. ANY SPILLS FROM PIPELINES SHOULD BE IMMEDIATELY CONTAINED. REFER TO STANDARD PRACTICE ENVIRONMENTAL - 5.
- ANY RETIRED PIPE THAT MUST BE REMOVED FROM THE SITE SHOULD HAVE THE ENDS COVERED WITH PLASTIC OR SIMILAR MATERIAL UNTIL THE PCB WPT SAMPLE LAB RESULTS ARE KNOWN. INDICATE ON THE NICOR GAS PCB SAMPLE INFORMATION FORM WHERE ANY PIPE REMOVED FROM THE SITE IS BEING TEMPORARILY LOCATED.
- IF ASBESTOS COAL WRECK IS IDENTIFIED, REFER TO ASBESTOS COAL TAP REMOVAL GUIDELINES TO BE COMPLETED BY A TRAINED EMPLOYEE. FOR ANY QUESTIONS OF PROCEDURE OR TRAINED EMPLOYEES, CALL KEITH BOEDER IN ENVIRONMENTAL, HEALTH AND SAFETY AT (830) 388-2381.
- IF CONTAMINATED SOIL IS SUSPECTED, CALL THE ENVIRONMENTAL, HEALTH AND SAFETY DEPARTMENT AT (830) 388-2381 FOR REGULATORY COMPLIANCE INSTRUCTIONS.
- ALL WETLANDS SHOULD BE IDENTIFIED ON THESE WORK ORDER DRAWINGS. IF THERE IS A QUESTION ABOUT THE WETLAND BOUNDARIES OR BUFFERS, PLEASE CALL JULIE PASCHAL AT (830) 388-2027.
- IF THE AREA DISTURBED DURING CONSTRUCTION IS GREATER THAN ONE ACRE IN SIZE, THE CONTRACTOR IS RESPONSIBLE FOR FOLLOWING THE NICOR GAS STORM WATER POLLUTION PREVENTION PLAN, LATEST EDITION. CONTACT JULIE PASCHAL AT (830) 388-2027 IN THE ENVIRONMENTAL, HEALTH AND SAFETY DEPARTMENT.
- IF BORING IS TO OCCUR NEAR A WETLAND OR WATER BODY AND A FRACTURE IS ENCOUNTERED, THE CONTRACTOR IS RESPONSIBLE FOR STOPPING THE BORE AND IMMEDIATELY CONTACTING CLAUDIA MADROLZ AT (830) 388-2456 IN THE ENVIRONMENTAL, HEALTH AND SAFETY DEPARTMENT.
- REFILL AND STORE EQUIPMENT 100 FEET FROM WETLAND.
- INSTALL SOIL AND EROSION CONTROL PROTECTION TO PROTECT ANY OPEN GRADED STRUCTURES, I.E. INLETS, CATCH BASINS, OR MANHOLES WITHIN OR IMMEDIATELY ADJACENT TO THE PROJECT LOCATION.
- IF ROAD IS BEING TRAVELED ON STREETS BY EQUIPMENT AND/OR VEHICLES, THEN DAILY STREET SWEEEPING WILL BE REQUIRED.
- ALL DISTURBED AREAS SHALL BE RESTORED TO ORIGINAL CONTOURS AND CONDITIONS. RESTORATION MUST BE COMPLETED WITHIN 7 TO 14 DAYS DEPENDING ON PERMIT CONDITIONS.

NICOR GAS - CONSTRUCTION MAIN REPLACEMENT PROJECT 66 EVANSTON, ILLINOIS W.O. 319513



DRAWING - SHEET	DESCRIPTION
N15242A - 1	LOCATION MAP
N15242A - 2	DETAIL 'A' AND PHOTO DODGE AVE AND DORTON ST
N15242A - 3	DETAIL 'B' AND PHOTO ASHURY AVE AND DORTON ST
N15242A - 4	SITE PLAN
N15242A - 5	RETIREMENT SECTION A: PURGE POINTS 1-3
N15242A - 6	RETIREMENT SECTION A: PURGE POINTS 4-7
N15242A - 7	RETIREMENT SECTION B: PURGE POINTS 1-4
N15242A - 8	RETIREMENT SECTION B: PURGE POINTS 5-7

IDENTIFIED BY NICOR UTILITY INSPECTOR				COMPLETED BY NICOR GAS*		
WPT TEST #	WORK ORDER PAGE	TEST LOCATION	PIPE SIZE	PIPE MATERIAL	DATE TEST COMPLETED	COMMENTS

*TYPICALLY COMPLETED BY UTILITY INSPECTOR

NOTE: NICOR UTILITY INSPECTOR TO IDENTIFY TEST LOCATIONS BASED UPON THE CRITERION OF ONE TEST FOR EACH "CUT AND CAP" ON PIPE THAT MEASURES FOUR INCHES IN DIAMETER OR GREATER IN ENGINEERING AND NICOR GAS UNDERSTAND THAT FIELD PERSONNEL MAY DECIDE TO MOVE "CUT AND CAP" LOCATIONS, DELETE "CUT AND CAPS", OR CONDUCT ADDITIONAL "CUT AND CAPS". EN ENGINEERING UNDERSTANDS THAT NICOR GAS WILL INCLUDE WPT TESTS AS PART OF THEIR ROUTINES TO COMPLETE A "CUT AND CAP" AND IT IS THE RESPONSIBILITY OF NICOR GAS TO ASSURE THAT NECESSARY WPT TESTS ARE CONDUCTED AS REQUIRED BY FEDERAL REGULATIONS.

LOCATION MAP
EVANSTON, ILLINOIS
(NOT TO SCALE)

TOTAL PIPE RETIREMENT	ESTIMATED	ACTUAL
2" STEEL (1938)	355'	
2" STEEL (1958)	20'	
2" STEEL (2005)	30'	
4" STEEL (1940)	85'	
4" STEEL (1946)	165'	
4" STEEL (1955)	220'	
4" STEEL (1957)	155'	
4" STEEL (1959)	125'	
4" STEEL (1959)	125'	
4" STEEL (1982)	225'	
4" STEEL (1984)	305'	
4" STEEL (1988)	255'	
4" STEEL (1973)	125'	
4" STEEL (2005)	40'	
4" STEEL (SEAWALK)	470'	
6" STEEL (1940)	55'	
6" STEEL (1942)	990'	
6" STEEL (1944)	1010'	
6" STEEL (1971)	15'	
6" STEEL (2005)	20'	
6" STEEL (2005)	20'	
12" STEEL (1986)	190'	
3" CAST IRON (1951)	90'	
4" CAST IRON (1938)	945'	
4" CAST IRON (1940)	1255'	
4" CAST IRON (1941)	195'	

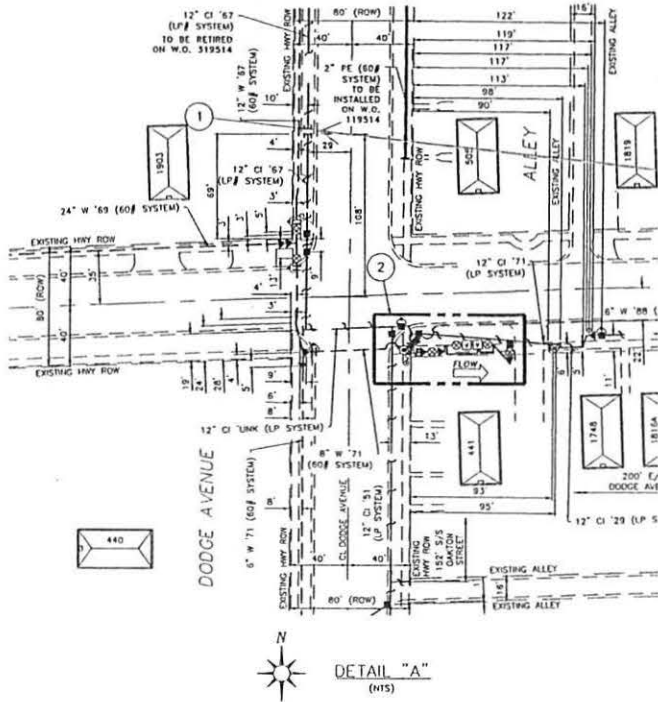
TOTAL PIPE RETIREMENT	ESTIMATED	ACTUAL
4" CAST IRON (1948)	125'	
4" CAST IRON (1949)	135'	
4" CAST IRON (1951)	100'	
6" CAST IRON (1929)	1165'	
6" CAST IRON (1938)	210'	
6" CAST IRON (1948)	1055'	
6" CAST IRON (1951)	165'	
6" CAST IRON (1953)	1130'	
12" CAST IRON (1919)	1170'	
12" CAST IRON (1951)	1870'	
12" CAST IRON (1953)	30'	
12" CAST IRON (1967)	110'	
12" CAST IRON (1971)	125'	
12" CAST IRON (1981)	15'	
12" CAST IRON (1981)	1390'	
20" CAST IRON (1929)	1890'	
4" STEEL VALVE (1969) TAG#	1	
4" INLET VALVE (2005) TAG#2111012	1	
4" STEEL VALVE (1986) TAG#	1	
6" PIPE VALVE (1971) "AG#2111511	1	
6" OUTLET VALVE (2005) TAG#2111513	1	
6" STEEL VALVE (1971)	1	
12" CAST IRON GATE VALVE (1928) TAG#	1	
DUAL 5"X5" WALVE TAG#2101151	1	

MAIN REPLACEMENT PROGRAM

REQUIRED PERMITS	APPROVAL BEFORE CONSTRUCTION	REQUIRED	APPROVED DATE
LAND SURVEY	APPROVAL		
RAILROAD			
HIGHWAY STATE			
HIGHWAY COUNTY			
FOREST PRESERVE			
SANITARY DIST			
PRIVATE PROP. EASEMENT			
PROWAGE			
OTHER SOIL AGENCY			
ENVIRONMENTAL - APPROVAL			
WETLANDS			
WETLANDS			
CONTAMINATED SOIL			
STORM WATER			
LIQUID LAGOON			
E.P. INFILTRATION/REVIEW			
REGIONAL APPROVAL/REVIEW			
ENVIRONMENTAL APPROVAL/REVIEW			
C.D. APPROVAL/REVIEW			
USE			
TO BE REVISED			
ON MAP			
CANCELLED			



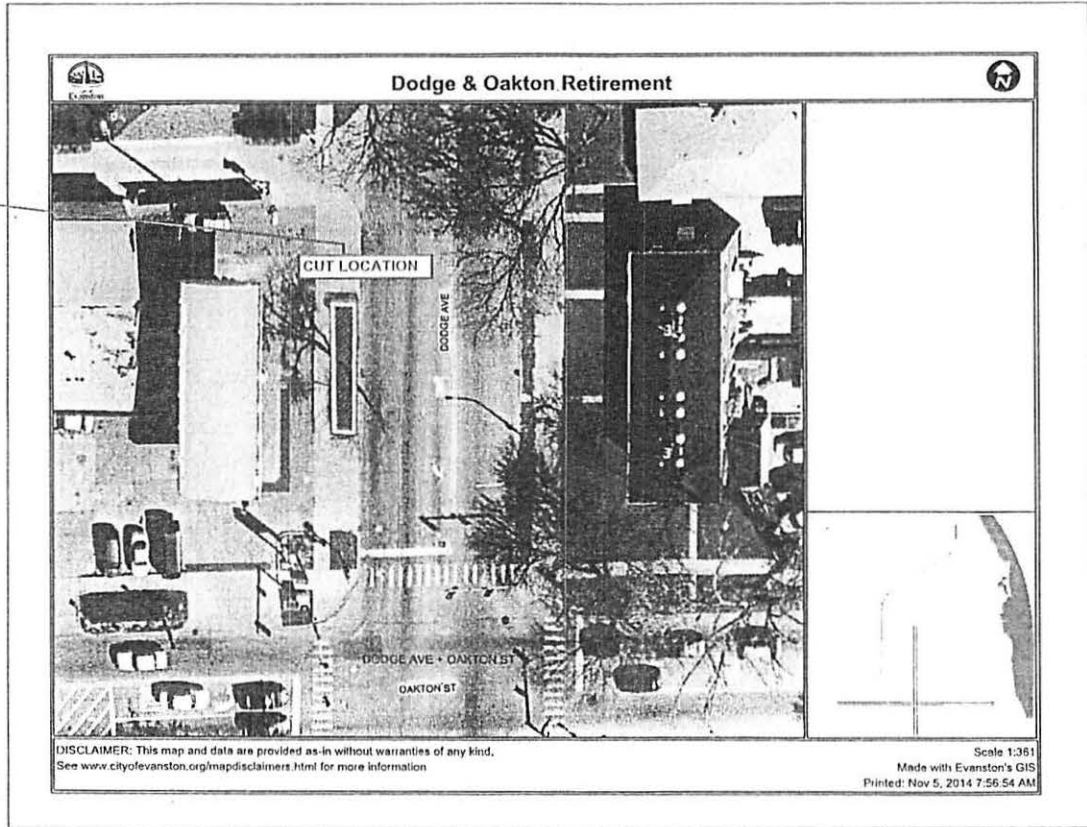
DATED BY: _____ WITNESSED BY: _____ LICENSE NO.: _____	PREPARED FOR:
PREPARED BY: 	COUNTY: EVANSTON CITY: EVANSTON DISTRICT: C. SOULDER LICENSE NO.: 119513/319513 MEMBER NO.: 1002/AD NO. 1002/AD DATE: 12-09-14 TIME: 02:09-14 BY: S. JANNED CHECKED BY: B. VINCIGU DATE: 01-17-14 BY: _____ DATE: _____
ISSUED FOR PERMIT ONLY	
REV: _____ DESCRIPTION: _____ BY: _____ DATE: _____	DRAWING FILE NO: N15242A-



NOTE:
SEE SHEET 4 FOR "SECTION A" PIPE TO BE RETIRED WHEN CUT IS COMPLETE.

- CONSTRUCTION NOTES:**
- DO NOT RETIRE LP VAULT #2101151 UNTIL ALL LOW PRESSURE MAIN ON W.O. 119513/319513 HAVE BEEN RETIRED AND SERVICES TRANSFERRED.
 - VERIFY ALL SERVICE TRANSFERS HAVE BEEN COMPLETED PRIOR TO RETIREMENT OF LOW PRESSURE MAIN.
 - NICOR FOC TO VERIFY WHETHER EXISTING LOW PRESSURE MAIN IS STILL IN SERVICE.

- CUT & CAP**
(1) 12" CAP CMJ W/RING BOLTS AND GASKET BLOCKED (PER CCS 209) (STEEL RETIRED MAIN PER CCS #49) (CONDUCT WIPE TEST PER CCS #49.2) **CUT TO BE PERFORMED IN PARKWAY**
- REGULATORS WILL BE REMOVED FROM FACILITY 2101151 AND BLIND FLANGES INSTALLED.**
5x5 VAULT BOX TO REMAIN.



PREPARED FOR
Nicor Gas
An IGE Resource Company
**MAIN REPLACEMENT
OAKTON STREET, DODGE AVENUE,
DARROW AVENUE AND DEWEY AVENUE
EVANSTON, ILLINOIS**

PREPARED BY
ENEngineering
28100 TORCH PARKWAY, SLATE AND
WARRENVILLE, IL 60555
TEL: 630-353-4000
FAX: 630-353-3777
WWW.ENENGINEERING.COM

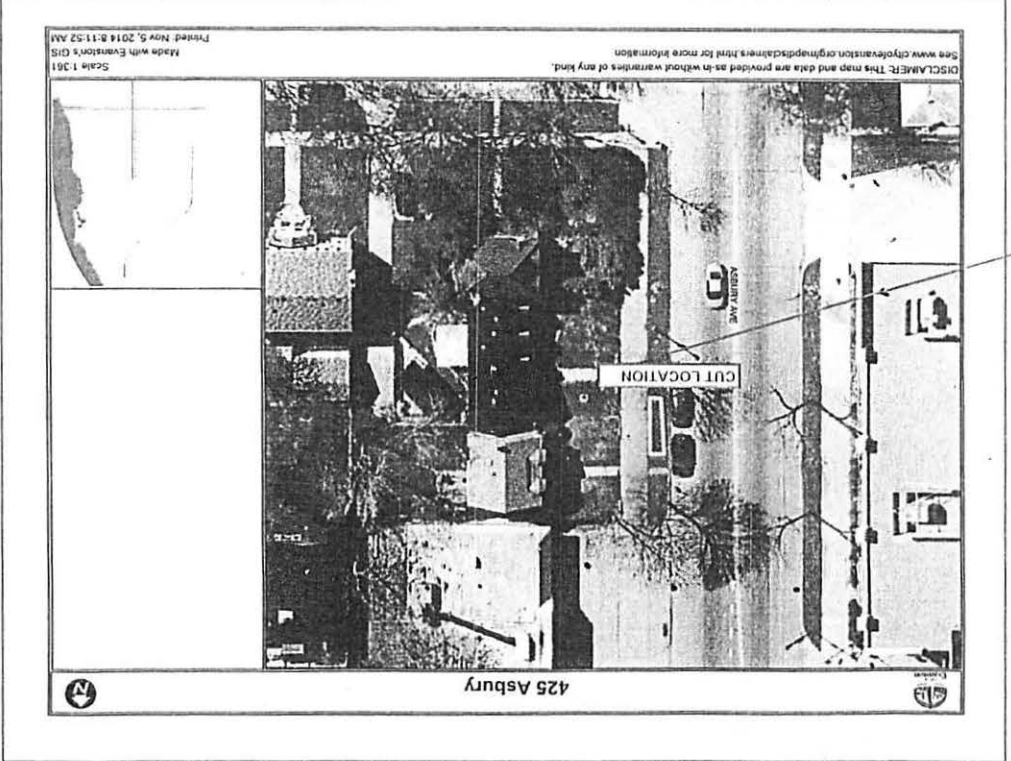
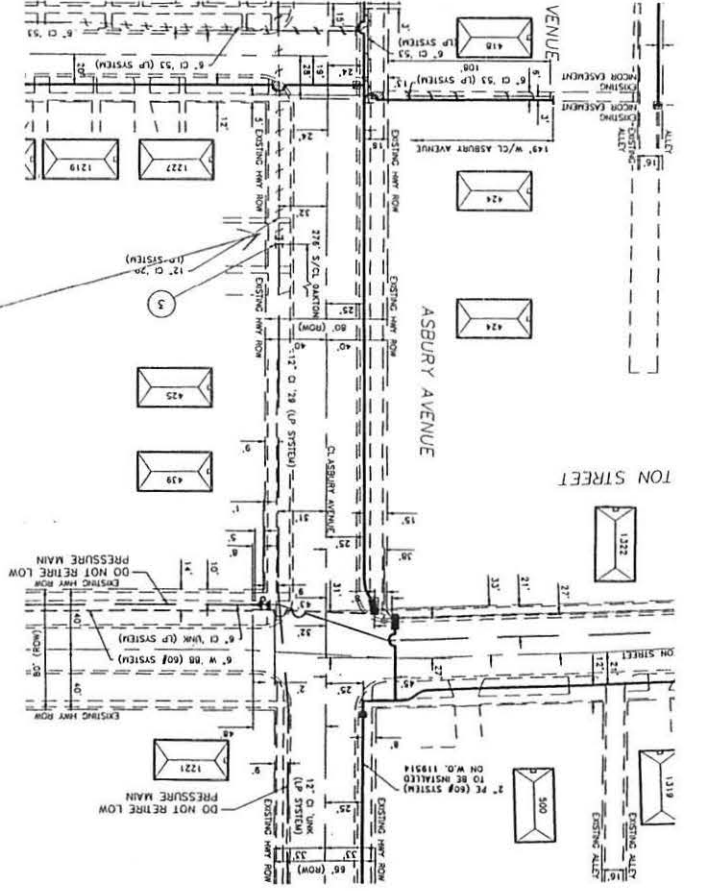
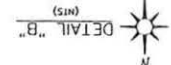
ISSUED FOR PERMIT ONLY		COUNTY	DISTRICT	1/4 SECTION	
COOK	EVANSTON	41N	13E 37N	252	
PROJECT NO.	119513/319513	DEPARTMENT	G. SOUDER	DATE	
DATE PROJECT NO.	119513/319513	CHECKED BY	S. AHMED	02-06-14	
SCALE	AS SHOWN	DATE		02-06-14	
DATE IN SERVICE		APPROVED BY	B. LYNCH	01-17-14	
REV	DESCRIPTION	BY	CHK'D BY	APP'D BY	DATE

ISSUED FOR PERMIT ONLY	
PROJECT NO. 119213/119213 PROJECT NAME MAIN REPLACEMENT CONTRACTOR ENGINERING PROJECT LOCATION 2110N TONN PARKWAY, SUITE 400 EVANSTON, ILLINOIS	SHEET NO. 252 DATE 02-05-14 DRAWN BY S. MUELLER CHECKED BY S. MUELLER DATE 01-17-14 DESIGNED BY B. LYNCH DATE 01-17-14 PROJECT NO. 119213/119213 PROJECT NAME MAIN REPLACEMENT CONTRACTOR ENGINERING PROJECT LOCATION 2110N TONN PARKWAY, SUITE 400 EVANSTON, ILLINOIS

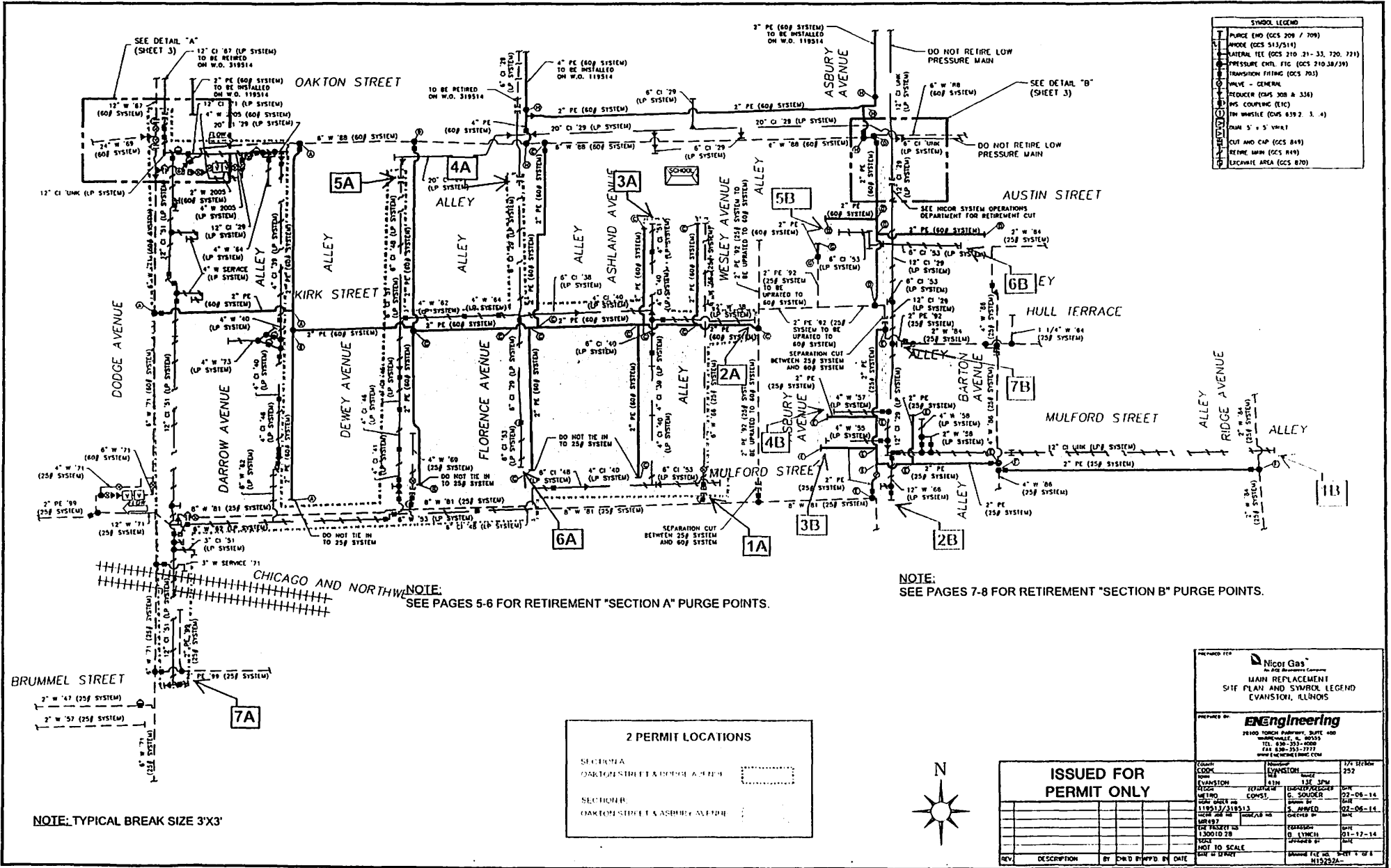
3
 CUT A, C&P
 (1) 12" C&P C/W/ING BOLTS AND GASKET BLOCKED (PER CCS 209)
 (2) SEAL RETIRED (PER CCS 843)
 (3) CUT TO BE PERFORMED IN FRAMEWAY. EXCAVATION IS CURRENTLY FLAIED AND PROTECTED BY SHIELD PILING.

CONSTRUCTION NOTES:
 1. DO NOT RETIRE UP VALVE #210151 UNIL ALL LOW PRESSURE SERVICES TRANSFERRED
 MAIN ON W.O. 119514/219513 HAS BEEN RETIRED AND
 2. VERIFY ALL SERVICE TRANSFERS HAVE BEEN COMPLETED PRIOR TO RETIREMENT OF LOW PRESSURE MAIN.
 3. NOTIFY THE CITY OF EVANSTON WHEN EXISTING LOW PRESSURE MAIN IS STILL IN SERVICE.

NOTE:
 SEE SHEET A FOR SECTION B PIRE TO BE RETIRED WHEN CUT IS COMPLETE.



425 Asbury
 Scale 1:361
 Made with Evanson's GIS
 Printed Nov 5, 2014 8:11:52 AM
 See www.cityofevanston.org/mapsdata/index.html for more information.
 DISCLAIMER: This map and data are provided as-is without warranties of any kind.



SYMBOL LEGEND

- PIPE (MD (CCS 208 / 709)
- PIPE (CCS 513/514)
- LATERAL TEE (CCS 210, 211-33, 720, 721)
- PRESSURE CHG. FIT. (CCS 210.3A/39)
- TRANSITION FITING (CCS 703)
- VALVE - GENERAL
- VALVE (CCS 308 & 334)
- WV COUPLING (LIC)
- WV WHISTLE (CCS 639.2, 3, 4)
- MAN 3" x 5" WHVLT
- CUT AND CAP (CCS 844)
- REMOVE MAIN (CCS 844)
- EXCAVATE AREA (CCS 870)

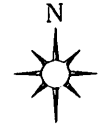
NOTE: SEE PAGES 5-6 FOR RETIREMENT "SECTION A" PURGE POINTS.

NOTE: SEE PAGES 7-8 FOR RETIREMENT "SECTION B" PURGE POINTS.

2 PERMIT LOCATIONS

SECTION A
OAKTON STREET & DODGE AVENUE

SECTION B
OAKTON STREET & ASBURY AVENUE



ISSUED FOR PERMIT ONLY

REV.	DESCRIPTION	BY	CHKD BY	APP'D BY	DATE

Nicot Gas
An IFC International Company

MAIN REPLACEMENT SITE PLAN AND SYMBOL LEGEND
EVANSTON, ILLINOIS

PREPARED BY: **ENEngineering**
20100 NORTH PARKWAY, SUITE 400
MORTONDALE, IL 60453
TEL: 815-353-1000
FAX: 815-353-1777
WWW.ENENGINEERING.COM

NO.	DESCRIPTION	DATE	BY	CHKD BY
1	ISSUED FOR PERMIT	02-06-14	G. SOUDER	
2	REVISED	02-06-14	S. APPOLD	
3	REVISED	01-17-14	D. LYNEH	

SCALE: AS SHOWN
DATE: 02-06-14
DRAWN BY: EN1292A

NOTE: TYPICAL BREAK SIZE 3'X3'



PURGE POINT 1A (NO DIG REQ.)



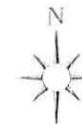
PURGE POINT 2A (DIG)



PURGE POINT 3A (DIG)

RETIREMENT SECTION A

NOTE: TYPICAL BREAK SIZE 3'X3'



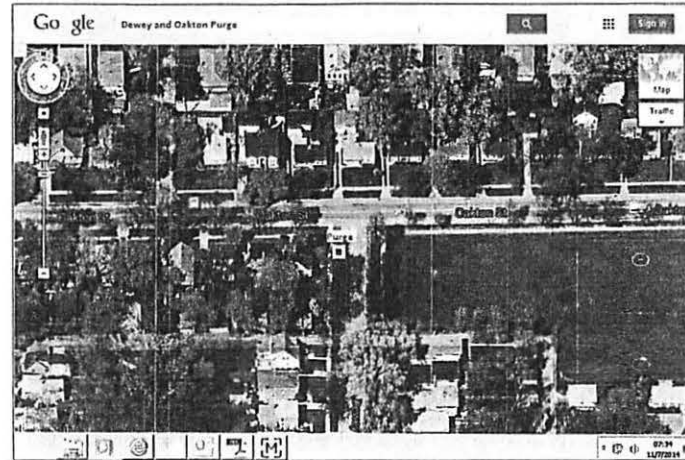
PREPARED FOR
Nicox Gas
 An AES Services Company
 MAIN REPLACEMENT
 DAKTON STREET
 AND ASBURY AVENUE
 EVANSTON, ILLINOIS

PREPARED BY:
ENEngineering
 28100 TORCH PARKWAY, SUITE 400
 WARRENVILLE, IL 60555
 TEL. 830-353-4000
 FAX 830-353-7777
 WWW.ENENGINEERING.COM

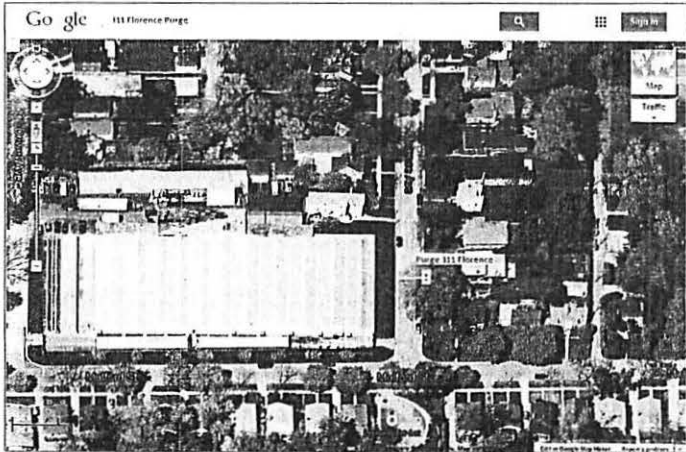
ISSUED FOR PERMIT ONLY				COUNTY	TOWNSHIP	1/4 SECTION
				COOK	EVANSTON	252
				EVANSTON	4TH	1.3E 3PM
				METRO	REPLACEMENT	CONSTR.
				PROJECT NO.	119013/319513	
				SCALE	1:3000 TO 20	
				DATE	02-06-14	
				BY	S. AHMED	
				DATE	02-06-14	
				APPROVED BY	B. LYNCH	
				DATE	01-17-14	
				SCALE		
				DATE IN SERVICE		
REV	DESCRIPTION	BY	CHK'D BY	APP'D. BY	DATE	



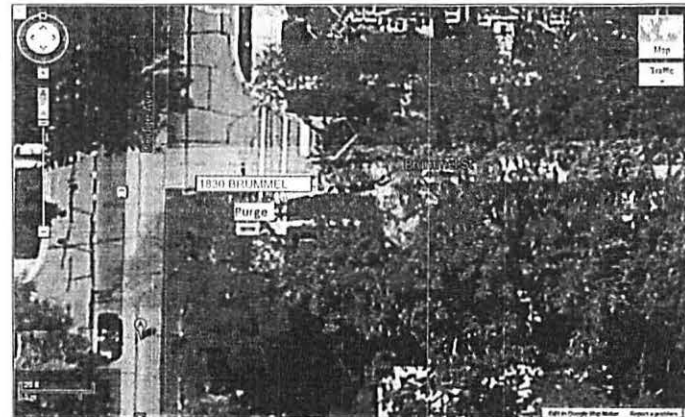
PURGE POINT 4A (DIG)



PURGE POINT 5A (DIG)



PURGE POINT 6A (DIG)



PURGE POINT 7A (DIG)

RETIREMENT SECTION A

NOTE: TYPICAL BREAK SIZE 3'X3'



ISSUED FOR PERMIT ONLY		COUNTY	EVANSTON	174 SECTION
		COOK	EVANSTON	252
PROJECT	EVANSTON	DATE	13E 3PM	
PROJECT	CONST	DESIGNED BY	G. SOUDER	DATE
PROJECT	119513/319513	CHECKED BY	S. AHMED	DATE
PROJECT	150010-2B	APPROVED BY	G. LYNCH	DATE
PROJECT	150010-2B	SCALE		
PROJECT	150010-2B	DATE IN SCALE		
PROJECT	150010-2B	DRAWING FILE NO.	150010-2B	SHEET 8 OF 8
PROJECT	150010-2B	DRAWING FILE NO.	150010-2B	

PREPARED FOR
Nicot Gas
 An P&E Resources Company
 MAIN REPLACEMENT
 OAKTON STREET
 AND ASBURY AVENUE
 EVANSTON, ILLINOIS

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