

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hosts and Our Environment

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.in.gov

Michael R. Pence
Governor

Carol S. Comer
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December 11, 2015

| | |
|-----------------|---------|
| 2015006557 MISC | \$54.00 |
|-----------------|---------|

12/28/2015 11:36:13A 26 PGS

Rebecca S. Gates

Dubois County Recorder IN

Recorded as Presented



Mike Lueken
Island Tropix Plus, Inc.
1503 W. Andrew Lane
Jasper, IN 47546

Re: **Site Status Letter**
Hoffman Motors (aka Island Tropix
Tanning Salon)
725 West 6th Street
Jasper, Dubois County
UST FID #4490
Brownfield #4150310

Dear Mr. Lueken:

In response to the request by Cardno ATC (Cardno) on behalf of Island Tropix Plus, Inc. (Owner) to the Indiana Brownfields Program (Program) for assistance concerning the property located at 725 West 6th Street, Jasper (Site), the Indiana Department of Environmental Management (IDEM) has agreed to provide this Site Status Letter to clarify IDEM's position on the necessity of an environmental response action at the Site. This letter is not a legal release from liability. It will, however, help to establish whether environmental conditions at the Site might be a barrier to redevelopment or property transfer.

As part of the request for assistance in determining any existing environmental contamination and potential liability to undertake response activities at the Site, Program staff have reviewed the following reports:

- *Phase I Environmental Site Assessment* (Phase I ESA), dated March 16, 2015, prepared by Environmental Management Consultants, Inc. (EMC)
- *Asbestos Investigation Report*, dated May 18, 2015, prepared by Cardno
- *Phase II Further Site Investigation*, dated May 28, 2015, prepared by Cardno
- *Phase I ESA*, dated August 5, 2015, prepared by Cardno

Site Description and History

The 0.18-acre Site is comprised of one parcel identified by the county by parcel # 19-06-35-202-407,000-002. The Site is improved with one 1,568 square foot single



A State that Works

It should be noted that the building was occupied during this inspection and Cardno's inspection was limited to accessible areas; thus, suspect ACMs may be present in areas that were inaccessible. Prior to any future renovation or demolition activities, all suspected ACM should be managed, abated and disposed of in accordance with all applicable state, federal and local regulations.

GPR Survey and Phase II ESA

In April 2015, a Phase II ESA was conducted by Cardno to determine the presence of soil and ground water contamination from the closed in place USTs located on-Site. A geophysical survey utilizing ground penetrating radar (GPR) was conducted at the Site in order to determine the locations of the USTs which were identified as being located west of the on-Site building under the concrete parking lot. Five borings (B-1 through B-5) were advanced on-Site to a maximum depth of 15 feet bgs and converted to temporary ground water monitoring wells. Borings B-1 through B-3 were advanced on-Site in the location of the closed USTs. Boring B-4 was advanced in the western side of the Site and boring B-5 was advanced in the southeast corner of the Site. Ten soil samples and three ground water samples were collected and analyzed for some or all of the following: polycyclic aromatic hydrocarbons (PAHs), volatile organic compounds (VOCs), and lead. Samples were not collected from wells B-4 and B-5 due to insufficient water volumes.

Soil analytical results detected a concentration of naphthalene in sample B-5 at 10 feet bgs above its RCG residential soil migration to ground water screening level (MTGSL), but below its RDCSL. No other contaminants were detected in soil at concentrations in excess of their respective RDCSLs.

Ground water analytical results detected lead concentrations above its Res TAP GWSL in samples B-1 and B-2, but below its Res VE GWSL. Benzene was also detected in sample B-1 above its Res TAP GWSL, but below its Res VE GWSL. Ground water flow direction is to the southeast. Refer to Table 1, below, for a summary of ground water analytical data above applicable RCG screening levels.

TABLE 1

Ground Water Concentrations Exceeding Applicable IDEM RCG Screening Levels

| Contaminant Detected | Sample Location & Results (<i>parts per billion (ppb)</i>) | | Res TAP GWSL | Res VE GWSL | Indus VE GWSL |
|----------------------|--|-----|--------------|-------------|---------------|
| | B-1 | B-2 | | | |
| Benzene | 5.2 | <5 | 5 | 28 | 120 |
| Lead | 24.7 | 50 | 15 | NE | |

Notes: *Italics* - above RCG Residential Tap Ground Water Screening Level
 NE – not established

Since levels of benzene and lead in ground water were detected above applicable RCG residential screening levels, an environmental restrictive covenant (ERC) is required to be recorded on the deed for the Site by the Owner. As a condition of the effectiveness of this Site Status Letter, IDEM is requiring land use restrictions via the enclosed ERC with the following provisions, summarized below:

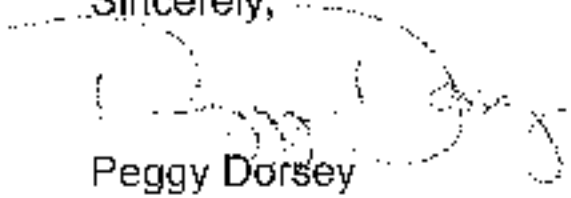
- Not use or allow the use or extraction of ground water at the Real Estate for any purpose, including, but not limited to, human or animal consumption, gardening, industrial processes, or agriculture, without prior Department approval, except that ground water may be extracted in conjunction with environmental investigation and/or remediation activities.

In order for IDEM to consider this letter effective, the enclosed ERC, which include a copy of the Site Status Letter, must be recorded on the deed for the Site in the Dubois County Recorder's Office. Please return a certified copy of the filed document to the address listed below:

Indiana Brownfields Program
100 North Senate Avenue, Room 1275
Indianapolis, Indiana 46204
ATTN: Jillian Henderson

IDEM is pleased to assist the Island Tropix Plus Inc. with this request. Should you have any questions or comments, please contact Jillian Henderson of the Indiana Brownfields Program at 317-234-3605 or toll-free at 1(800) 451-6027, extension 4-3605 or by email at JHenderson1@ifa.in.gov.

Sincerely,



Peggy Dorsey
Deputy Assistant Commissioner
Office of Land Quality

Enclosure

cc: Jan Pels, U.S. EPA Region 5 (*electronic copy*)
Meredith Gramelspacher, Indiana Brownfields Program (*electronic copy*)
Jillian Henderson Indiana Brownfields Program (*electronic copy*)
Brian Kleeman, Cardno ATC (*electronic copy*)

Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT is made this 23rd day of December, 2015, by Island Tropix Plus, Inc. ("Owner").

WHEREAS: Owner is the fee owner of certain real estate in the County of Dubois, Indiana, which is located at 725 West 6th Street in Jasper and more particularly described in the attached **Exhibit "A"** ("Real Estate"), which is hereby incorporated and made a part hereof. The Real Estate was acquired by deed on April 25, 2003, and recorded on April 28, 2003, as Deed Record #2003004282, in the Office of the Recorder of Dubois County, Indiana. The Real Estate consists of approximately 0.18 acre and is identified by the county by parcel identification number #19-06-35-202-407.000-002. The Real Estate to which this Covenant applies is depicted on a map attached hereto as **Exhibit "B"**.

WHEREAS: A Site Status Letter, a copy of which is attached hereto as **Exhibit "C"**, was prepared and issued by the Indiana Department of Environmental Management ("the Department" or "IDEM") pursuant to the Indiana Brownfields Program's ("Program") recommendation at the request of the Owner to address the redevelopment potential of the Real Estate which is a brownfield site resulting from a release of petroleum relating to historic operations on the Real Estate, Program site number BFD #4150310.

WHEREAS: The Site Status Letter, as approved by the Department, provides that certain contaminants of concern ("COCs") were detected in soil and ground water on the Real Estate but will not pose an unacceptable risk to human health at the detected concentrations provided that the land use restrictions contained herein are implemented and maintained to ensure the protection of public health, safety, or welfare, and the environment. The COCs are benzene and lead in ground water.

WHEREAS: Soil and ground water on the Real Estate were sampled for volatile organic compounds ("VOCs"), polynuclear aromatic hydrocarbons ("PAHs"), and lead. Analytical results were compared to applicable screening levels in the IDEM Remediation Closure Guide ("RCG") (March 22, 2012 and applicable revisions). Lead was detected in ground water samples B-1 and B-2 above its residential tap ground water screening level ("Res TAP GWSL"). Benzene was detected in ground water sample B-1 above its Res TAP GWSL. Table 1, attached hereto as **Exhibit "D"**, summarizes sample results above applicable RCG screening levels on the Real Estate. A site map, attached hereto as **"Exhibit E"**, depicts sample locations on the Real Estate at which the COCs were detected in ground water above applicable RCG screening levels.

WHEREAS: Notwithstanding the detections of COCs in ground water on the Real Estate above applicable RCG screening levels, IDEM approved a conditional residential closure of environmental conditions on the Real Estate under the RCG since (1) no

contaminants were detected in soil samples collected from 1 to 10 feet below ground surface ("bgs") on the Real Estate above their respective RCG residential direct contact screening levels ("RDCSLs"), (2) drinking water is municipally supplied to the Real Estate, and (3) exposure to ground water at the Real Estate can be controlled through this Covenant. Therefore, environmental conditions on the Real Estate meet conditional residential cleanup criteria in the RCG so long as the land use restrictions required by this Covenant are maintained.

WHEREAS: Environmental reports and other documents related to the Real Estate are hereby incorporated by reference and may be examined at the Public File Room of the Department, which is located in the Indiana Government Center North at 100 N. Senate Avenue, 12th Floor East, Indianapolis, Indiana. The documents may also be viewed electronically by searching the Department's Virtual File Cabinet on the Web at: <http://www.in.gov/idem/4101.htm>.

NOW THEREFORE, Island Tropix Plus, Inc. subjects the Real Estate to the following restrictions and provisions, which shall be binding on Island Tropix Plus, Inc. and all future owners:

I. RESTRICTIONS

1. Restrictions. The Owner and all future owners:

- (a) Shall not use or allow the use or extraction of ground water at the Real Estate for any purpose, including, but not limited to, human or animal consumption, gardening, industrial processes, or agriculture, without prior Department approval, except that ground water may be extracted in conjunction with environmental investigation and/or remediation activities.

II. GENERAL PROVISIONS

- 2. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees or their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control ("Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in all or any part of the Real Estate by any person shall limit the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.
- 3. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent owner or Related Party agrees to comply with all of

the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.

4. Access for Department. The Owner shall grant to the Department and its designated representatives the right to enter upon the Real Estate at reasonable times for the purpose of determining whether the land use restrictions set forth in paragraph 1 above are being properly maintained (and operated, if applicable) in a manner that ensures the protection of public health, safety, or welfare and the environment. This right of entry includes the right to take samples, monitor compliance with the remediation work plan (if applicable), and inspect records.
5. Written Notice of the Presence of Contamination. Owner agrees to include in any instrument conveying any interest in any portion of the Real Estate, including but not limited to deeds, leases and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances) the following notice provision (with blanks to be filled in):

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED February 20, 2008, RECORDED IN THE OFFICE OF THE RECORDER OF DUBOIS COUNTY ON February 29, 2008, INSTRUMENT NUMBER (or other identifying reference) 2008001065 IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.

2008001204

6. Notice to Department of the Conveyance of Property. Owner agrees to provide notice to the Department of any conveyance (voluntary or involuntary) of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide the Department with the notice within thirty (30) days of the conveyance and include (a) a certified copy of the instrument conveying any interest in any portion of the Real Estate, and (b) if the instrument has been recorded, its recording reference(s), and (c) the name and business address of the transferee.
7. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.

III. ENFORCEMENT

8. Enforcement. Pursuant to IC 13-14-2-6 and other applicable law, the Department may proceed in court by appropriate action to enforce this Covenant. Damages alone are insufficient to compensate the Department if any owner of the Real Estate or its Related Parties breach this Covenant or otherwise default hereunder. As a result, if any owner of the Real Estate, or any owner's Related Parties, breach this Covenant or otherwise default hereunder, the Department shall have the right to request specific performance and/or immediate injunctive relief to enforce this Covenant in addition to any other remedies it may have at

law or at equity. Owner agrees that the provisions of this Covenant are enforceable and agrees not to challenge the provisions or the appropriate court's jurisdiction.

IV. TERM, MODIFICATION AND TERMINATION

9. Term. The restrictions shall apply until the Department determines that contaminants of concern on the Real Estate no longer present an unacceptable risk to the public health, safety, or welfare, or to the environment.
10. Modification and Termination. This Covenant shall not be amended, modified, or terminated without the Department's prior written approval. Within thirty (30) days of executing an amendment, modification, or termination of the Covenant, Owner shall record such amendment, modification, or termination with the Office of the Recorder of Dubois County and within thirty (30) days after recording; provide a true copy of the recorded amendment, modification, or termination to the Department.

V. MISCELLANEOUS

11. Waiver. No failure on the part of the Department at any time to require performance by any person of any term of this Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's right to enforce such term, and no waiver on the part of the Department of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof.
12. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner from complying with any other applicable laws.
13. Change in Law, Policy or Regulation. In no event shall this Covenant be rendered unenforceable if Indiana's laws, regulations, guidelines, or remediation policies (including those concerning environmental restrictive covenants, or institutional or engineering controls) change as to form or content. All statutory references include any successor provisions.
14. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other pursuant to this Covenant shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner:

Island Tropix Plus, Inc.
1503 W. Andrew Lane
Jasper, Indiana 47546
ATTN: Mike Lueken

To Department:

Indiana Brownfields Program
100 N. Senate Avenue, Rm. 1275
Indianapolis, Indiana 46204
ATTN: Jillian Henderson

Any party may change its address or the individual to whose attention a notice is to be sent by giving written notice in compliance with this paragraph.

15. Severability. If any portion of this Covenant or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.
16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

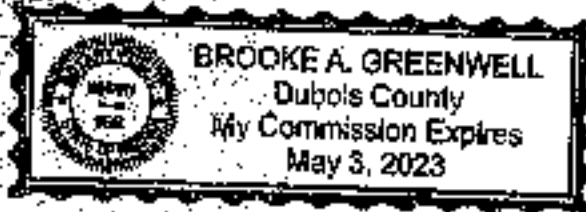
IN WITNESS WHEREOF, the Island Tropix Plus, Inc. said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 26th day of December, 2015.

Victoria A. Lucken Secretary
Island Tropix Plus, Inc.

STATE OF Indiana
COUNTY OF Dubois SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Victoria A. Lucken the Secretary of the Owner, Island Tropix Plus, Inc. acknowledged the execution of the foregoing instrument for and on behalf of said entity.

→ who identified herself to be,
Witness my hand and Notarial Seal this 26th day of December 2015



Brooke A. Greenwell

_____, Notary Public

Residing in _____ County, _____

My Commission Expires:

This instrument prepared by:

Duly entered this

DEC 28 2015
Kathleen M. Hays
Auditor Dubois County

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Victoria A. Lucken (Printed Name of Declarant)

EXHIBIT A

Corporate Warranty Deed for the Real Estate

CORPORATE WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That Grantor, **TRACKSIDE TANNING, INC.**, an Indiana corporation duly authorized to do business in the State of Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged,

CONVEYS AND WARRANTS:

to **ISLAND TROPIC PLUS, INC.**, Grantee herein, of Dubois County, State of Indiana, the following described real estate in Dubois County, State of Indiana, to-wit:

Part of the Northwest Quarter of the Northwest Quarter of Section 35, Township 1 South, Range 5 West, bounded as follows:

Beginning at a point in the South right-of-way line of State Road 56, as now located, which point is 1,033.9 feet North, 419 feet South 81 degrees 16 minutes East measured along the center line of said State Road, and 30 feet South 8 degrees 44 minutes West from the Southwest corner of the said 40-acre tract and running thence South 8 degrees 44 minutes West 106 feet along the West line of a tract heretofore conveyed to the said grantors to the East right-of-way line of the West "Y" of State Road 45, as now located; thence North 45 degrees West along the said East right-of-way line 188 feet to its junction with the South right-of-way line of said State Road 56; thence South 81 degrees 16 minutes East 153 feet along the said right-of-way line to the place of beginning, containing 0.16 acres, more or less.

The undersigned persons executing this deed on behalf of Grantor represent and certify that they are duly elected officers of Grantor and have been fully empowered, by proper resolution of the Board of Directors of Grantor, to execute and deliver this deed; that Grantor has full corporate capacity to convey the real estate described herein and that all necessary corporate action for the making of such conveyance has been taken and done.

The undersigned persons executing this deed on behalf of Grantor warrant that the corporation is a small business corporation and that there are no gross income taxes due on this transfer.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed this 25th day of April, 2003.

TRACKSIDE TANNING, INC.

By Michael G. Linke
President

ATTEST:

Christina H. Lusk
Secretary

STATE OF INDIANA)
) SS.
COUNTY OF DUBOIS)

Before me, a Notary Public in and for said County and State, personally appeared PAULINE S. JENSEN and WILLIAM E. JENSEN, President and Secretary respectively of Traxside Tanning, Inc., who acknowledged the execution of the foregoing Corporate Warranty Deed for and on behalf of said Corporation and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and the seal of my office this 25th day of April,
2003

My Commission Expires:

11-02-2009

Brandi S. Elpers
BRANDI S. ELPERS Notary Public
County of Residence: Warrick



This Instrument Prepared By: Mark R. McConnell, Attorney-At-Law
502 Jackson Street, P.O. Box 809, Jasper, IN 47547-0809

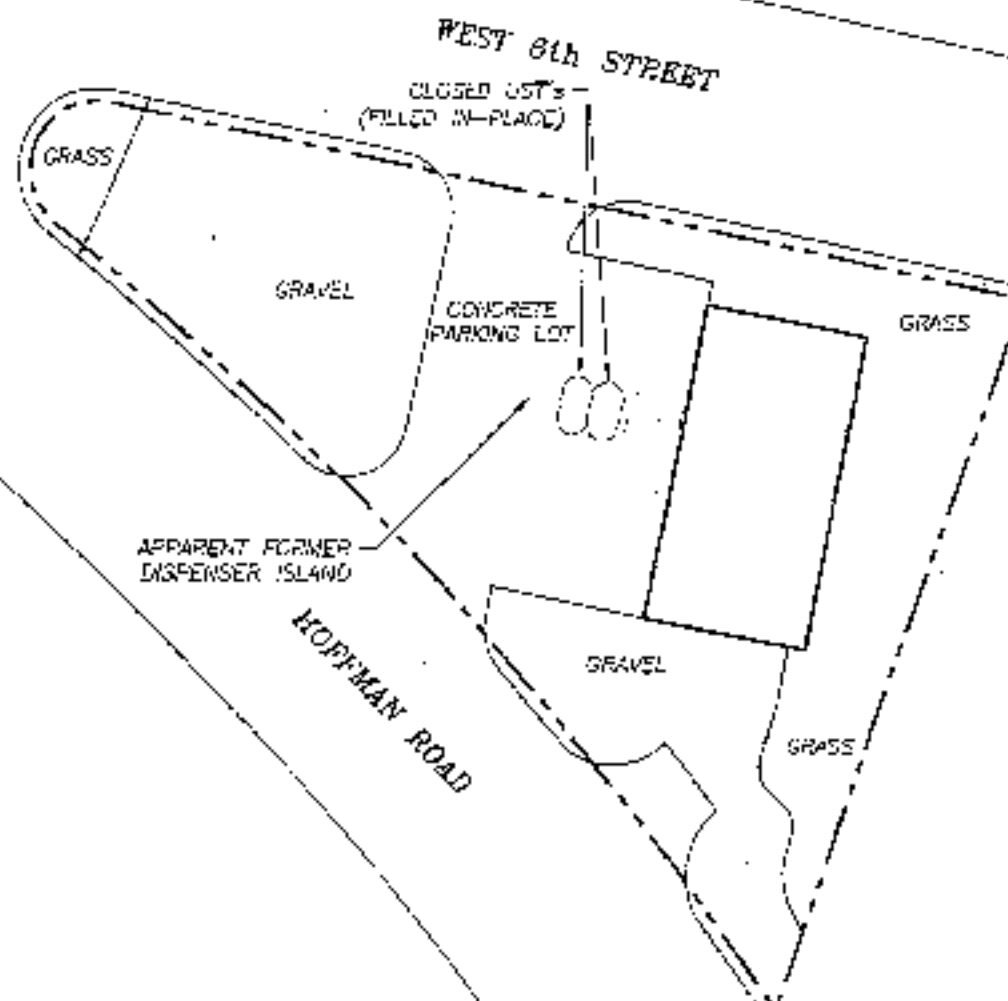
Duly Examined for Filiation
Subject to the recording
of the foregoing
APR 28 2003
Mark R. McConnell
Attorney, Dubois County
Ind.

EXHIBIT B

Map of the Real Estate

LEGEND:

--- PROPERTY LINE
NOTE: ALL LOCATIONS ARE APPROXIMATE



40 0 10 20 30 40
SCALE: 1" = 45'

SITE PLAN

PHASE II LIMITED SUBSURFACE INVESTIGATION
ISLAND TROPIX TANNING SALON
725 WEST 6th STREET
JASPER, INDIANA

Project Number:
170IN1512P

Drawing File:
SEE LOWER LEFT

Date:
5/15

Scale:
AS SHOWN

Drawn By:
AK

Check By:
MF

App'd By:

 **Cardno**
ATC

Figure:

2

EXHIBIT C

Copy of Site Status Letter



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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Tanning Salon)
725 West 6th Street
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UST FID #4490
Brownfield #4150310

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As part of the request for assistance in determining any existing environmental contamination and potential liability to undertake response activities at the Site, Program staff have reviewed the following reports:

- *Phase I Environmental Site Assessment* (Phase I ESA), dated March 16, 2015, prepared by Environmental Management Consultants, Inc. (EMC)
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- *Phase II Further Site Investigation*, dated May 28, 2015, prepared by Cardno
- *Phase I ESA*, dated August 5, 2015, prepared by Cardno

Site Description and History

The 0.18-acre Site is comprised of one parcel identified by the county by parcel # 19-06-35-202-407.000-002. The Site is improved with one 1,568 square foot single



A State that Works

story commercial building constructed in 1952 and is currently occupied by a tanning salon. The remainder of the Site consists of a gravel/concrete parking lot and landscaped areas. Hoffman Motors, Inc. owned the Site from 1949 to 1998 and operated a used car sales lot, a gasoline filling station, and an automotive repair shop on-Site. Trackside Tanning owned the Site from 1998 until 2003 when the current Owner, Island Tropic Plus, Inc., purchased the Site on which it operates a tanning salon. The Site is bordered to the north by West 6th Street (Highway 56); to the south by Hoffman Road; to the west by the confluence of West 6th Street and Hoffman Road; and, to the east by an unoccupied commercial building.

Environmental Conditions

For purposes of evaluating Site conditions for closure, sample analytical results were compared to IDEM's Remediation Closure Guide (RCG) (March 22, 2012 and applicable revisions) screening levels as follows: soil samples collected at depths between 0 and 10 feet below ground surface (bgs) were compared to RCG residential and commercial/industrial direct contact screening levels (RDCSLs and IDCSLs, respectively); soil samples collected between 0 and 18 feet bgs were compared to the excavation worker soil exposure direct contact screening levels (EX DCSLs); and, soil samples collected at depths greater than 18 feet bgs were not evaluated for purposes of closure because of the unlikely risk of exposure to soil at that depth. Ground water samples were compared to both residential tap ground water screening levels (Res TAP GWSLs), residential and commercial/industrial vapor exposure ground water screening levels (Res VE GWSLs and Indus VE GWSLs, respectively).

Phase I ESA

The March 2015 Phase I ESA identified the following recognized environmental conditions (RECs) in connection with the Site:

- Historical documents indicate that two 1,000-gallon gasoline underground storage tanks (USTs) were located on the Site and closed in place in 1990. According to IDEM's UST database the tank closure documentation for both USTs was incomplete.
- Historic use of the Site as a gasoline filling station, an automotive repair service shop, and a used car sales lot creates the potential for the presence of a variety of contaminants.

Asbestos Investigation

In April 2015, Cardno conducted a limited asbestos inspection of the on-Site building. A total of four homogeneous areas were identified within the building as suspect asbestos containing materials (ACMs), from which nine samples were submitted for laboratory analyses. Analytical results indicated that asbestos was not present in any of the samples submitted.

It should be noted that the building was occupied during this inspection and Cardno's inspection was limited to accessible areas; thus, suspect ACMs may be present in areas that were inaccessible. Prior to any future renovation or demolition activities, all suspected ACM should be managed, abated and disposed of in accordance with all applicable state, federal and local regulations.

GPR Survey and Phase II ESA

In April 2015, a Phase II ESA was conducted by Cardno to determine the presence of soil and ground water contamination from the closed in place USTs located on-Site. A geophysical survey utilizing ground penetrating radar (GPR) was conducted at the Site in order to determine the locations of the USTs which were identified as being located west of the on-Site building under the concrete parking lot. Five borings (B-1 through B-5) were advanced on-Site to a maximum depth of 15 feet bgs and converted to temporary ground water monitoring wells. Borings B-1 through B-3 were advanced on-Site in the location of the closed USTs. Boring B-4 was advanced in the western side of the Site and boring B-5 was advanced in the southeast corner of the Site. Ten soil samples and three ground water samples were collected and analyzed for some or all of the following: polycyclic aromatic hydrocarbons (PAHs), volatile organic compounds (VOCs), and lead. Samples were not collected from wells B-4 and B-5 due to insufficient water volumes.

Soil analytical results detected a concentration of naphthalene in sample B-5 at 10 feet bgs above its RCG residential soil migration to ground water screening level (MTGSL), but below its RDCSL. No other contaminants were detected in soil at concentrations in excess of their respective RDCSLs.

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TABLE 1

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|----------------------|--|-----|--------------|-------------|---------------|
| | B-1 | B-2 | | | |
| Benzene | 5.2 | <5 | 5 | 28 | 120 |
| Lead | 24.7 | 50 | 15 | NE | |

Notes: *italics* - above RCG Residential Tap Ground Water Screening Level
 NE – not established

Conclusion

Notwithstanding contaminants in ground water having been detected at levels above RCG residential screening levels, IDEM can approve a conditional residential closure of environmental conditions at the Site under the RCG since: 1) all analytical results from soil samples collected from 0 to 10 feet bgs were below their respective RDCSLs; 2) drinking water to the Site is municipally supplied; and, 3) access to ground water can be restricted through an institutional control.

IDEM has determined based on available data that Site conditions currently present no threat to human health or the environment and that so long as the Site is maintained to uphold the land use restrictions discussed below, Site conditions satisfy the RCG for a conditional residential closure.

IDEM concludes, in part based on information provided by Island Tropix Plus, Inc that:

- (1) No state or federal enforcement action at the Site is pending;
- (2) No federal grant requires an enforcement action at the Site;
- (3) No condition on the Site constitutes an imminent and substantial threat to human health or the environment;
- (4) Neither Island Tropix Plus, Inc., nor an agent or employee of the Island Tropix Plus, Inc. caused, contributed to, or knowingly exacerbated the release or threat of release of any hazardous substance or petroleum at the Site through an act or omission;
- (5) Island Tropix Plus, Inc. does not have any ownership interest in any entity that caused, contributed to, or knowingly exacerbated the release or threat of release;
- (6) There is no alternative basis for the Island Tropix Plus, Inc. liability for historic contamination at the Site (e.g., liability as a generator) or by reason of the existence of a new source of contaminants on the Site; and,
- (7) Detected levels of contaminants at the Site meet conditional residential screening criteria established in IDEM's Remediation Closure Guide (March 22, 2012 and applicable revisions).

Based on the information on known contaminant levels submitted to or otherwise reviewed by IDEM, IDEM concludes that current Site conditions do not warrant a response action at this time and does not plan to take a response action at the Site at this time. If IDEM later discovers that above-referenced reports or other information submitted to IDEM was inaccurate, or if any activities undertaken by an owner or operator exacerbate the Site contamination, then IDEM reserves the right to revoke this letter and pursue any responsible parties. Additionally, this determination does not apply to any contamination that is not described in this Site Status Letter or any future releases at the Site. Furthermore, this letter does not constitute an assurance that the Site is safe or fit for any particular use. Please be advised that any work performed at the Site must be done in accordance with all applicable environmental laws.

Since levels of benzene and lead in ground water were detected above applicable RCG residential screening levels, an environmental restrictive covenant (ERC) is required to be recorded on the deed for the Site by the Owner. As a condition of the effectiveness of this Site Status Letter, IDEM is requiring land use restrictions via the enclosed ERC with the following provisions, summarized below:

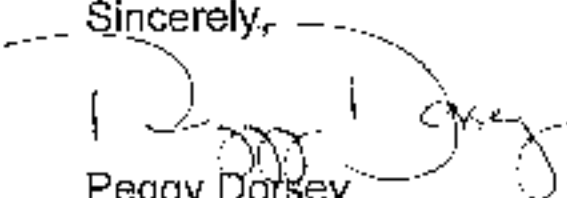
- Not use or allow the use or extraction of ground water at the Real Estate for any purpose, including, but not limited to, human or animal consumption, gardening, industrial processes, or agriculture, without prior Department approval, except that ground water may be extracted in conjunction with environmental investigation and/or remediation activities.

In order for IDEM to consider this letter effective, the enclosed ERC, which include a copy of the Site Status Letter, must be recorded on the deed for the Site in the Dubois County Recorder's Office. Please return a certified copy of the filed document to the address listed below:

Indiana Brownfields Program
100 North Senate Avenue, Room 1275
Indianapolis, Indiana 46204
ATTN: Jillian Henderson

IDEM is pleased to assist the Island Tropix Plus Inc. with this request. Should you have any questions or comments, please contact Jillian Henderson of the Indiana Brownfields Program at 317-234-3605 or toll-free at 1(800) 451-6027, extension 4-3605 or by email at JHenderson1@ifa.in.gov.

Sincerely,



Peggy Dorsey
Deputy Assistant Commissioner
Office of Land Quality

Enclosure

cc: Jan Pels, U.S. EPA Region 5 (*electronic copy*)
Meredith Gramelspacher, Indiana Brownfields Program (*electronic copy*)
Jillian Henderson Indiana Brownfields Program (*electronic copy*)
Brian Kleeman, Cardno ATC (*electronic copy*)

EXHIBIT D

TABLE 1

Hoffman Motors, Jasper - BF # 4150310

Ground Water Concentrations Exceeding Applicable IDEM RGC Screening Levels

TABLE 1

Hoffman Motors, Jasper - BF # 4150310

Ground Water Concentrations Exceeding Applicable IDEM RCG Screening Levels

| Contaminant Detected | Sample Location & Results (<i>parts per billion (ppb)</i>) | | Res TAP GWSL | Res VE GWSL | Indus VE GWSL |
|----------------------|--|-----|--------------|-------------|---------------|
| | B-1 | B-2 | | | |
| Benzene | 5.2 | <5 | 5 | 28 | 120 |
| Lead | 24.7 | 50 | 15 | NE | |

Notes: *italics* - above RCG Residential Tap Ground Water Screening Level

NE -- not established

EXHIBIT E

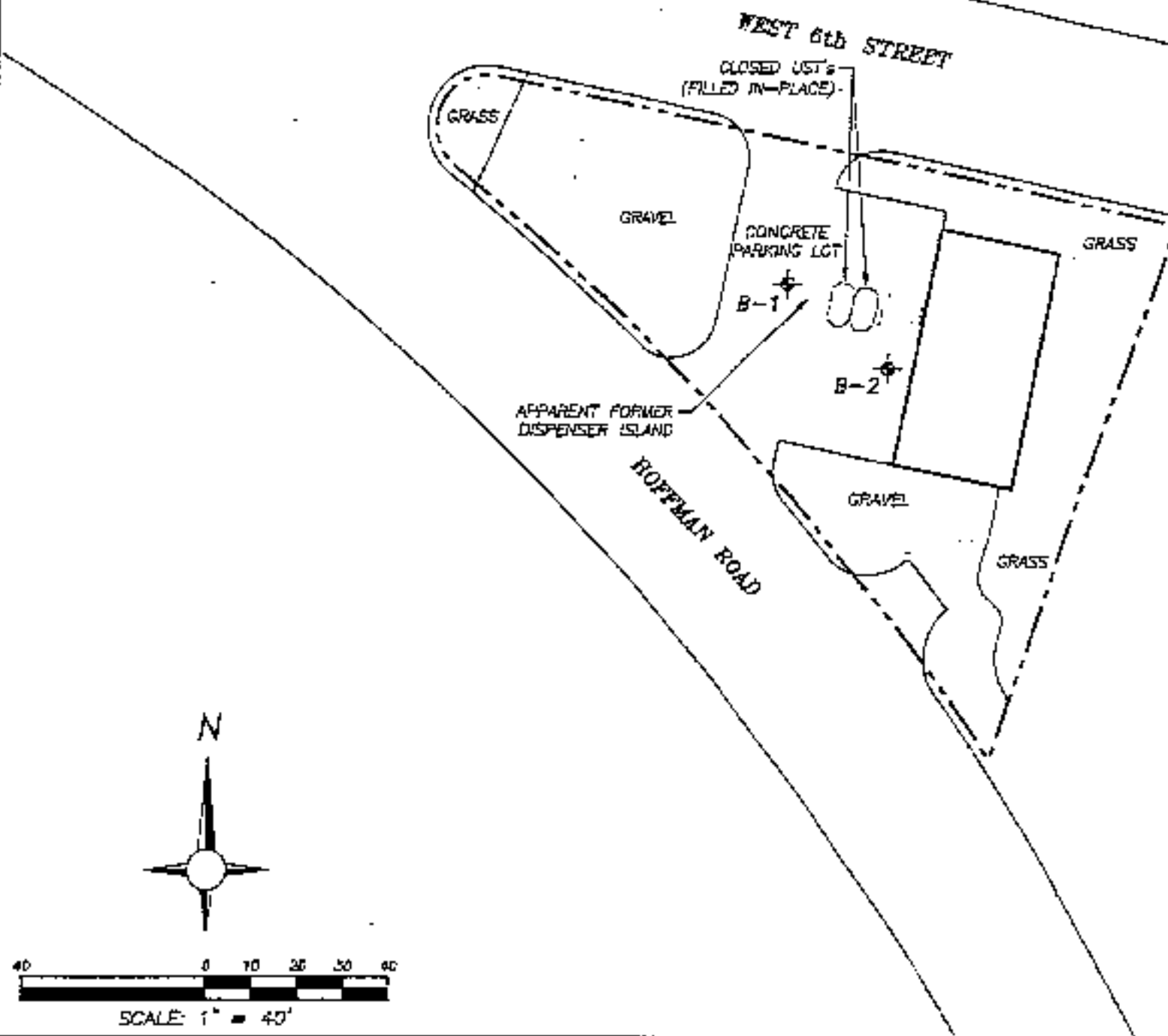
**Site map depicting sampling locations at which
COCs were detected above applicable RCG screening levels**

DISCLAIMER: Information on this map is being provided to depict environmental conditions on the Real Estate that are the subject of the land use restrictions contained in the Covenant to which this map is attached and incorporated. The land use restrictions contained in the Covenant were deemed appropriate by the Department based on information provided to the Department by the Owner or another party investigating and/or remediating the environmental conditions on the Real Estate. This map cannot be relied upon as a depiction of all current environmental conditions on the Real Estate, nor can it be relied upon in the future as depicting environmental conditions on the Real Estate.

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LEGEND:

- SOIL BORING/TEMPORARY
MONITORING WELL
Well identification
PROPERTY LINE
NOTE: ALL LOCATIONS ARE APPROXIMATE



SITE PLAN

PHASE II LIMITED SUBSURFACE INVESTIGATION
ISLAND TROPIX TANNING SALON
725 WEST 6th STREET
JASPER, INDIANA

| | | |
|---|--------------------|-----------------|
| Project Number: 17041512P | | Drawn By: AK |
| Drawing File: SEE LOWER LEFT | | Check By: MF |
| Date: 5/15 | Scale: AS SHOWN | App'd By: |
|  | | Figure: 2 |