

RECEIVED

2016-07058

APR 21 2016

INDIANA FINANCE AUTHORITY
ENVIRONMENTAL PROGRAMS

ELKHART COUNTY RECORDER
JENNIFER L. DORiot
FILED FOR RECORD ON
AS PRESENTED
04/20/2016 10:55 AM



Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT is made this 20th day of April, 2016, by L & J Rentals LLC ("Owner").

WHEREAS: Owner is the fee owner of certain real estate in the County of Elkhart, Indiana, which is located at 19110 Market Street in New Paris 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 Warranty Deed on March 10, 2008 and recorded April 1, 2008, as Deed Record 200807952. The Real Estate consists of 0.25 acre and is identified by the county by parcel identification number #20-15-09-428-001.000-018. The Real Estate is depicted on a map attached hereto as **Exhibit "B"**.

WHEREAS: A No Further Action (NFA) 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 to document corrective action activities undertaken at, and address the redevelopment potential of the Real Estate which is a brownfield site resulting from a release of petroleum contamination resulting from historical operations at the Real Estate, Program site number BFD #4090503.

WHEREAS: The NFA Letter, as approved by the Department, provides that certain contaminants of concern ("COCs") remain in soil and ground water on the Real Estate following corrective action but will not pose an unacceptable risk to human health at the concentrations detected 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 COC is benzene in ground water.

WHEREAS: Soil and ground water on the Real Estate were sampled for some or all of the following: total petroleum hydrocarbons ("TPH") - gasoline range organics ("GRO"), TPH - diesel range organics ("DRO"), TPH - extended range organics ("ERO"), volatile organic compounds ("VOCs"), benzene, toluene, ethyl benzene and xylenes ("BTEX"), methyl tertiary butyl ether ("MTBE"), semi-volatile organic compounds ("SVOCs"), polynuclear aromatic hydrocarbons ("PAHs"), polychlorinated biphenyls ("PCBs"), metals, and lead scavengers. Investigations after remediation detected levels of benzene in ground water above residential tap ground water screening level ("Res TAP GWSL") as established by IDEM's Remediation Closure Guide ("RCG") (March 22, 2012 and applicable revisions). Ground water concentration of benzene in MW-4 located on the Real Estate right-of-way is representative of the remaining ground water on the Real Estate. Analytical results above applicable RCG screening levels are summarized on Table 1, attached hereto as **Exhibit "D"**. A site map, attached hereto as **Exhibit "E"**, depicts the off-site MW-4 sample location on the Real Estate.

WOW

WHEREAS: Notwithstanding the detection of COCs in ground water on the Real Estate above applicable RCG screening levels following corrective action, IDEM approved a conditional residential closure of environmental conditions on the Real Estate under the RCG because (1) the petroleum contamination on the Real Estate was reduced in the smear-zone by injections of ReGenOX® into the subsurface soil and dissolved in the ground water by operation of an AS/SVE remediation system; (2) ground water contamination has been delineated and a) does not extend off-Site onto nearby commercial or residential properties; b) is stable; c) there is no completed exposure pathway on the Real Estate to the contaminated ground water; and, d) contamination remaining in the ground water on the Real Estate will continue to naturally degrade over-time; (4) and, petroleum hydrocarbon contamination has never been detected in the existing on-site drinking water supply well which is located up-gradient from the remaining residual contamination. Therefore, environmental conditions on the Real Estate meet applicable residential cleanup criteria in the RCG so long as the land use restriction required by this Covenant is 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> using the BFD # identified above.

NOW THEREFORE, L & J Rentals LLC subjects the Real Estate to the following restrictions and provisions, which shall be binding on the L & J Rentals LLC 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 or industrial processes, without prior Department approval, with the exception that ground water may be extracted in conjunction with environmental investigation and/or remediation activities and from the existing on-site potable drinking water well located in the building on the Real Estate.

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 _____ 20__, RECORDED IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY ON _____, 20__, INSTRUMENT NUMBER (or other identifying reference) _____ IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.

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 Elkhart 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:

L & J Rentals, LLC
P.O. Box 295
New Paris, IN 46553
ATTN: Larry Gill, Jr.

To Department:

Indiana Brownfields Program
100 N. Senate Avenue, Rm. 1275
Indianapolis, Indiana 46204
ATTN: Ken Coad

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, L & J Rentals LLC, the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 20 day of April, 2016.

[Signature]
L & J Rentals LLC

STATE OF Indiana)
) SS:
COUNTY OF Elkhart)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Larry Gill, the _____ of the Owner, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this 20 day of April, 2016.



[Signature]
Kenzie Kurtz, Notary Public

Residing in Elkhart County,

09/16/2022

My Commission Expires:

This instrument prepared by:

Ken Coad

Sr. Environmental Advisor

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.

Larry L. Gill Jr. (Printed Name of Declarant)

EXHIBIT A

Warranty Deed for the Real Estate

Copy

2008-07954
ELKHART COUNTY RECORDER
CHRISTOPHER J ANDERSON
FILED FOR RECORD
AS PRESENTED

Warranty Deed

2008 APR -1 P 3:20

THIS INDENTURE WITNESSETH, That Nelson P. Burkholder
of Elkhart County, in the State of Indiana Convey and Warrant
to L & J Rentals LLC, 119001 Market St., New Paris, IN 46553
of Elkhart County, in the State of Indiana,
for and in consideration of the sum of \$1.00 and other valuable consideration
the receipt whereof is hereby acknowledged, the following described Real Estate
in Elkhart County, to-wit:

NON CONFORMING 1-

17.00
17.00

ORIGINAL (New Paris) Lot 12
BLK. 6

In Witness whereof, The said owner
has hereunto set his hand and seal, this 10th day of March, 2008.

Nelson P. Burkholder (seal)

Nelson P. Burkholder (seal)

STATE OF INDIANA, ELKHART COUNTY, SS:

Before me the undersigned, a Notary Public in and for said County, this 10th
of March, 2008, came, and acknowledged the execution of the foregoing instrument.
Witness my hand and official seal.

My commission expires 11-11-08
Resident of Elkhart County

David W. Parsons Notary Public
David W. Parsons

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.

1. Nelson P. Burkholder

This instrument prepared by Nelson P. Burkholder

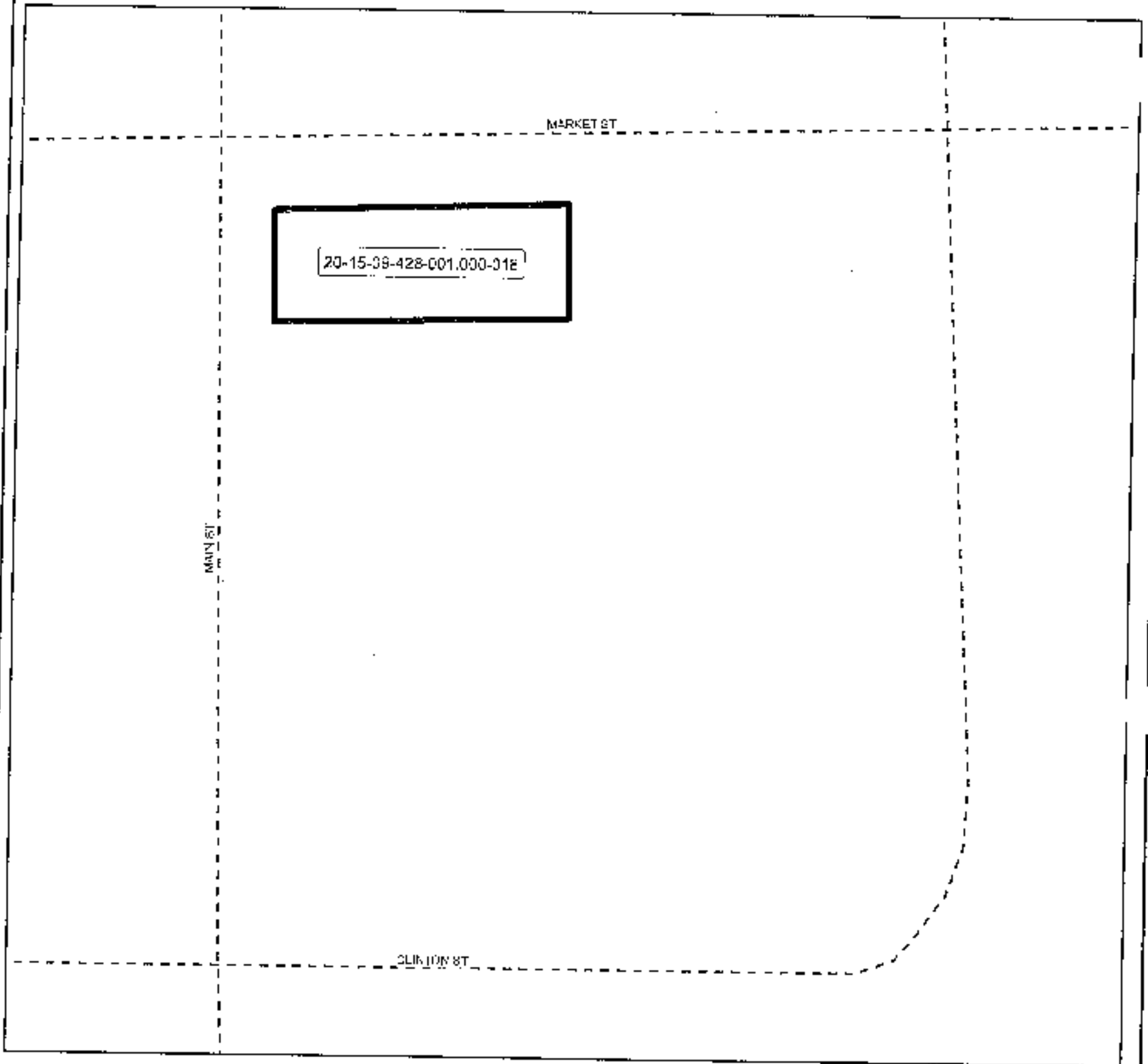
20128134
New Paris #0002

DISCLOSURE FEE PAID
DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER
4.1 20.09
Dexa AUDITOR
000479
TRANSFER FEE 5.00
PARCEL NO. 15-09-428-001-000



EXHIBIT B

Map of the Real Estate

BFD 4090503 - Environmental Restrictive Covenant



Mapped By: Mike Hill, IDEM, Office of Land Quality Science Services Branch, Engineering & GIS Services, February 11, 2016
Deed Info: Instrument # 2009-07952 Recorded 2009 APR 1
 Warranty Deed
Parcel ID: 20-15-09-428-001.000-01E
PLSS Info: Section 5, T39N, R2E
 Jackson Township
 Elkhart County, IN
Property Info: 19112 Market Street, New Paris, IN
Disclaimer: This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy in other purposes.

 Environmental Restrictive Covenant
 Street



Elkhart County



Project Area



EXHIBIT C

Copy of No Further Action Letter



Indiana Department of Environmental Management

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-8027 • (317) 232-8503 • www.idem.IN.gov

Michael R. Pence
Governor

Carol S. Comer
Commissioner

April 12, 2016

Mr. Larry Gill, Jr.
L & J Rentals, LLC
P.O. Box 295
New Paris, Indiana 46553

Re: **Reissued No Further Action
(NFA) Determination Pursuant
to the Remediation Closure
Guide (RCG)
LUST ARRA**
Larry's Service Station
19110 Market Street
New Paris, Elkhart County
LUST Incident #s: 198908168 and
199009523
UST Facility ID #: 10893
Brownfields #: 4090503

Dear Mr. Gill:

Indiana Department of Environmental Management (IDEM) staff have reviewed the following reports regarding a release of petroleum at the property located at 19110 Market Street, New Paris, Elkhart County (Site):

- *Soil Gas Detection Project*, dated May 6, 1991, prepared by Capital Environmental & Engineering, Inc. (Capital)
- *Slug Test Report*, dated May 19, 1991, prepared by Capital
- *Hydrogeologic Investigation Report*, dated November 3, 1991, prepared by Capital
- *Phase II Investigation* (2010 Phase II), dated January 2010, prepared by Groundwater & Environmental Services, Inc. (GES)
- *Further Site Investigation* (2010 FSI), dated August 2010, prepared by GES
- *Corrective Action Plan* (2010 CAP), dated September 2010, prepared by GES
- *Corrective Action Progress Report – 4th Quarter 2010* (CAPR 4Q2010), dated January 27, 2011, prepared by GES



- *Corrective Action Progress Report – 1st Quarter 2011 (CAPR 1Q2011)*, dated April 26, 2011, prepared by GES
- *Corrective Action Progress Report – 2nd Quarter 2011 (CAPR 2Q2011)*, dated July 29, 2011, prepared by GES
- *Corrective Action Progress Report – 3rd Quarter 2011 (CAPR 3Q2011)*, dated October 26, 2011, prepared by GES
- *Corrective Action Plan Implementation Report (2011 CAP Implementation)*, dated December 2011, prepared by GES
- *Corrective Action Progress Report – 1st Quarter 2012 (CAPR 1Q2012)*, dated April 3, 2012, prepared by GES
- *Corrective Action Progress Report – 2nd Quarter 2012 (CAPR 2Q2012)*, dated July 24, 2012, prepared by GES
- *Underground Storage Tank Closure Report*, dated October 2002, prepared by GES
- *Corrective Action Progress Report – 3rd Quarter 2012 (CAPR 3Q2012)*, dated October 12, 2012, prepared by GES
- *Corrective Action Progress Report – 4th Quarter 2012 (CAPR 4Q2012)*, dated January 9, 2013, prepared by GES
- *Corrective Action Progress Report – 1st Quarter 2013 (CAPR 1Q2013)*, dated April 27, 2013, prepared by GES
- *Corrective Action Progress Report – 2nd Quarter 2013 (CAPR 2Q2013)*, dated July 10, 2013, prepared by GES
- *Corrective Action Progress Report – 3rd Quarter 2013 (CAPR 3Q2013)*, dated October 17, 2013, prepared by GES
- *Corrective Action Progress Report – 4th Quarter 2013 (CAPR 4Q2013)*, dated January 15, 2014, prepared by GES
- *Corrective Action Progress Report – 1st Quarter 2014 (CAPR 1Q2014)*, dated April 30, 2014, prepared by GES
- *Corrective Action Progress Report – 2nd Quarter 2014 (CAPR 2Q2014)*, dated July 30, 2014, prepared by GES
- *Corrective Action Progress Report – 3rd Quarter 2014 (CAPR 3Q2014)*, dated October 23, 2014, prepared by GES
- *Corrective Action Progress Report – 4th Quarter 2014 (CAPR 4Q2014)*, dated January 29, 2015, prepared by GES
- *Corrective Action Progress Report – 1st Quarter 2015 (CAPR 1Q2015)*, dated April 30, 2015, prepared by GES
- *Corrective Action Progress Report – 2nd Quarter 2015 (CAPR 2Q2015)*, dated July 30, 2015, prepared by GES
- *Well Abandonment and System Removal Activities*, dated January 4, 2016, prepared by GES

Investigation and remediation activities conducted by GES beginning in the fall of 2009 were funded by Leaking Underground Storage Tank (LUST) American Reinvestment and Recovery Act (ARRA) funds allocated by the Indiana Brownfields

Program (Program) to complete corrective action related to the release of petroleum hydrocarbons from underground storage tanks (USTs) on the Site.

Site Description and History

The approximately 0.25-acre Site, identified as State parcel # 20-15-09-428-001.000-018, is occupied by two, one-story structures consisting of: an office area and a two-bay garage currently being used to repair vehicles located on the western portion of the Site and a small engine repair facility located near the eastern portion of the Site. Although an active potable well is located on-Site for restroom and vehicle service uses, bottled water is provided as drinking water. At the time of the UST removal activities in 1989, discussed below, Nelson Burkholder was the property owner and had a land contract to sell the Site to Larry Teghtmeyer (the station operator at the time). As of September 2002, the Site has been operated as New Paris Auto Service. Deed information indicates the Site was purchased from Nelson Burkholder by L & J Rentals, LLC in March 2008.

Available historical information indicates that a gasoline filling/service station has operated on the Site under various names from at least the 1930s. In August 1989, a spill was reported to IDEM (incident #1989080168) by Larry Teghtmeyer (then land contract purchaser/station operator) during an inspection of the three 5,000 gallon gasoline USTs located beneath the small engine repair facility. The USTs had been emptied of gasoline in April 1989. Total petroleum hydrocarbon (TPH) contamination was detected in soil samples collected from locations adjacent to the USTs at an approximate depth of 4.5 to 6 feet below ground surface (bgs) above the then-applicable IDEM LUST cleanup objective of 100 parts per million (ppm). Four ground water samples collected adjacent to the USTs also indicated the presence of TPH above the then-applicable IDEM LUST cleanup objective of 100 ppm. Soil and ground water analytical results from the eight soil and four ground water samples collected in 1989 exceeded the then-applicable IDEM LUST cleanup objective of 100 ppm¹. According to available records, five USTs were properly closed in November 1989 including three 5,000-gallon gasoline USTs closed in-place beneath the small engine repair facility and the removal of a 1,000-gallon kerosene UST and a 1,000-gallon waste oil UST from unknown locations.

Because the town of New Paris is not serviced by a public water utility, drinking water is obtained via private potable wells located on each property. Due to the threat of the petroleum hydrocarbon contamination detected in ground water on the Site in 1989 impacting the local drinking water supply, IDEM agreed to provide carbon filters as a safeguard for drinking water wells near that Site that were identified as being

¹ As of July 2010 (for ground water) and March 2012 (for soil), IDEM no longer evaluates TPH contamination in soil and ground water when determining RCG closure. Therefore, any TPH analytical results discussed in this letter are for informational purposes only.

contaminated after having been sampled in 1991². "Whole home" carbon filters were installed in April 1991 at the Village Hair Tender (68471 Main Street) (and a point of use filter on the residential apartment (Smoker's Residence) above the hair salon), New Paris Pro Hardware (68223 Main Street), and the New Paris General Store (68477 Main Street). The carbon filters were replaced as necessary until approximately 2007 when IDEM determined that there was no longer a consumption risk presented to those property owners.

Environmental Conditions

For purposes of this letter, analytical results, regardless of collection date, 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 bgs were compared to RCG residential and commercial/industrial screening levels for direct contact exposure (RDCSLs and IDCSLs); soil samples collected between 0 and 18 feet bgs were compared to RCG screening levels for excavation worker exposure (EX DCSLs); and, soil samples collected at depths greater than 18 feet were not evaluated for purposes of closure because of the unlikely risk of exposure at that depth. Ground water samples were compared to RCG residential ground water tap screening levels (Res TAP GWSLs) and RCG residential and commercial/industrial ground water vapor exposure screening levels (Res and Indus VE GWSLs).

Slug Test/Soil Gas/Hydrogeologic Investigations - 1991

In 1991, Capital conducted slug test, soil gas, and hydrogeologic investigations to identify the contaminant source locations and evaluate the extent of petroleum hydrocarbons down-gradient of the Site. Site and area activities included the advancement of 26 soil gas points (1 through 26) to a maximum depth of 12 feet bgs, the advancement of three soil borings, and the installation of three permanent monitoring wells (MW-1, MW-2, MW-3) to a maximum depth of 19 feet bgs and performance of slug tests in each of the three monitoring wells to evaluate hydraulic conductivity within the unconfined aquifer beneath the Site. Sixteen of the 26 soil gas points were installed on Site, with remaining points installed cross and down gradient of the Site. Two of the three monitoring wells (MW-1 and MW-2) were placed on the east and west sides of the Site, with MW-3 placed approximately 200 yards to the northwest and down-gradient of the Site. Based on these activities, petroleum hydrocarbon contamination was detected during the soil gas survey on-Site and immediately across Market Street to the north and across Main Street to the northwest of the Site.

² Incident number 199009523, which was tied to the original incident number 198908168, was opened as a result of sampling residential private drinking water wells in the vicinity of the Site and its use subsequently discontinued when it was determined that all activities relating to the original 1989 incident number (198908168) would be used to track Site activities.

According to ground water results described in the *Hydrogeologic Investigation Report*, all volatile organic compounds (VOCs) were reportedly below their respective RCG Res TAP GWSLs. The text included in this report indicated that low levels of chlorinated hydrocarbons and gasoline constituents were detected in MW-1 and in the potable well located immediately to the south of the Site. However, laboratory results were not available. Slug tests indicated that the hydraulic conductivity of the unconfined sand aquifer ranged from approximately 70 feet/day to 81 feet/day with a velocity of 0.26 feet per day to the northwest. Ground water flow direction across the Site and in the area was determined to be from the southeast toward the northwest. Private drinking water wells sampled down-gradient of the Site indicated the presence of methyl tertiary butyl ether (MTBE), benzene and other unnamed constituents. Unfortunately, the November 1991 report did not include laboratory tables or reports so it is not clear where and what contaminants were identified.

Potable Well Sampling

Additional private drinking well sampling events were conducted by IDEM LUST following the initial 1991 sampling event. Sampling of private well influent water (pre-carbon filtration) was conducted in December 1995, July 2001, October 2002, December 2002, September 2003, February 2004, June 2004, and December 2004 at all or some of the of the following locations: three residences on Jefferson Street located to the northwest and down-gradient of the Site, three locations on Main Street (New Paris Store, Village Tenders, New Paris Hardware store); and, the on-Site station drinking water well, in addition to monitoring wells MW-1 through MW-3. In general, several VOCs (MTBE, trichloroethene (TCE)), chloromethane, chloroform, and a number of estimated chlorinated VOCs were detected at estimated concentrations, all of which were below applicable RCG Res TAP GWSLs.

In December 2008, IDEM LUST collected water samples from four private drinking water wells and two monitoring wells (MW-2 and MW-3) located near the identified dissolved petroleum hydrocarbon contamination detected in the shallow ground water. The four private wells located down-gradient of the Site that were sampled included: Jodie Campbell residence (68438 Jefferson Street), Village Hair Tenders, Landmark Bar & Grill, and New Paris Store. Detected contaminants included MTBE, benzene, ethyl benzene, and naphthalene, but only naphthalene (at 12 parts per billion (ppb) at the Landmark Bar & Grill) was detected above its RCG Res TAP GWSL (of 1.7 ppb).

Phase II Investigation – January 2010

The *January 2010 Phase II Report* also included regional hydrogeology information for the Site and surrounding area. The Indiana Department of Natural Resources (IDNR) identified a total of 323 confirmed and non-confirmed low capacity wells and 87 high capacity wells near the Site. A total of 216 of the 323 wells of low capacity wells are within a one-mile radius of the Site and 68 of 87 high capacity wells

within a two-mile radius of the Site had been confirmed by IDNR. The closest low capacity well was located 0.03 miles south of the Site with the closest high capacity well identified 0.02 miles southwest of the Site.

Site-specific geology and hydrogeology from previous investigations identified the presence of a brown to gray sand to at least 24 feet bgs. Saturated sands were present below the Site at depths ranging from 14 to 16 feet bgs and ground water flowing to the northwest across and in the area of the Site. Surface water bodies within one-mile radius of the Site include an unnamed creek 2,500 feet to the west and an unnamed creek located one mile east of Site.

Sensitive receptors were evaluated as part of the investigation which included review of nearby land use, utility corridors, and an exposure pathway assessment. Land use around the Site within a 1-mile radius is primarily residential, commercial, and agricultural land surrounding the town to the east, west, and south. Properties adjacent and in the immediate area include: across Market Street, the Landmark Bar & Grill to the north; across an alley, the Haywire Brightnet and New Paris Phone Company to the east; residential homes to the south; and, across Main Street, the Interra Credit Union to the west. All surrounding structures are constructed as slab-on-grade with the exception of the Landmark Bar & Grill which was constructed with a basement.

Utility corridors potentially influencing the migration of subsurface contamination include a gas main running north/south located beneath Main Street and east/west beneath the north half of Market Street; a gas lateral connecting from the gas main beneath Main Street to the southwest corner of the Site building; three fiber optic lines running east/west beneath Market Street; sanitary sewers flowing to the north away from the Site near the northwest corner of Main and Market Streets; storm water inlets located at the northeast and northwest corners of the intersection with storm lines running beneath Main Street and ultimately on the east side Main Street to the north away from the Site.

As discussed in the *January 2010 Phase II Report*, in October 2009, GES provided oversight of the advancement of 13 push-probe borings and the installation of temporary wells in all 13 soil borings to depths ranging from 16 feet to 24 feet bgs to provide further delineation of the petroleum hydrocarbon contamination present in soil and ground water on and down gradient of the Site. Twenty-six soil samples and 13 ground water samples were collected and submitted for analysis of TPH – diesel range organics (DRO), TPH-gasoline range organics (GRO), VOCs, semi-volatile organic compounds (SVOCs), polychlorinated biphenyls (PCBs), and/or metals. Soil analytical results detected concentrations of toluene, ethyl benzene, total xylenes, naphthalene, 1,2,4-trimethylbenzene (1,2,4-TMB), 1,3,5-trimethylbenzene (1,3,5-TMB), and 2-methynaphthalene exceeding their respective IDEM RCG Res MTGSLs. Refer to Table 1, below, for soil concentrations above applicable RCG screening levels.

TABLE 1
October 2009 Soil Samples Exceeding Applicable IDEM RCG Screening Levels

Sample ID	Sample Depth (feet bgs)	Contaminant & Results (parts per million (ppm))						
		Toluene	Ethyl Benzene	Total Xylenes	Naphthalene	1,2,4-Trimethylbenzene	1,3,5-Trimethylbenzene	2-Methyl Naphthalene
SB-3	12 – 14	<0.008	0.128	1.12	1.85	<0.008	<0.008	<0.0052
SB-4	12 – 14	<u>39.1</u>	<u>99.6</u>	<u>456</u>	<u>34.8</u>	<u>313</u>	<u>86.5</u>	<u>42.8</u>
SB-5	12 – 14	<u>1.81</u>	<u>16.8</u>	82.9	<u>22.2</u>	<u>82.6</u>	<u>22.6</u>	<u>14.9</u>
SB-11	12 – 14	<0.15	0.769	4.01	2.85	<u>4.28</u>	1.03	2.36
RCG Res MTGSL		14	16	200	0.11	0.44	3.4	3.7

Note: underlined = above RCG Residential Migration to Ground Water Screening Level!
 bgs = below ground surface

Ground water samples collected from the 13 temporary monitoring wells revealed concentrations of benzene, ethyl benzene, toluene, total xylenes, naphthalene, 1,2,4-TMB, and 1,3,5-TMB above their respective RCG Res TAP GWSLs and/or Res VE GWSLs. The results of the ground water analytical results above RCG applicable screening levels are summarized in Table 2, below.

TABLE 2
October 2009 Ground Water Exceeding Applicable IDEM RCG Screening Levels

Sample ID	Contaminant & Results (parts per billion (ppb))						
	Benzene	Ethyl Benzene	Toluene	Total Xylenes	Naphthalene	1,2,4-Trimethylbenzene	1,3,5-Trimethylbenzene
SB-3	<50*	3,560	6,470	16,200	556	2,840	827
SB-4	30.3	973	1,930	4,510	149	1,500	441
SB-5	756	1,520	1,670	5,510	228	758	203
SB-11	534	1,350	913	4,880	155	893	239
SB-13	<5	1,480	548	5,840	249	1,470	422
Res TAP GWSL	5	700	1,000	10,000	1.7	15	120
Res VE GWSL	28		NE		0.83		NE

Note: *italics* = above RCG Residential TAP Ground Water Screening Level;
bold = above RCG Residential Vapor Exposure Ground Water Screening Level
 * = detection limit above RCG TAP GWSL and Res VE GWSL

Further Site Investigation – August 2010

In April/May 2010, GES advanced three soil borings (MW-4 through MW-6) and completed each as permanent monitoring wells to a maximum depth of 20 feet bgs to further delineate petroleum hydrocarbons in the ground water on and down-gradient of the Site. MW-4 was installed near the northwest corner of the Site with MW-5 placed across the intersection of Main and Market Streets and MW-6 placed approximately one block north of Market Street on the east side of Main Street. Soil and ground water samples were collected and submitted for laboratory analysis of VOCs, TPH-ERO, TPH-GRO, and polyaromatic hydrocarbons (PAHs). Soil results identified toluene, ethyl benzene, naphthalene, total xylenes, 1,2,4-TMB, 1,3,5-TMB, and 2-methylnaphthalene in MW-4 at concentrations above their respective Res MTGSLs. All other soil analytical results were below applicable RCG screening levels. Refer to Table 3, below, for detected soil concentrations above applicable RCG screening levels.

TABLE 3
April/May 2010 Soil Samples Exceeding
Applicable IDEM RCG Screening Levels

Sample ID	Sample Depth (feet bgs)	Contaminant & Results (parts per million (ppm))						
		Toluene	Ethyl Benzene	Naphthalene	Total Xylenes	1,2,4- Trimethylbenzene	1,3,5- Trimethylbenzene	2-Methyl Naphthalene
MW-4	12 – 14.5	<u>15.7</u>	<u>55.4</u>	<u>11.5</u>	<u>268</u>	<u>217</u>	<u>53.6</u>	<u>11.8</u>
RCG Res MTGSL		14	16	0.11	200	0.44	3.4	3.7

Notes: underlined = above RCG Residential Migration to Ground Water Screening Level
 bgs = below ground surface

Ground water samples were collected from six monitoring wells (MW-1 through MW-6) and from three potable wells (Larry's Service, Landmark Bar & Grill, and New Paris Store) and analyzed for following: VOCs, TPH-ERO, TPH-GRO, and PAHs. The ground water flow direction was determined to be to the northwest across the Site and the depth to ground water was identified as being between 14 feet and 15 feet bgs. June 2010 ground water results confirmed elevated benzene, toluene, ethyl benzene, 1,2,4-TMB, 1,3,5-TMB, naphthalene, and 2-methylbenzene (MW-4) in ground water at concentrations above their respective Res TAP GWSLs. All other laboratory results were below their respective RCG Res TAP GWSLs.

Corrective Action Plan – September 2010

The *September 2010 CAP* was prepared by GES to address the petroleum hydrocarbon contamination identified beneath the Site and to minimize migration of contamination detected in the ground water to off-Site potable wells.

Based on the use of the Site as a vehicle repair facility, the detected contaminants of concern (COCs), and the materials present in the subsurface at the Site, air sparge (AS)/soil vapor extraction (SVE) remedial technology was approved by IDEM to remediate the Site. The selected remediation technology was designed and installed to address petroleum hydrocarbon contamination detected in soils at SB-3, SB-4, and SB-5 at depths ranging from approximately 14 to 15 feet bgs. Ground water was to be sampled from the monitoring well network and nearby potable wells in order to evaluate the effectiveness of the remediation system once operational.

The AS/SVE system was designed based on subsurface conditions using conservative estimates of a 20 foot air sparge radius of influence (ROI) and a 40 foot radius of a SVE ROI of 40 feet. Based on the petroleum hydrocarbon contamination and subsurface conditions, five air sparge injection points (AS-1 through AS-5) and three soil vapor extraction wells (SVE-1 through SVE-3) were installed near MW-4 and the northwest corner of the Site. The AS compressor supplied contaminated-free air for injection with the regenerative vacuum blower removing vapor phase and adsorbed phase hydrocarbons from the unsaturated soil zone. The AS/SVE system was fitted with telemetry allowing remote monitoring of system operation capable of alerting GES when an unexpected interruption of system operation has taken place.

Quarterly ground water sampling of the monitoring well network was conducted and ground water samples analyzed for benzene, toluene, ethyl benzene, and xylenes (BTEX), methyl tertiary butyl ether (MTBE), 1,2,4-TMB, 1,3,5-TMB, n-propylbenzene, 2-methylnaphthalene, lead, TPH-ERO, and TPH-GRO. Sampling of the air discharge from the AS/SVE system while operational was to be conducted during ground water monitoring events in order to evaluate the system effectiveness and document contaminant concentrations being discharged into the atmosphere.

Remediation

In the spring of 2010, the AS/SVE remediation technology approved by IDEM was installed. On September 1, 2010, GES submitted a request for an air permit exemption to IDEM Office Air Quality (OAQ). Prior to system start up, ground water samples were collected from the monitoring network to establish a baseline of the contamination present on and down-gradient of the Site. On September 14, 2010, the system was turned on, but was shut down 12 days later so additional information could be submitted to IDEM-OAQ allowing for the issuance of the final air permit. The system was re-started in November 2010 as discussed below.

Initial Quarterly Monitoring Reporting – November 2010

The 3rd Quarter 2010 Corrective Action Progress Report (CAPR) documented baseline ground water concentrations of COCs which included: BTEX/MTBE, 1,2,4-TMB, 1,3,5-TMB, n-propylbenzene, 2-methylnaphthalene, lead, TPH-ERO, and TPH-GRO, VOCs, PAHs, and lead in the ground water collected from the monitoring well network and potable wells located on-Site (Larry's Service), at Landmark Bar & Grill, and at New Paris Store. Ground water analytical results detected concentrations of benzene, toluene, ethyl benzene, total xylenes, naphthalene, 2-methylnaphthalene, and lead above their respective Res TAP GWSLs. Refer to Table 4, below, for ground water concentrations above applicable RCG screening levels.

TABLE 4
September 2010 Ground Water Samples Exceeding
Applicable IDEM RCG Screening Levels

Sample Location ID	Sample Date	Contaminant & Results (parts per billion (ppb))						
		Benzene	Toluene	Ethyl benzene	Naphthalene	2-Methyl naphthalene	Total Xylenes	Lead
MW-4	9/14/2010	<u>345</u>	10,300	2,790	<u>411</u>	135	13,400	27.3
MW-5		<u>190</u>	<5	<5	<1	<1	<10	NS
Res TAP GWSL		5	1,000	700	1.7	36	10,000	15
Res VE GWSL		28	NE		110	NE		
Indus VE GWSL		120			460			

Notes: *italics* = above RCG Residential TAP Ground Water Screening Level
bold = above RCG Residential Ground Water Vapor Exposure Screening Level
underlined = above RCG Industrial Ground Water Vapor Exposure Screening Level
 NE = Not Established NS = Not Sampled

Based on the discharge measurement of 370 parts per million vapor (ppmv) collected from the AS/SVE system discharge point during the 12 days of operation, the remedial system efficiency was calculated at a VOC removal discharge rate of 1.4 pounds per hour (lbs/hr) from the subsurface during system operation. On November 8, 2010, IDEM OAQ issued a Notice of Decision – Approval of Registration as 039-29635-00708 approving the AS/SVE air discharge permit and allowing operation of the system.

Quarterly Ground Water Monitoring – 4th Quarter 2010 through 4th Quarter 2011

The AS/SVE system was restarted on November 23, 2010 by GES and shutdown on the same day due to a malfunction. On December 1, 2010, the system was once again restarted and continued to operate for the remainder of 2010. As reported in the January 2011 CAPR for the 4th Quarter 2010, the system operated 74 percent of the time, including the shut-down requested by IDEM OAQ to approve the air permit. Without including the requested shutdown time, the system was operational for approximately 92 percent of the time for that timeframe and removed 1,167.7 pounds of hydrocarbons from the subsurface and discharged to the atmosphere.

The AS/SVE system continued to operate through June 10, 2011 when an alarm condition was detected which shut the system down. The system was started up again on June 13, 2011 and operated until July 3, 2011 when an electrical storm caused a system shutdown. Field measurements of the SVE discharge stack indicated the VOC discharge (removal) rate was 0.5 pounds per hour for the 2nd Quarter of 2011 for a total of 328 pounds of VOCs removed during the reporting period.

The AS/SVE system was restarted mid-July 2011 and operated until July 29, 2011 when it was shut down for injections of RegenOX[®] (a chemical oxidizer) to remediate the contaminated smear-zone present in subsurface soil. The "smear-zone" is a contaminated area in soil resulting from hydrocarbons floating on the ground water and the change in elevation of the ground water caused by seasonal variations of precipitation over time. RegenOX[®] is a sodium percarbonate solution made up a mixture of two liquids. Once the two components are mixed, the resulting mixture is injected into the subsurface to the appropriate depth causing advanced oxidation and remediation of contaminated substrates.

The AS/SVE system was restarted in mid-August 2011 for approximately two weeks and then again shut down to allow for additional RegenOX[®] injections the last few days of August 2011 to enhance treatment of the "smear zone" beneath the Site, as discussed below.

Corrective Action Plan Implementation Report – December 2011

In July 2011, 3,870 gallons of ReGenOX[®] (Parts A and B) were injected at 16 locations to depths ranging from 12 feet to 19 feet bgs. In August 2011, an additional 3,510 gallons of ReGenOX[®] were injected into the subsurface at 21 locations for a total of 7,380 gallons of ReGenOX[®] injected in the subsurface to enhance AS/SVE remediation efforts.

Analytical results from ground water samples collected on August 10, 2011 detected naphthalene at a concentration of 16 ppb above its Res TAP GWSL of 1.7 ppb. All other detected COCs were at levels below their respective Res TAP GWSLs. Ground water samples were again collected on September 21, 2011 to evaluate the

rebound of COCs concentrations following the injections. Benzene was detected in MW-4 at a concentration of 11.9 ppb above its Res TAP GWSL of 5 ppb with naphthalene at 4.8 ppb above its Res TAP GWSL of 1.7 ppm. All other COCs were below their respective Res TAP GWSLs. Due to a significant reduction of the majority of the COCs, the AS/SVE was deactivated on October 27, 2011. Following system shutdown, the monitoring well network continued to be sampled to confirm the remediation treatment was sufficient to maintain the reduction of contamination in ground water.

Ground water samples were collected from monitoring wells MW-1 through MW-6 and potable wells at the New Paris Store, Landmark Bar & Grill, and on-Site on November 9, 2011 and December 5, 2011. Benzene was detected in MW-4 from 28.7 ppb (November 2011) to 32.9 ppb (December 2011) above its Res TAP GWSL of 5 ppb. All other ground water concentrations were at levels below their respective Res TAP GWSLs.

Quarterly Ground Water Monitoring – 1st Quarter 2012 and 2nd Quarter 2012

Two quarterly ground water sampling events were conducted between January 2012 and June 2012 and analyzed for BTEX/MTBE and lead scavengers. Ground water samples were collected from the monitoring well network (MW-1 through MW-6) and the same three potable drinking water wells as in November 2011. Benzene was detected in MW-4 from 32.5 ppb (February 2012) to 82.3 ppb (May 2012) above its Res TAP GWSL of 5 ppb. All other concentrations in ground water were below their respective Res TAP GWSLs.

UST Closure – October 2012

Because of the increase of benzene in MW-4 between February and May 2012, further Site evaluation was performed to determine the potential presence of an additional source of petroleum hydrocarbons. Based on this evaluation, an additional UST was identified as a potential source of the benzene and toluene concentrations detected in MW-4. In May/June 2012, the AS/SVE system was disconnected and moved off-Site to gain access to a UST located near where the remediation system trailer had been located. On June 28 and 29, 2012, a 1,000-gallon gasoline UST was cleaned and removed from the western portion of the Site near Main Street. Confirmatory soil samples were collected and analyzed for TPH and BTEX/MTBE. Confirmatory soil sample concentrations were below their laboratory detection limits.

System Operation and Quarterly Ground Water Monitoring – 3rd Quarter 2012 through 2nd Quarter 2015

Following the UST removal in June 2012, the 3rd quarter monitoring event was conducted on July 19, 2012. Results of ground water concentrations in MW-4 indicated an increase of benzene to 106 ppb above its Res TAP GWSL of 5 ppb and toluene at

1,080 ppb above its Res TAP GWSL of 1,000 ppb. In addition, benzene was detected in MW-5 at 5.5 ppb above its Res TAP GWSL of 5 ppb. MW-5 is located down gradient of the Site and adjacent to the New Paris Store potable well. Because of the significant increase in detected levels of benzene and toluene in MW-4 and the presence of benzene above Res TAP GWSL in MW-5, a decision was made to have the AS/SVE system trailer returned to the Site and reconnected to further remediate the on-Site contamination. The system was reinstalled and subsequently restarted on October 25, 2012.

Monitoring well network sampling revealed a general decrease of benzene and toluene concentrations beginning the 4th Quarter of 2012. Benzene concentrations decreased in samples collected on October 18, 2012 from 42.3 ppb to 7.7 ppb collected in January 2013 with a reduction of toluene concentrations from 55.1 ppb to non-detect during this same timeframe. In addition, benzene concentrations were reduced to below detection limits in MW-5 in October 2012 and January 2013. MTBE was detected in MW-5 at a concentration of 13 ppb (on January 2013) but below its Res TAP GWSL of 140 ppb.

The AS/SVE remediation system operated continuously from October 27, 2012 until May 25, 2013. Because quarterly ground water monitoring results revealed that benzene and toluene concentrations continued to decrease, operation of the AS/SVE system was switched to pulsing, wherein the system was shut-off for a period of time and then restarted and operated for a period of time. Pulsing is typically performed once VOC concentrations reach asymptotic trends and is a more efficient method of recovering relatively low contaminant concentrations in ground water. In July 2013, benzene was detected at a concentration of 293 ppb in MW-5 and then at 30.3 ppb. No other COC concentrations were detected during that timeframe.

The system was restarted on August 20, 2013 during a scheduled pulsing operation period. The system operated until September 20, 2013 when it was shut down due to a loss of power. The system remained off until November 22, 2013 when it was restarted. The system operated for 18 days until it was shut down during scheduled system operation and maintenance (O & M) activities and remained off until January 23, 2014 when it was reactivated. The system operated until February 19, 2014 when it was shut down during scheduled O & M activities. The system operated for a total of 27 days in 2014 and was not operated the remainder of 2014 or the 1st or 2nd Quarters of 2015.

Following system shutdown in 2014, ground water samples were collected from all six monitoring wells (MW-1 through MW-6) and three potable private wells (Larry's Service, Landmark Bar & Grill, New Paris Store) on a quarterly basis until the 2nd Quarter of 2015. Beginning the 2nd Quarter of 2014, the number of monitoring wells sampled was reduced to include MW-1, MW-4, and MW-5 (only) with the number of private potable wells was increased to include Larry's Service, Landmark Bar & Grill, New Paris Store, residence at 68298 County Road 23 (south of Larry's Service), Hiz & Herr's Hair (Village Hair Tenders), Pro Hardware, and Interra Credit Union. Since all but

monitoring wells MW-1, MW-4, and MW-5 have been historical non-detect, sampling of those monitoring wells was discontinued. In order to confirm the effectiveness of the Site's ground water remediation, the list of potable private wells was expanded to include additional drinking water receptors. Although not all monitoring wells were sampled for laboratory analyses, all six monitoring wells were gauged so that ground water flow direction could be determined during each sampling event. Ground water results of the final quarterly sampling event completed in June 2015 detected benzene, toluene, ethyl benzene, and total xylenes; however, only benzene (at 8 ppb (duplicate 7.6 ppb)) was detected at a level above its Res TAP GWSL of 5 ppb. All other detected concentrations were below their applicable Res TAP GWSLs. Table 5, below, depicts contaminant concentrations exceeding their respective Res TAP GWSLs during the latest quarterly monitoring event in June 2015.

TABLE 5
June 2015 Contaminant Concentrations in Ground Water
Exceeding Applicable IDEM RCG Screening Levels

Sample Location	Contaminant Detected & Result (parts per billion (ppb))
	Benzene
MW-4*	8.0
Duplicate	7.6
RCG Res TAP GWSL	5
RCG Res VE GWSL	28

Notes: * = Monitoring well MW-4 was located off-Site in the Right-of-Way of County Road 46
italics = above Residential TAP Ground Water Screening Level

Although the location of MW-4 was determined to be located off-Site in the right-of-way of Market Street (County Road 46), the contaminant concentration detected in ground water in this well is representative of the remaining ground water contamination on-Site following remediation. In order to be protective of human health from potential exposure to COCs dissolved in the ground water plume, IDEM has decided to restrict the installation of additional drinking water wells on the Site.

Well Abandonment and System Removal – January 2016

In October 2015, GES supervised the abandonment of six monitoring wells (MW-1 through MW-6), five air sparge wells (AS-1 through AS-5), and three soil vapor extraction wells (SVE-1 through SVE-3) in conformance with 312 Indiana Administrative Code (IAC) 13-10-2 and IDEM's *Drilling Procedures and Monitoring Well Guidelines – Non-Rule Policy* (Waste-0053). In addition, utilities (electric and telephone) were disconnected from the AS/SVE system trailer which was transported off-Site. All poles/bollards were removed and subsurface piping was cut below ground surface and capped. Resulting depressions/holes were backfilled with aggregate or concrete as appropriate.

Conclusion

Notwithstanding residual contaminant concentrations remaining in deep soils (> 10 feet bgs) above RCG MTGSLs and in ground water above Res TAP GWSLs, COC concentrations in ground water have remained stable or been decreasing for 6 or more quarters. Therefore, IDEM can approve a conditional residential closure of environmental conditions on the Site under RCG for the following reasons:

- Petroleum contamination in subsurface soil at the Site was reduced by injections of ReGenOX[®] into the smear-zone and dissolved in the ground water by operation of the AS/SVE remediation system.
- Although COCs remain in soil above applicable Res MTGSLs, detected concentrations are below RCG RDCSLs and are located at depths deeper than 10 feet bgs, which does not present a direct contact exposure risk.
- Ground water contamination has been delineated and does not extend off-Site onto nearby commercial or residential properties. In addition, the contaminated ground water plume is stable and there is no completed exposure pathway on the Site to contaminated ground water. The contamination in ground water will continue to naturally degrade over-time and future access to ground water can be controlled through a land use restriction.
- Petroleum hydrocarbon contamination has never been detected in the on-Site drinking water well which is located upgradient from the remaining, residual contamination.

Since benzene in ground water on-Site was detected above its RCG Res TAP GWSL, an environmental restrictive covenant (ERC) is required to be recorded on the deed for the Site. IDEM is requiring a deed restriction via the enclosed ERC with the following provision summarized below:

- Not use ground water from beneath the Site for any purpose without prior IDEM approval, with the exception of the existing on-Site potable well located inside the building located on the western portion of the Site (Parcel ID #20-15-09-428-001.000-018, Instrument #200907952). No new wells can be installed for any purpose other than contaminant assessment or monitoring without IDEM approval.

Based on the information regarding known contaminant levels and the information reviewed by IDEM, IDEM concludes that current Site conditions meet IDEM RCG conditional residential closure standards and thus do not warrant a response action 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 NFA determination 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. If additional information is subsequently obtained by IDEM indicating that the Site or its use poses a risk to human health or the environment, IDEM reserves the right to modify or revoke this NFA³ determination as the situation may warrant. Please be advised that any work performed at the Site must be done in accordance with all applicable environmental laws. Operation and redevelopment of this Site in a manner consistent with the restrictions discussed above will lessen the possibility that environmental conditions at the Site could deteriorate in the future.

In order for IDEM to consider this letter effective, the enclosed ERC, which includes a copy of this No Further Action letter, must be recorded on the deed for the Site in the Elkhart County Recorder's Office. Please return a certified copy of the filed document to the address listed below:

Indiana Brownfields Program
100 North Senate Ave, Room 1275
Indianapolis, Indiana 46268
Attn: Ken Coad

IDEM and the Indiana Brownfields Program are pleased to assist you with this determination regarding environmental conditions at this Site. Should you have any questions, please contact Ken Coad at 317-233-8409 or toll-free at 1(800) 451-6027, extension 3-8409 or by e-mail at kcoad@ifa.in.gov.

Sincerely,



Timothy Veatch, Section Chief
Leaking Underground Storage Tank Section
Underground Storage Tank Branch
Office of Land Quality

cc: Jan Pels, USEPA Region 5 (*electronic copy*)
Meredith Gramelspacher, Indiana Brownfields Program (*electronic copy*)
Ken Coad, Indiana Brownfields Program (*electronic copy*)
Doug Riggs, Groundwater & Environmental Services (*electronic copy*)

³ A No Further Action Determination Letter was issued by IDEM on April 6, 2016 to Nelson Burkholder. This reissued NFA Determination Letter addresses clarification of ownership based on additional information forwarded to IDEM on April 11, 2016. This NFA Determination Reissue replaces the April 6, 2016 NFA determination letter.

EXHIBIT D

TABLE 1

Larry's Service - 19110 Market Street, New Paris, BF #4090503
June 2015 Ground Water Samples Exceeding
Applicable IDEM RCG Screening Level

TABLE 1
June 2015 Contaminant Concentrations in Ground Water
Exceeding Applicable IDEM RCG Screening Levels

Sample Location	Contaminant Detected & Result <i>(parts per billion (ppb))</i>
	Benzene
MW-4*	<i>8.0</i>
Duplicate	<i>7.6</i>
RCG Res TAP GWSL	5
RCG Res VE GWSL	28

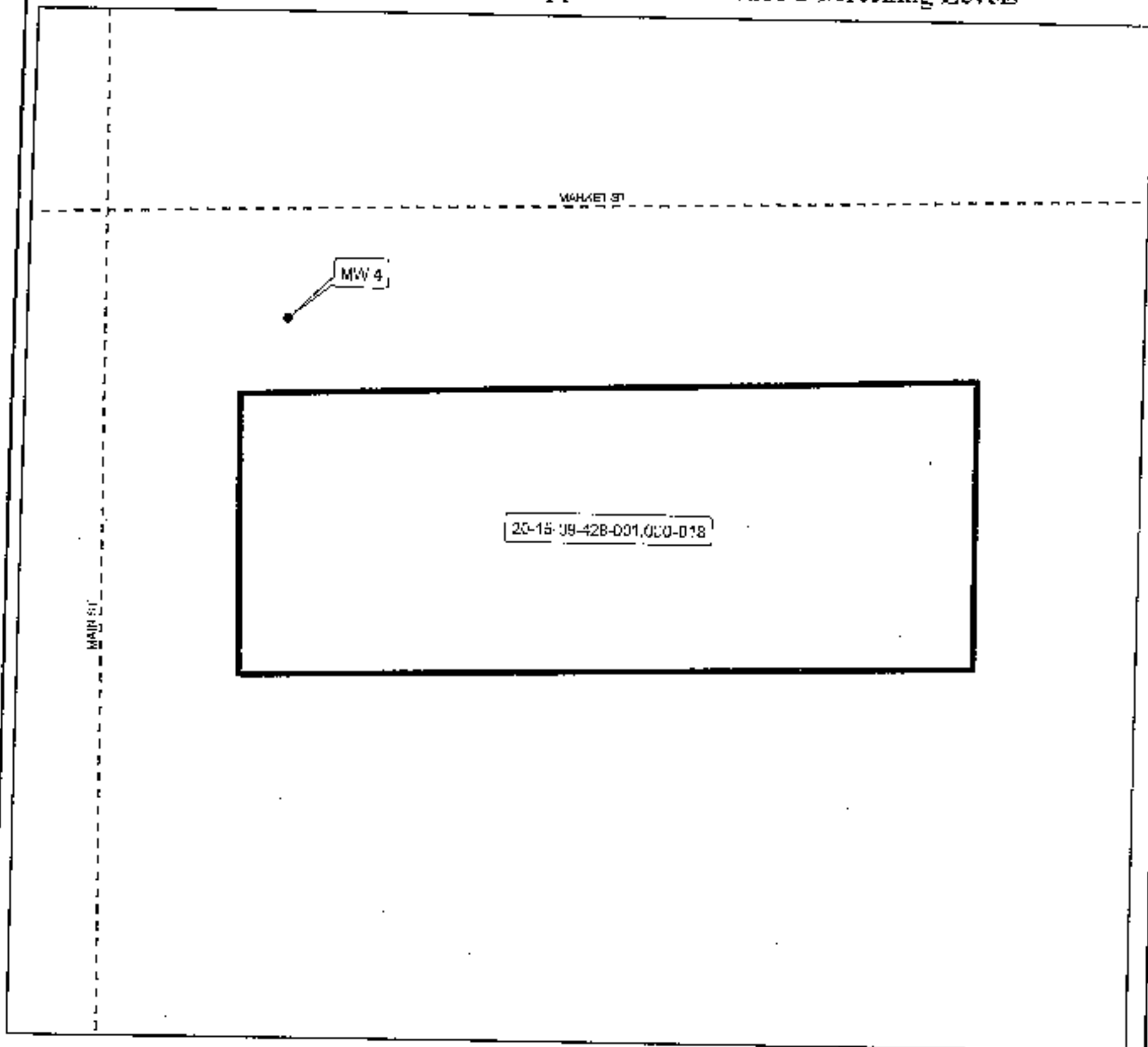
Notes: * = Monitoring well MW-4 was located off-Site in the Right-of-Way of County Road 46
italics = above Residential TAP Ground Water Screening Level

EXHIBIT E

Site Map Depicting Sampling Location

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.

BFD 4090503 - Site Map Depicting Sample Locations Where COCs Were Detected Above Applicable IDEM RCG Screening Levels



Mapped By: Mike HIF, IDEM, Office of Land Quality, Science Services Branch, Engineering & GIS Services, February 14, 2013


Sample Info: Sample location MW 4 based on Figure 1, "Groundwater Contour Map", by Groundwater & Environmental Services, Inc., dated 7-15-15

Parcel ID: 20-15-09-42B-001,000-018

PLSS info: Section 9, T35N, R8E
Jackson Township
Elkhart County, IN

Property Info: 10110 Market Street, New Paris, IN

Disclaimer: This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.

■ Monitoring Well Sample
 Environmental Restrictive Covenant
 - - - Street



0 10 20 Feet
 0 1 2 Miles

Elkhart County



Project Area



