

Site # 000000328
SCU



Daniel J. Deeb
312-258-5532
ddeeb@schiffhardin.com

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IDEM-OLC

233 SOUTH WACKER DRIVE
SUITE 6600
CHICAGO, ILLINOIS 60606
t 312.258.5500
f 312.258.5600
www.schiffhardin.com

June 28, 2010

VIA FEDERAL EXPRESS

Barb Lollar, Esq.
Indiana Department of Environmental Management
Office of Legal Counsel
100 N. Senate Avenue
Room IGCN1307
Indianapolis, IN 46204

RE: Peru, IN Former MGP Agreed Order

Dear Barb:

Enclosed is a hardcopy of an originally executed (by NIPSCO) Agreed Order for the above-referenced site. We ask that you please arrange for IDEM's execution as well and return a fully signed copy to my attention.

Please let me know if you've any questions or require any additional information.

Sincerely,

A handwritten signature in dark ink, appearing to be 'D. Deeb', written over a large, loopy 'S' that also serves as the word 'Sincerely'.

Daniel J. Deeb

DJD:cln
Enc

CH2\8837810 I

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)
)
Former Canal Street Manufactured)
Gas Plant and 195 Canal Street,)
Peru, Indiana)
)
Northern Indiana Public)
Service Company)
Respondent)
801 E. 86th Street)
Merrillville, Indiana 46410)
)
IDEM Site No. 0000328)
)
Proceeding under)
Indiana Code Title 13)

AGREED ORDER

The Indiana Department of Environmental Management ("IDEM"), by its Commissioner, and Northern Indiana Public Service Company (hereinafter referred to as "Respondent" or "NIPSCO") desire to remediate certain releases of hazardous substances and petroleum that occurred near the intersection of Canal and Fremont Streets in Peru, Indiana, without hearing or adjudication, and consent to the entry of this Agreed Order ("Order").

I. JURISDICTION

1. This Order is entered into by IDEM and Respondent and provides for the performance of response activities by Respondent and reimbursement of certain response costs incurred by IDEM at or in connection with releases of hazardous substances and petroleum at, from, or in connection with (i) real estate currently owned by NIPSCO and located at 195 Canal Street, Peru, Indiana (the "NIPSCO Real Estate"), and (ii) the former manufactured gas plant once operated, in part, at the NIPSCO Real Estate.

2. IDEM is the agency with the duty and authority to administer and enforce the provisions of Indiana Code ("IC") IC 13-25-4 and is authorized to recover response costs under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., and the Indiana Hazardous Substances Response Trust Fund Law, IC 13-25-4.

3. IDEM has authority under IC 13-25-4-23 to enter into an agreement that calls for one or more responsible parties to perform response actions concerning the releases of hazardous substances. IDEM has the authority under CERCLA § 113(f)(2), 42 U.S.C. § 9613(f)(2) to enter

into an administrative settlement that resolves a party's liability, if any, to the State arising under CERCLA.

4. IDEM also has authority under IC 13-24-1-1 to enter into an agreement that calls for one or more responsible parties to perform response actions concerning the release of petroleum.

5. IDEM has determined that, pursuant to IC 13-24-1-1, IC 13-25-4-9 and IC 13-25-4-23, this Order is in the public interest and that Respondent will perform the response action properly and promptly.

6. IDEM and Respondent recognize that this Order has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Order do not constitute an admission of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings, other than as against IDEM in proceedings to implement or enforce this Order, the validity of the findings of fact, conclusions of law, and determinations of this Order. The Parties agree to comply with and be bound by the terms of this Order, and the Respondent further agrees that it will not contest the basis or validity of this Order or its terms.

7. For the purposes of enforcing this Order, Respondent waives any defense to liability for the matters covered in this Order based on any failure by IDEM to issue a Special Notice Letter, Notice of Violation, or other such notice.

II. PARTIES BOUND

8. This Order applies to and is binding upon Respondent, its agents, successors, assignees, officers, directors, and principals and upon IDEM and any successor departments or agencies of the State. The signatories to this Order certify that they are fully authorized to execute and legally bind the parties they represent. No change in corporate status of Respondent, or the ownership of Respondent or the NIPSCO Real Estate, shall alter Respondent's responsibilities under this Order.

9. Respondent shall ensure that its contractors, subcontractors, and representatives receive a copy of this Order and comply with this Order. Respondent shall be responsible for any noncompliance with this Order.

III. DEFINITIONS

10. Unless otherwise expressly provided herein, terms used in this Order which are defined in IC 13-11-2 or CERCLA § 101, 42 U.S.C. § 9601, or regulations promulgated thereunder, shall have the same meaning assigned to them in Indiana Code or CERCLA or in such regulations. Whenever terms listed below are used in this Order or in any exhibit hereto, the following definitions shall apply:

11. "Business day" shall exclude Saturdays, Sundays and federal and state holidays. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday or federal or state holiday, the period shall run until the close of business of the next business day.

12. "CERCLA" means the Comprehensive Environmental Response, Compensation, and

Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601, et seq.

13. "City" means the City of Peru, Indiana.

14. "City Real Estate" means the real estate owned or controlled by the City and impacted by hazardous substances or petroleum released at, from, or in connection with the NIPSCO Real Estate or the Former MGP. The City Real Estate may include one of the parcels on which the Former MGP used to operate.

15. "Commissioner" means the Commissioner of IDEM. The term shall include any person designated by the Commissioner.

16. "Day" or "calendar day" shall be defined as the 24-hour period between 12:00 A.M. and 12:00 A.M.

17. "Effective Date" shall mean the date on which this Order is signed by the Commissioner.

18. "Environmental Restrictive Covenant" or "ERC" shall have the meaning set forth in IC 13-11-2-193.5.

19. "Environmental Restrictive Ordinance" or "ERO" shall have the meaning set forth in IC 13-11-2-71.2.

20. "Former MGP" means the manufactured gas plant that was located south of Canal Street and east of Fremont Street in Peru, Indiana and believed to have ceased operating prior to 1912.

21. "Further Site Investigation Report" or "FSI Report" shall mean the report submitted by Respondent documenting the investigation conducted by Respondent to determine (a) the nature and extent of contamination at the Site, and (b) the ownership of the parcels underlying the Former MGP or comprising the Site. The FSI Report shall include the results of any investigation or sampling conducted by Respondent, as well as the results of any investigation or sampling already conducted by, or made available to, Respondent that pertain to the releases to be addressed under this Order.

22. "Further Site Investigation Work Plan" or "FSI Work Plan" shall mean the work plan that describes in detail how Respondent will complete its investigation of the nature and extent of the release or threatened release of hazardous substances and petroleum at the Site. The FSI Work Plan shall also include a summary of Respondent's research into the areal extent of the Former MGP.

23. "IDEM" shall mean the Indiana Department of Environmental Management and any successor department(s) or agencies of the State.

24. "National Contingency Plan" or "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300, as amended.

25. "NIPSCO Real Estate" shall mean the real estate owned by NIPSCO located at 195 Canal Street in Peru, Indiana. The exact parcels owned by NIPSCO shall be determined and identified

in the Further Site Investigation Report.

26. "Order" means this Agreed Order and any exhibits attached hereto.

27. "Parties" shall mean IDEM and Respondent.

28. "Remediation Work Plan" or "RWP" shall mean a plan for remedial activities addressing all hazardous substances and petroleum released to the environment at, from, or in connection with, or related to, the prior operation of the Former MGP or the NIPSCO Real Estate. The RWP shall include the elements set forth in IC 13-25-5-7(b) and IC 13-25-5-8.5.

29. "Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs that IDEM incurs in its oversight of the remediation of this Site or negotiation and oversight of this Order, including, but not limited to: reviewing or developing plans, reports, environmental restrictive covenants, or other items submitted prior to or pursuant to this Order; verifying the Work; and overseeing Respondent's activities. "Response Costs" shall also include the direct and indirect costs IDEM incurs in otherwise implementing or enforcing this Order, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Section IX (Site Access & Institutional Controls), and Section XIX (Work Takeover); "Response Costs" shall also include the reasonable costs of an outside contractor hired by IDEM to assist it in oversight of this Order, including, but not limited to, any work necessary to evaluate a proposed RWP or its implementation. "Response Costs" shall not include any costs incurred by IDEM in the performance of any activities for which Respondent was invoiced (and has paid) through the State's Voluntary Remediation Program.

30. "RISC" shall mean IDEM's Risk Integrated System of Closure, Technical Guide and User's Guide, IDEM NPD No. W-0046, 24 Ind. Reg. 1986 (February 15, 2001), including updates.

31. "Riverbed Area" means the sediments within the Wabash River impacted by hazardous substances or petroleum released at, from, or in connection with the NIPSCO Real Estate or the Former MGP.

32. "Site" means the NIPSCO Real Estate, City Real Estate, Riverbed Area and any other properties or media where IDEM has determined that a release of a hazardous substance or petroleum from or in connection with the NIPSCO Real Estate or Former MGP has been deposited, stored, disposed of, placed, or otherwise come to be located.

33. "Work" shall mean all activities required to be performed under this Order by Respondent.

IV. FINDINGS OF FACT

Based upon the information available upon the Effective Date of this Order, the Commissioner makes the following findings of fact ("Findings of Fact"):

34. Respondent acquired the NIPSCO Real Estate in 1995 and has a primary business address of 801 E. 86th Street, Merrillville, Indiana 46410.

35. An entity acquired by or affiliated with Respondent operated the Former MGP prior to its cessation of active operations. The Former MGP was situated on property that includes the NIPSCO Real Estate and possibly a portion of the City Real Estate. The parties believe the Former MGP was situated on property that includes the following county parcel identification numbers: 52-08-34-203-050.000-016; 52-08-34-203-049.000-016, 52-08-34-203-048.000-016; 52-08-34-203-047.000-016; 52-08-34-203-046.000-016; and 52-08-34-203-045.000-016. NIPSCO believes it holds fee simple title to the above parcels, but there is conflicting information available as to ownership of the latter parcel. It has not been determined whether the Former MGP was also situated on parcels to the south or east of the parcels identified above. The above parcels and their parcel identification numbers are depicted for illustrative purposes on Exhibit A, which is attached hereto and incorporated herein.

36. Releases of hazardous substances and petroleum and/or threatened releases causing the incurrence of response costs have occurred at the Site. The specific hazardous substances and petroleum (also referred to collectively as "contaminants of concern") released, as determined as of the Effective Date of this Order, include but may not be limited to: residual coal combustion byproduct, volatile organic compounds; semivolatile organic compounds; inorganic constituents; and poly-aromatic hydrocarbons.

37. These releases have impacted subsurface areas of the NIPSCO Real Estate and City Real Estate, including subsurface soils and groundwater. Some of the hazardous substances and petroleum have also impacted surface soils and migrated to the Riverbed Area and to surface waters of the Wabash River.

38. To address releases from the Former MGP, Respondent entered into a Voluntary Remediation Agreement ("VRA") with IDEM and enrolled in IDEM's Voluntary Remediation Program (the "VRP"); the project was assigned VRP Project No.6020204.

39. Respondent has been working cooperatively with IDEM through the VRP to investigate and assess the extent of impacts from the Former MGP. Respondent has provided IDEM with analytical data and information collected with respect to subsurface conditions at and from the NIPSCO Real Estate and contiguous properties, sediments of the Wabash River, and Wabash River surface water quality.

40. Based on information submitted and reviewed by IDEM to date, IDEM has not identified a release of hazardous substances and petroleum from or relating to the Former MGP that constitutes an imminent and substantial endangerment to human health or the environment.

41. The Parties agree that remedial actions will be appropriate to finally address impacts at the Site. Respondent agrees to implement such remedial actions as determined necessary by IDEM in accordance with IC 13-12-3-2 and IC 13-25-5-8.5.

42. Respondent desires to terminate VRP Project No. 6020204 and the corresponding VRA and instead complete all necessary remedial actions in accordance with this Order through IDEM's State Cleanup Program ("SCP"). IDEM is willing to accept this and require a regulatory closure through the SCP.

V. CONCLUSIONS OF LAW

Based on the Findings of Fact set forth above and other information available upon execution of this Order, IDEM has determined that:

43. The Site is a "facility" as defined by CERCLA § 101(9), 42 U.S.C. § 9601(9), and for the purposes of IC 13-25-4.

44. The substances released at, from, and/or in connection with the NIPSCO Real Estate or the Former MGP, as identified in the Findings of Fact, include "hazardous substances," as defined by CERCLA § 101(14), 42 U.S.C. § 9601(14), and IC 13-11-2-98, and "petroleum," as defined in IC 13-11-2-160.

45. Respondent is a "person" as defined by CERCLA § 101(21), 42 U.S.C. § 9601(21), and is a "responsible person" as defined by IC 13-11-192.

46. Respondent, as owner of the NIPSCO Real Estate and as a successor in interest to the owner and operator of the Former MGP, is a party responsible under CERCLA § 107(a), 42 U.S.C. § 9607(a), and IC 13-25-4-8. IC 13-25-4-8 provides that a person who is liable under CERCLA § 107(a), 42 U.S.C. § 9607(a), for the costs of a removal or remedial action incurred by the State consistent with the NCP, 40 C.F.R. § 300, is liable to the State of Indiana in the same manner and to the extent as that person is liable under CERCLA. CERCLA § 107(a), 42 U.S.C. § 9607(a), states, in relevant part:

"[T]he owner or operator of a vessel or a facility . . . from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for . . . all costs of removal or remedial action incurred by . . . a State . . . not inconsistent with the national contingency plan."

47. Respondent is also an owner and/or operator under IC 13-11-2-151 and is thus liable for the petroleum releases pursuant IC 13-24.

48. The presence of hazardous substances and petroleum at the Site or the past, present or potential migration of hazardous substances and petroleum currently located at or emanating from the NIPSCO Real Estate, City Real Estate or Riverbed Area, constitute an actual and/or threatened release as defined in IC 13-11-2-184 and CERCLA § 101(22), 42 U.S.C. § 9601(22).

49. IDEM has determined that, pursuant to IC 13-25-4-10(a), it will recover the costs it incurs in relation to all response actions concerning this Site. IDEM has incurred, and will continue to incur, costs due to the undertaking and oversight of response actions at the Site as defined by IC 13-11-2-189 and 42 U.S.C. § 9601(25).

VI. ORDER

50. Based upon the Findings of Fact and Conclusions of Law and by consent of the Parties, it is hereby ORDERED and AGREED that Respondent shall be considered to have withdrawn from the VRP and the VRA and VRP Project No. 6020204 terminated; it is further ORDERED and AGREED that Respondent shall comply with all provisions of this Order, including, but not limited to, all exhibits to this Order and any documents incorporated by reference into this Order.

VII. DESIGNATION OF CONTRACTOR(S) and PROJECT MANAGERS

51. All work to be performed by Respondent pursuant to this Order shall be performed under the direction and supervision of qualified person(s) with appropriate expertise in petroleum and hazardous substance site investigation and remediation. This individual may or may not be designated by Respondent as Respondent's Project Manager in Section XI. Within thirty (30) days of the Effective Date, Respondent shall notify IDEM, in writing, of the name, title, and qualifications of such qualified person and of any contractors and/or primary subcontractors then known to be used in carrying out the terms of this Order. Respondent shall also notify IDEM of the name(s) and qualification(s) of any other contractor(s) or primary subcontractor(s) retained to perform the Work at least fourteen (14) days prior to commencement of such Work.

52. IDEM and Respondent have each designated a Project Manager, listed below in Section XI. Each Project Manager shall be responsible for overseeing the implementation of this Order. During implementation of this Order, the Project Managers shall, whenever possible, operate by consensus and shall attempt in good faith to resolve disputes informally through discussion of the issues. Each Party has the right to change its respective Project Manager by notifying the other Party in writing as soon as practicable prior to or after the change.

53. IDEM's Project Manager shall have the authority to halt any Work required by this Order and/or to conduct or direct any necessary response action if conditions are later deemed to present an imminent and substantial threat to public health or welfare or the environment. In the event that IDEM Project Manager halts work pursuant to this Paragraph, IDEM may modify the schedule of work described in the RWP.

VIII. WORK TO BE PERFORMED

54. In entering into this Order, the objectives of the Parties are to: (a) complete the delineation of the nature and extent of contamination at the Site; (b) ensure the protection of human health and welfare and the environment; and (c) provide for the recovery of Response Costs that are incurred by IDEM with respect to the Site.

55. Respondent is hereby directed and ordered to perform the following actions believed to be necessary to accomplish the above objectives: (a) submission for approval of an FSI Work Plan; (b) submission to IDEM for approval of an FSI Report following implementation of the FSI Work Plan; (c) submission to IDEM for approval of a proposed RWP; (d) implementation of the RWP, as finally approved by IDEM in accordance with Section VIII(a); (e) submission to IDEM for approval of an RWP Completion Report; (f) performance of any additional work deemed necessary by IDEM based on the RWP, RWP Completion Report or other additional information in accordance with Section XXIV (Additional Response Action); (g) implementation of any institutional or engineering controls; and (h) payment of all Response Costs incurred by IDEM.

56. Respondent shall employ sound scientific, engineering, and construction practices. All Work performed under this Order shall follow all laws, regulations, and guidance documents applicable as of the Effective Date, specifically including RISC and IDEM's *Draft Vapor Intrusion Pilot Program Guidance (April 26, 2006)*. Respondent may supplement such guidance with guidance or other interpretations approved by IDEM, including IDEM's *HEA 1162 Interim*

Implementation Document. IDEM's failure to identify a specific guidance document in this Order shall not be construed as a limitation on the applicability of a guidance document.

VIII(a). Plans, Reports and Implementation

57. Without limiting IDEM's authority under IC 13, all plans, reports, ERCs, and EROs required by this Order or the RWP ("plans or reports") shall be submitted to IDEM for review and evaluation. Respondent shall provide three copies (two paper and one electronic) of all plans and reports it submits to the IDEM project manager; such documents and correspondence shall be formatted as needed for scanning or importing into IDEM's virtual file cabinet ("VFC"). Reports shall be submitted without a logo embossed on the pages to allow for import into the VFC. IDEM's failure to act on a submittal shall not constitute IDEM's acceptance of it. IDEM shall make a determination concerning the approval, rejection, or modification of each plan or report and so notify Respondent in writing. Upon receipt of a written approval of a plan from IDEM, Respondent shall initiate the work detailed in the approved plan according to the schedule as set forth therein. Respondent shall not commence implementation of any plan developed hereunder until receiving IDEM approval. Upon approval by IDEM, the plan or report shall be deemed incorporated into and made an enforceable part of this Order.

58. In the event that IDEM rejects a plan or report, IDEM shall notify Respondent in writing of the rejection and the reasons for the rejection. Respondent shall have sixty (60) days to correct the deficiencies and resubmit the plan or report for approval by IDEM. In the event that IDEM rejects a plan or report a second time, IDEM may modify the plan or report, or, in IDEM's sole discretion, allow Respondent additional opportunities to make revisions. Upon any modification by IDEM, the plan or report shall be deemed incorporated into and made an enforceable part of this Order. Any modifications made by IDEM shall be subject to Section XVI (Dispute Resolution).

VIII(b). Further Site Investigation

59. Respondent shall submit a Further Site Investigation Work Plan for IDEM's approval. The FSI Work Plan shall include a summary of Respondent's research into the areal extent of the Former MGP and supporting documentation, if requested. The FSI Work Plan shall be submitted to IDEM no later than thirty (30) after IDEM's request. If requested, the Work Plan shall also:

- a. include a quality assurance project plan ("QAPP");
- b. include a sampling and analysis plan, including sampling for all hazardous substances and petroleum known or suspected to have been released at the Site, as well as all breakdown and related contaminants generally recognized to be associated with the hazardous substances and petroleum known or suspected to have been released;
- c. include a health and safety plan;
- d. include a review and analysis of all reasonably ascertainable information concerning past and current use, storage, or disposal of hazardous substances and petroleum in order to ascertain all possible releases of hazardous substances;

- e. provide for detection limits at least as stringent as the default RISC Residential Default Cleanup Objectives, unless less stringent detection limits are approved by IDEM; and
- f. include a timeline for implementation of the FSI Work Plan.

60. Respondent shall (a) begin implementing the approved FSI Work Plan within thirty (30) days of IDEM's approval of the FSI Work Plan, and (b) submit to IDEM, for its approval, Respondent's FSI Report within sixty (60) days of its complete implementation of the FSI Work Plan. The FSI Report shall include a summary of Respondent's research to determine the ownership of the parcels underlying the Former MGP, as well as any adjacent properties that may encompass the Site.

Based on the results of the FSI Report or other information available to IDEM, IDEM may require one or more supplemental FSI Work Plan(s) as necessary to complete the delineation of the nature and extent of contamination, the determination of the areal extent of the Former MGP, or parcel ownership.

VIII(c). Remediation Work Plan

61. Respondent shall provide IDEM with its proposed RWP within ninety (90) days after IDEM has approved its FSI Report, unless a later date is agreed to by IDEM in writing. The RWP shall:

- (a) specify the objectives for the remediation of hazardous substances and petroleum identified in the FSI Report. Remedial objectives shall be chosen consistent with IC 13-12-3-2 and IC 13-25-5-8.5;
- (b) include a proposed plan to accomplish the remedial objectives and the following project plans: (i) a health and safety plan; (ii) a community relations plan; (iii) a schedule for implementation of all tasks set forth in the RWP; (iv) a QAPP, and (v) if necessary, an operation and maintenance plan;
- (c) specify the current land use and possible future uses assumed in developing the RWP and identify any institutional, engineering, or other controls that are proposed to restrict land use at the Site. Copies of proposed institutional controls shall be included in the RWP; and
- (d) identify any federal or state permits or local authorizations that Respondent believes will be necessary to implement the RWP.

62. IDEM shall make a determination concerning the approval, rejection, or modification and approval, of the RWP and notify the Respondent accordingly. Subject to Section XVI (Dispute Resolution), the Respondent shall initiate the Work detailed in the approved RWP after receipt of IDEM's notice in accordance with the schedule approved by IDEM. IDEM may agree to an extension of the schedule for good cause. Upon IDEM's approval, the Remediation Work Plan shall be deemed incorporated into and made an enforceable part of this Agreed Order. If IDEM rejects the revised RWP, Respondent shall resubmit the proposed RWP a second time; if on the

second time IDEM still rejects the RWP, IDEM may draft the RWP for Respondent and Respondent shall implement it accordingly.

63. Upon commencement of the implementation of the RWP and until IDEM's approval of the RWP Completion Report, Respondent shall provide: (a) a quarterly progress report detailing the Work performed or other significant events pertaining to the Site; (b) laboratory reports or analyses of any samples taken from surface water, soils, sediments, or other materials removed from the Site; and (c) documentation of proper disposal of any regulated materials removed from the Site. IDEM's Project Manager may, by written agreement, extend any deadline stated within the RWP upon a written request from Respondent.

VIII(c). RWP Completion Report

64. Within sixty (60) days of Respondent's completion of any excavation and construction activities required by the RWP and the imposition of all necessary ERCs or ERO, Respondent shall submit for IDEM review and approval a final, verified report ("RWP Completion Report") summarizing the actions taken by Respondent to complete the RWP and comply with this Order. Respondent acknowledges that IC 13-30-6-2 makes it a punishable offense to knowingly make a false statement, representation, or certification in such a report.

VIII(d). Quality Assurance and Sampling

65. In accordance with the QAPPs approved by IDEM for the FSI and RWP, Respondent shall use quality assurance, quality control, and chain of custody procedures throughout any sample collection and analysis activities under this Order.

66. Respondent shall provide IDEM's Project Manager a minimum of fourteen (14) days notice prior to conducting sampling and analysis under this Order, unless emergency conditions prohibit such notice or shorter notice is agreed to by IDEM. To provide quality assurance and maintain quality control, Respondent shall: (a) allow IDEM personnel and/or IDEM authorized representatives reasonable access to laboratories and personnel utilized by Respondent for analyses; (b) ensure that all sampling and analyses are performed according to U.S. EPA methods, the approved QAPP, or other methods deemed satisfactory by IDEM; (c) ensure that any laboratories used by Respondent for analyses participate in a documented Quality Assurance/Quality Control program that complies with U.S. EPA guidance documents, and upon request by IDEM, arrange for such laboratories to perform analyses of samples provided by IDEM to demonstrate the quality of analytical data for each such laboratory; and (d) if requested by IDEM, perform confirmatory sampling for all contaminants and all media identified in the remedial investigation report.

67. Soil and groundwater sampling results submitted after the Effective Date shall include a digital copy, formatted according to the OLQ guidelines, as specified at: <http://www.in.gov/idem/land/datasubmittal/digdatasubmittal.html>. Digital data shall be submitted to olqdata@idem.in.gov.

68. In the case of any data not gathered pursuant to the requirements listed above, IDEM may reject such data, require re-sampling, and/or require that Respondent utilize a different laboratory. Respondent shall, upon request, make the results of all sampling, including raw data,

and/or tests or other data generated by Respondent, or on Respondent's behalf, available to IDEM. Respondent shall not make any claim of confidentiality or privilege with respect to analytical data generated under this Order. IDEM will make available to Respondent the quality-assured results of sampling and/or tests or other data generated by IDEM.

69. At the request of IDEM, Respondent shall provide to IDEM and/or its authorized representative the opportunity to split or duplicate any samples collected by Respondent pursuant to the implementation of this Order. At the request of Respondent, IDEM or its authorized representative shall provide the opportunity to Respondent to split or duplicate any samples collected by IDEM and/or its authorized representative pursuant to the implementation of this Order.

IX. SITE ACCESS & INSTITUTIONAL CONTROLS

70. With respect to the NIPSCO Real Estate, Respondent shall, commencing on the Effective Date, provide IDEM and its representatives, including contractors, with access at all reasonable times to the NIPSCO Real Estate, for the purpose of conducting any activity related to this Order including, but not limited to, the following activities: (a) monitoring the Work; (b) verifying any data or information submitted to IDEM; (c) conducting investigations relating to contamination at or near the Site; (d) obtaining samples; (e) assessing the need for, planning, or implementing additional response actions at or near the Site; (f) assessing implementation of quality assurance and quality control practices as defined in the approved QAPPs; (g) implementing portions of the Work pursuant to the conditions set forth in Section VIII (Work to be Performed) and Section XIX (Work Takeover); (h) inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Respondent or its agents, consistent with Section X (Access to Information); (i) assessing Respondent's compliance with this Order; and (j) determining whether the NIPSCO Real Estate is being used in a manner that is prohibited or restricted, or that may need to be prohibited to restricted, by or pursuant to this Order.

71. If an ERC on the NIPSCO Real Estate is a component of the RWP, Respondent shall execute and record in the Recorder's Office of Cass County, State of Indiana, an Environmental Restrictive Covenant ("ERC"), that (i) grants a right of access for the purpose of conducting any activity related to this Agreed Order, and (ii) includes restrictions approved by IDEM. Respondent shall provide IDEM a copy of the recorded ERC within thirty (30) days of recording.

72. If an ERC on the City Real Estate is a component of the RWP, Respondent shall have executed and recorded, in the Recorder's Office of Cass County, State of Indiana, an ERC that (i) grants a right of access for the purpose of conducting any activity related to this Agreed Order, and (ii) includes restrictions approved by IDEM. Respondent shall provide IDEM a copy of the recorded ERC within thirty (30) days of recording.

73. Notwithstanding any provision of this Order, IDEM retains all of its access authorities and rights, as well as all of its rights to require land/water use restrictions, including enforcement authorities related thereto, under IC 13-14-2-6(5), IC 13-25-4-5, IC 13-25-4-24, CERCLA, RCRA, and any other applicable statutes or regulations.

74. IDEM may withdraw from or modify this Order should Respondent's inability to gain access to, or secure land/water use restrictions at the Site or other properties materially affect

Respondent's ability to perform the Work required herein or result in an unacceptable threat to public health, welfare or the environment. Respondent's failure to obtain access or secure land/water use restrictions does not relieve Respondent of any obligations under this Order.

X. ACCESS TO INFORMATION

75. Respondent shall provide to IDEM, upon request, copies of all records, reports, or information (hereinafter referred to as "records") that are not privileged within its possession or control or that of its contractors or agents relating to the Work, including, but not limited to, sampling and analysis documentation, manifests, trucking logs, receipts, reports, correspondence, or other documents or information related to the Site.

76. Respondent may assert business confidentiality claims covering part or all of the records submitted to IDEM under this Order to the extent permitted by and in accordance with Article 6.1-4-1 of Title 329 of the Indiana Administrative Code. Records determined to be confidential by IDEM will be accorded the protection specified in Art. 6.1 et seq. of Title 329 of the Indiana Administrative Code, and 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies records when they are submitted to the State or if IDEM has notified Respondent that the records are not confidential under the standards of IC 5-14-3 et seq., Section 104(e)(7) of CERCLA, or 40 C.F.R. Part 2, Subpart B, the public may be given access to such records without further notice to Respondent.

77. Respondent may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by State law. If Respondent asserts such a privilege in lieu of providing records, they shall provide IDEM with the following: 1) title of the record; 2) the date of the record; 3) the name and title of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. However, no records created or generated pursuant to the requirements of this Order or any other settlement with the State shall be withheld on the grounds that they are privileged.

78. No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other records evidencing conditions at or around the Site.

XI. NOTICES & SUBMISSIONS

79. Whenever under the terms of this Order, notice is required to be given or a report, plan, approval, or other document is required to be sent between Parties, it shall be directed to the individuals at the addresses specified below, unless those individuals or successors give notice of a change to the other party in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Order with respect to the Parties. Notices and submissions may be sent by electronic transmission, First Class U.S. Mail, hand delivery, overnight mail, or courier service to the addresses set forth below. Either Party shall provide any written response transmitted electronically as paper copy upon request. Until otherwise identified by the Parties in accordance with Section VII (Designation of Contractor(s) and Project Managers), the first person identified below for each Party shall be its Project Manager.

As to IDEM:

IDEM State Cleanup Program
Office of Land Quality
Attn: Kevin Houppert
100 North Senate Avenue
MC 66-30, IGCN 1101
Indianapolis, IN 46204-6015
khouppet@idem.in.gov

with a copy to:

David Joest, Esq.
IDEM Office of Legal Counsel
100 North Senate Avenue
Mail Code 60-01, IGCN 1307
Indianapolis, IN 46204-2251
317-234-6753
Fax (317) 234-6753
djoest@idem.in.gov

As to Respondent

Dan Sullivan
NiSource Corporate Services
801 E. 86th Street
(219) 647-5248
Fax (219) 647-5271
dsullivan@nisource.com 317- 232-8552

with a copy to:

Daniel Deeb, Esq.
Schiff Hardin LLP
6600 Sears Tower
Chicago, IL 60606
(312) 258-5532
Fax (312) 258-5600
ddeeb@schiffhardin.com

XII. RETENTION OF RECORDS

80. Until six (6) years after Respondent's receipt of IDEM's notification pursuant to Section XXV (Notice of Completion of Work), Respondent shall preserve and retain all records now in its possession or control, or which come into its possession or control, that relate in any manner to response actions taken at the Site or the liability of any person under IC 13-25-4-8 or Section 107(a) of CERCLA, with respect to the Site, regardless of any corporate retention policy to the contrary.

81. After the conclusion of the document retention period in the preceding Paragraph, Respondent shall notify IDEM at least ninety (90) days prior to the destruction of any such records, and, upon request by the State, Respondent shall deliver any such records to IDEM. Respondent may assert that certain records are privileged under attorney-client privilege or any other privilege recognized by state law. If Respondent asserts such a privilege, it shall do so in accordance with Section X.

XIII. COMPLIANCE WITH OTHER LAWS

82. Respondent shall perform all actions required by this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in IC 13-25-4-26. In accordance with IC 13-25-4-26, a state or local permit may not be required for the part of a removal or remedial action that is conducted entirely at the site of the release or threatened release of a hazardous substance if the removal or remedial action is selected and carried out in compliance with IC 13-25-4.

XIV. PAYMENT OF RESPONSE COSTS

83. Respondent agrees to reimburse IDEM for all Response Costs incurred. On a periodic basis, IDEM will send Respondent an invoice requiring payment that includes a cost summary, including direct and indirect costs incurred by IDEM and its contractors. Respondent shall make all payments within thirty (30) days of the date of each invoice requiring payment, except as otherwise provided in Section XVI (Dispute Resolution) of this Order. Best efforts shall include litigation, if determined to be necessary, and IDEM shall assist Respondent in its effort.

84. Respondent shall make all payments required by this Order by a certified or cashier's check made payable to the Indiana Hazardous Substances Response Trust Fund. The check, and a transmittal letter accompanying the check, shall reference the name and address of the party making payment, the invoice number (if applicable), the Site name, and the IDEM Site Identification Number 0000383 and shall be sent to:

Indiana Department of Environmental Management
Cashier's Office
100 N. Senate Avenue
Mail Code 50-10C
Indianapolis, Indiana 46205-2251

Any payments received by IDEM after 12:30 p.m. Eastern Standard Time will be credited on the next business day. A copy of the check and transmittal letter shall be sent to IDEM's Project Manager in accordance with Section XI (Notices & Submissions).

85. In the event that payments are not made within thirty (30) days of Respondent's receipt of an invoice, Respondent shall pay interest on the unpaid balance at an annual rate of eight percent (8%) in accordance with IC 24-4.6-1. The Interest shall begin to accrue on the date of the invoice and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to other such remedies or sanctions available to IDEM by virtue of Respondent's failure to make timely payments under this Section.

86. If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Respondent shall pay the full amount of the uncontested costs to IDEM on or before the due date. Within the same time period, Respondent shall pay the full amount of the contested costs into an interest-bearing escrow account. Respondent shall simultaneously transmit a copy of both checks to the IDEM contacts identified in Section XI (Notices & Submissions). Respondent shall ensure that the prevailing party in the dispute receives the amount upon which they prevailed from the escrow funds plus interest within seven (7) days after the dispute is resolved.

XV. FORCE MAJEURE

87. Respondent shall cause all Work or required reporting to be performed within the time limits set forth in the appropriate plans, unless performance is delayed by events that constitute a force majeure. For purposes of this Order, a force majeure is an event arising from circumstances beyond the reasonable control of Respondent, or of any entity controlled by Respondent, including, but not limited to, its contractors or subcontractors, which delays or

prevents performance of any obligations required by this Order. Financial inability to complete the Work or increased cost of performance shall not be considered an event of force majeure.

88. Respondent shall orally notify IDEM's Project Manager within three (3) calendar days and by writing no later than seven (7) calendar days after discovering any event that Respondent contends is a force majeure. Such notification shall describe the anticipated duration of the delay, the cause or causes of the delay, the measures taken or to be taken by Respondent to minimize the delay, and the timetable by which these measures will be implemented. Respondent shall have the burden of demonstrating that the event is a force majeure.

89. The Assistant Commissioner of the Office of Land Quality or his/her designee shall make the decision of whether an event is a force majeure, which decision shall be promptly communicated in writing to Respondent. If IDEM agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Order that are affected by the force majeure event, if any, will be extended by IDEM, in writing, for such time as is reasonably necessary to complete those obligations. An extension of time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation.

XVI. DISPUTE RESOLUTION

90. This Section shall apply to any dispute arising between IDEM and Respondent under any Section of this Agreed Order.

91. The Parties shall use their best efforts to resolve in good faith all disputes expeditiously and informally. If, however, disputes arise concerning this Agreed Order, including invoicing for Response Costs, which the Parties are unable to resolve informally, Respondent may present written notice of such dispute to IDEM and set forth specific points of dispute and the position of the Respondent. This written notice shall be submitted no later than ten (10) business days after the Respondent discovers the Project Managers are unable to resolve the dispute. The Respondent's Project Manager will notify IDEM's Project Manager immediately by phone or other appropriate method of communication, prior to written notice, when Respondent's Project Manager believes the Parties are unable to resolve a dispute.

92. Within fifteen (15) business days of receipt of such a written notice, IDEM shall provide a written response to the Respondent setting forth its position and the basis therefore. During the fifteen (15) business days following Respondent's receipt of IDEM's response, the Parties shall attempt to negotiate in good faith a resolution of their differences (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of IDEM.

93. Following the expiration of the Negotiation Period, if IDEM concurs with the position of the Respondent, the Respondent shall be notified in writing and this Agreed Order shall be modified to include any necessary extensions of time or variances of work. If IDEM does not concur with the position of the Respondent, IDEM, through the Assistant Commissioner of the Office of Land Quality, shall make a determination regarding the dispute, based upon and consistent with the purpose and terms of this Agreed Order, and shall provide written determination of such resolution to the Respondent. IDEM's decision shall be incorporated into and become an enforceable part of this Agreed Order. Respondent's obligations under this

Agreed Order shall continue during the dispute resolution process outlined in this Section. Following resolution of the dispute, as provided by this Section, Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with IDEM's decision, whichever occurs first.

XVII. COVENANT NOT TO SUE BY STATE

94. In consideration of the actions that will be performed and the payments that will be made by Respondent under the terms of this Order, and except as otherwise specifically provided in Section XVIII or elsewhere in this Order, IDEM covenants not to sue or to take administrative action against Respondent pursuant to IC 13-25-4 and Sections 106 and 107(a) of CERCLA for the Work performed under this Order and for recovery of Response Costs. This covenant not to sue shall take effect upon the Effective Date. This covenant not to sue is conditioned upon the complete, continuing, and satisfactory performance by Respondent of its obligations under this Order, including, but not limited to the payment of Response Costs pursuant to Section XIV (Payment of Response Costs). This covenant is also conditioned upon compliance with any ERCs or EROs imposed on the Site. This covenant not to sue extends only to Respondent and does not extend to any other person.

XVIII. RESERVATION OF RIGHTS BY STATE

95. Except as specifically provided in this Order, nothing herein shall limit the power and authority of IDEM or the State to take, direct, or order all actions necessary to protect public health, welfare, or the environment, or to prevent, abate, or minimize an actual or threatened release of hazardous substances, petroleum, pollutants or contaminants, or hazardous or solid waste, on, at or from the Site. Further, nothing herein shall prevent IDEM from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to IC 13-25-4 or any other applicable law.

96. The State and IDEM reserve, and this Order is without prejudice to, all rights against Respondent and any other party with respect to all other matters not expressly included within the covenant not to sue by the State of Section XVII, including, but not limited to, the following:

- a. claims based on a failure by Respondent to meet a requirement of this Order;
- b. any liability resulting from actions that exacerbate the condition of any contamination, including contamination addressed by the RWP, other than exacerbation resulting from the work required by the RWP;
- c. liability for costs not included within the definition of Response Costs;
- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resources damage assessments;
- f. liability arising from the past, present, or future disposal, release or threat of release of hazardous substances, petroleum, pollutants, or other contaminants not addressed by

the RWP;

g. liability for performance of response action other than the Work; and

h. liability for violations of local, State, or federal law or regulations except for those explicitly resolved by this Order.

XIX. WORK TAKEOVER

97. In the event that IDEM later determines that Respondent has ceased implementation of any portion of the Work or is seriously or repeatedly deficient or late in its performance of the Work, or is implementing the Work in a manner which may cause an endangerment to public health or welfare or the environment, IDEM may assume the performance of all or any portion of the Work as IDEM determines necessary. Respondent may invoke the procedures set forth in Section XVI (Dispute Resolution) to dispute IDEM's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by IDEM in performing the Work pursuant to this Paragraph shall be considered Response Costs that Respondent shall pay pursuant to Section XIV (Payment of Response Costs). Notwithstanding any other provision of this Order, IDEM retains all authority and reserves all rights to take any and all response actions authorized by law.

XX. COVENANT NOT TO SUE BY RESPONDENT

98. In consideration of the liability protection provided by this Order, Respondent covenants not to sue and agrees not to assert any claims or causes of action against IDEM and the State of Indiana, its agencies, departments, instrumentalities, authorized officers, employees, contractors or representatives related to the Work, Response Costs, or this Order, including but not limited to:

(a) any direct or indirect claim for reimbursement from the Indiana Hazardous Substances Response Trust Fund based on IC 13-25-4-1(6) and IC 13-25-4-23(b) or the EPA Hazardous Substance Superfund based on CERCLA 106(b)(2), 107, 111, 112, or 113, or any other provision of law;

(b) any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Indiana Constitution, IC 34-13-1-1, the Tucker Act, 28 U.S.C. 1491, the Equal Access to Justice Act, 28 U.S.C. 2412, as amended, or at common law; or

(c) any claim against the State pursuant to Sections 107 and 113 of CERCLA, relating to the Site.

These covenants not to sue shall not apply in the event IDEM or the State brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 96b, c, or e-h, but only to the extent that Respondent's claim arises from the same response action, response costs, or damages that the State is seeking pursuant to the applicable reservation.

99. This Order does not constitute any decision on preauthorization of funds under IC 13-25-4-1(6) or IC 13-25-4-23(b), CERCLA 106(b), 111, or 112, or 40 C.F.R. 300.700(d).

XXI. OTHER CLAIMS

100. By issuance of this Order, IDEM and the State assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. Neither IDEM nor the State shall be deemed or held out as a party to any contract entered into by Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order. Neither Respondent nor any such contractor shall be considered an agent of IDEM or the State.

101. IDEM and Respondent intend that nothing in this Order shall be construed as an admission or as a waiver of any defenses in any dispute or action between Respondent and IDEM or any third party, except that Respondent agrees that it will not challenge the Findings of Fact, Conclusions of Law, or any other terms or provisions of the Order in any proceedings in which IDEM seeks to enforce Respondent's obligations under this Order.

102. Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against Respondent or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the State for costs, damages and interest under IC 13-25-4, Sections 106 and 107 of CERCLA.

103. Nothing in this Order shall be construed as prohibiting, altering, or in any way limiting the ability of IDEM to seek any other remedies or sanctions available by virtue of Respondent's violation of this Order or of the statutes and regulations upon which it is based, except, that IDEM shall not seek civil penalties for any violation for which a stipulated penalty is provided herein.

104. Nothing in this Order shall prevent IDEM from communicating any non-privileged or non-confidential information about the Site or the Work performed under this Order to the United States Environmental Protection Agency ("U.S. EPA") or any other agency or entity. IDEM, or anyone acting on its behalf, shall not be liable for any costs or penalties Respondent may incur as a result of any such communication with U.S. EPA or any other agency or entity.

105. This Order neither constitutes a finding by IDEM as to the risks or lack thereof to human health and the environment that may be posed by contamination at the Site nor constitutes any representation by IDEM that the Site is fit for any particular purpose or that the remedy will work as designed or anticipated.

XXII. CONTRIBUTION PROTECTION

106. The Parties agree that Respondent is, as of the Effective Date, protected from contribution actions or claims as provided by IC 13-25-4-27(b) and CERCLA 113(f)(2), for matters addressed in this Order. The matters addressed in this Order are the Work and Response Costs. Nothing in this Order precludes IDEM or Respondent from asserting any claims, causes

of action, or demands against any persons not parties to this Order for indemnification, contribution, subrogation, or cost recovery.

XXIII. INDEMNIFICATION

107. Respondent shall indemnify, save and hold harmless IDEM and the State, its agencies, departments, instrumentalities, authorized officers, employees, contractors or representatives from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Order. In addition, Respondent agrees to pay the State of Indiana all costs incurred by the State, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the State based on negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors and any persons acting on its behalf or under its control, in carrying out activities pursuant to this Order.

108. The State shall give Respondent notice of any claim for which the State plans to seek indemnification pursuant to this Section and shall consult with Respondent prior to settling such claim.

109. Respondent waives all other statutory and common law claims against IDEM relating to this Order, including, but not limited to, contribution and counterclaims relating to or arising out of conduct of the Work contemplated in this Order.

110. IDEM has no obligations to defend Respondent in any suit, demand, or claim for contribution or for any matters arising from the release or threatened release of hazardous substances or petroleum from the Site or arising out of any response action at the Site.

XXIV. ADDITIONAL RESPONSE ACTION

111. If IDEM determines that additional response actions not included in the RWP are necessary to protect public health, welfare or the environment, IDEM will notify Respondent of that determination. Unless otherwise agreed by IDEM, within ninety (90) days of receipt of written notice from IDEM that additional response actions are necessary to protect public health, welfare or the environment, Respondent shall submit for approval by IDEM a supplemental remedial work plan for the additional response actions. Upon IDEM's approval, Respondent shall implement the plan for additional response actions in accordance with the provisions and schedule contained therein, subject to modification by IDEM.

112. If Respondent disputes IDEM's determination that additional work is necessary, Respondent shall follow the Dispute Resolution process in Section XVI (Dispute Resolution) of this Order. If agreement cannot be reached through the Dispute Resolution process, the Parties agree to negotiate in good faith an additional agreement between the Parties to address the additional work.

XXV. NOTICE OF COMPLETION OF WORK

113. When IDEM determines, after IDEM's review of the RWP Completion Report, that all Work has been fully performed in accordance with this Order, with the exception of ongoing or recurring obligations required by this Order as set forth in the RWP, Section IX (Site Access & Institutional Controls), Section X (Access to Information), Section XII (Retention of Records), and Section IV (Payment of Response Costs), IDEM will provide written notice to

Respondent. If IDEM determines that any such Work has not been completed in accordance with this Order, IDEM will notify Respondent, provide a list of the deficiencies, and require that Respondent complete an additional response action under Section XXIV (Additional Response Action), if appropriate, and correct such deficiencies. After Respondent has corrected the deficiencies, it shall submit a modified RWP Completion Report in accordance with IDEM's notice.

XXVI. MISCELLANEOUS PROVISIONS

114. Severability.

The Paragraphs of this Order shall be severable. Should any part of this Order be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

115. Modification.

This Order may be amended by mutual agreement of the Parties. An amendment shall be in writing and shall be effective upon the execution by Respondent and the Commissioner.

116. Termination/Satisfaction.

Except for Section IX (Site Access & Institutional Controls), Section XII (Retention of Records), Section XIV (Payment of Response Costs), Section XVII (Covenant Not to Sue by State), Section XVIII (Reservation of Rights by State), Section XIX (Covenant Not to Sue by Respondents), Section XXI (Other Claims) and Section XXII (Contribution Protection) which shall each survive and remain effective as set forth in this Order, the remaining provisions of this Order shall terminate when Respondent satisfies such terms and conditions of this Order. Upon satisfaction of such terms and conditions of this Order, Respondent shall request from IDEM written notice of satisfaction of such terms and conditions of this Order. IDEM shall not unreasonably withhold said written notice.

In the Matter of: Remediation of Hazardous Substances and Petroleum at Former Canal Street
Manufactured Gas Plant and 195 Canal Street, Peru, Indiana.

FOR RESPONDENT:

(Respondent)

Respondent

By: Jimmy Staton

Title: Exec. VP and Group CEO

Date: 6/17/10

Attorney for Respondent (please type)

By: Daniel J Deeb

Title: Attorney

Date: 6/23/10

FOR THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT:

TECHNICAL RECOMMENDATION:

By:

Harry E. Atkinson
Harry E. Atkinson, Chief
State Cleanup Section
Office of Land Quality

Date: 6-30-10

LEGAL RECOMMENDATION:

By:

Barbara Kell
Office of Legal Counsel

Date: 6/29/10

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT, THIS 30TH DAY OF ~~MAY~~ 2010.

~~JUNE~~

For the Commissioner:

Bruce H. Palin
Bruce H. Palin
Assistant Commissioner
Office of Land Quality



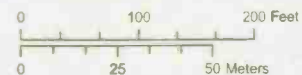
PLSS info:

J.B. Richmond Jr.
Second Principal Meridian
Peru Township
Miami County



"Exhibit A"

- NIPSCO Owned Parcel
- Parcel (Ownership to be Determined)



Mapped By: Mike Hill, IDEM, Office of Land Quality, Science Services
Branch, Engineering & GIS Services, May 11, 2010

Sources:

-Miami County GIS Web Site (<http://miami-in.egis.39dn.com/#>)

-2005 Indiana Orthophotography
(IndianaMap Framework Data www.indianamap.org)

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