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2009 081711

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

2009 DEC -9 PM 12: 00

MICHAEL A. BROWN  
RECORDER

**Environmental Restrictive Covenant**

THIS COVENANT is made this 9th day of Nov, 2009, by Mohamad Shouman and Issa Shoman (together with his/her/its/their successors and assignees, collectively "Owner").

WHEREAS: Owner owns certain real estate in the County of Lake, Indiana, which is more particularly described in the attached Exhibit "A" and made a part hereof ("Real Estate"), which Real Estate was acquired by deed on January 30, 2003, and recorded on March 13, 2003, as Deed Record 2003 026626, in the Office of the Recorder of Lake County, Indiana.

WHEREAS: A corrective action plan was prepared and implemented in accordance with IC 13-23, IC 13-24, IC 13-25 and/or other applicable Indiana law as a result of a release of petroleum or regulated substances (collectively, "contaminants of concern") relating to the former Shell Oil retail station located at 7305 Kennedy Avenue, Hammond, Indiana (FID # 591, LUST Incident # 1999-02517), which affected the Real Estate. Shell Oil Products US (SOPUS) implemented certain response activities at the Real Estate, including the following: delineation of soil impacts, installation of monitoring wells for groundwater delineation, and long term quarterly groundwater sampling events for understanding of full extent of petroleum hydrocarbon impacts in the subsurface.

WHEREAS: The corrective action plan, as approved by the Indiana Department of Environmental Management ("Department"), provides that contaminants of concern will remain in the groundwater and/or in the soil of the Real Estate and requires land use restrictions that must be maintained to ensure the protection of public health, safety, or welfare, and the environment. Impacted soil and groundwater is located on the northeast portion of the site, east of the UST system and near the former waste oil UST system. Please see Exhibit B for a map of impacted areas of soil and groundwater. Located in Table 1 are data tables which display all historical sampling results for the subject site. Those areas where the contaminants of concern remain on the Real Estate are termed the "Affected Area(s)" and are depicted on Exhibit B, attached hereto. A list of the contaminants of concern and the concentration levels/detected

DULY ENTERED FOR TAXATION SUBJECT TO  
FINAL ACCEPTANCE FOR TRANSFER

DEC 07 2009

PEGGY HOLINGA KATONA  
LAKE COUNTY AUDITOR

017788

9299002200

40<sup>00</sup> 00  
1<sup>00</sup>

Rm

parameters are set forth in Table 1, attached hereto. The corrective action plan and related site documents are incorporated herein by reference and may be examined at the offices of the Department in the public file.

WHEREAS: The corrective action plan and other related site documents are incorporated herein by reference and may be examined at the offices of the Department in the public file room. The documents may also be viewed electronically in the Department's Virtual File Cabinet by accessing the Department's Web Site (currently [www.in.gov/idem/](http://www.in.gov/idem/)).

NOW THEREFORE, Owner, hereby, in consideration for the promises contained herein and other good and valuable consideration imposes restrictions on the Real Estate and covenants and agrees that:

#### I. GENERAL PROVISIONS

1. Property Conveyance - Continuance of Provisions. The Owner shall prevent any conveyance of title, easement, or other interest in the Real Estate from being consummated without adequate and complete provision for compliance with the corrective action plan and prevention of exposure to contaminants of concern as described in paragraph 8, below.
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 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 the Real Estate, any subsequent owner agrees to comply with these restrictions and the 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 described in paragraph 8 are being maintained (and operated as applicable) in a manner that ensures the protection of public health, safety, or welfare and the environment; this includes the right to take samples, monitor compliance with the corrective action plan, and inspect records.
5. Written Notice of the Presence of Hazardous Substances. 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:

**NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED \_\_\_\_\_ 200\_, RECORDED IN THE OFFICE OF THE RECORDER OF \_\_\_\_\_ COUNTY ON \_\_\_\_\_, 200\_, 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 no later than thirty (30) days after any conveyance of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide Department with a certified copy of the instrument conveying any interest in any portion of the Real Estate and, if it has been recorded, its recording reference. Such notice shall also include 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.

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II. RESTRICTIONS AND OBLIGATIONS

8. The Owner shall **This Document is the property of the Lake County Recorder!**
  - a) Prohibit any activity at the Real Estate that may interfere with the response activities, long-term monitoring, or measures necessary to assure the effectiveness and integrity of any response action, or component thereof, selected and/or undertaken at the Real Estate.
  - b) Not use the Real Estate for residential purposes, including, but not limited to, daily care facilities (e.g., daycare centers, schools and senior citizen facilities).
  - c) Not use the Real Estate for agricultural purposes.
  - d) Neither engage in nor allow the installation or use of drinking water wells on the Real Estate. There shall be no consumptive, extractive or other use of the groundwater underlying the Real Estate that could cause exposure of humans or animals to the groundwater underlying the Real Estate, other than for site investigation and/or remediation purposes, without prior Department approval.
  - e) Notify the Department if there is a change in the land use and/or any zoning changes that affect the Real Estate.
9. Zoning Notification: The Owner shall notify the Department within (10) days of learning

of any zoning changes (pending or final) that would allow the Real Estate to be used for residential use.

### III. ENFORCEMENT

10. Enforcement. Pursuant to IC 13-14-2-6(5) and other applicable law, the Department may proceed in court by appropriate action to enforce this Covenant. Damages alone are insufficient to compensate IDEM 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, IDEM shall have the right to demand 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

11. Term. The restrictions shall apply until the Department determines that the contaminants of concern no longer present an unacceptable risk to the public health, safety, or welfare, or to the environment.
12. Modification and Termination. This Covenant shall not be amended, modified, or terminated except by written instrument executed between the Department and the owner of the Real Estate at the time of the proposed amendment, modification, or termination. Within five (5) days of executing an amendment, modification, or termination of the Covenant, such amendment, modification, or termination shall be recorded with the Office of the Recorder of Tippecanoe County and within five (5) days after recording, a true copy of the recorded amendment, modification, or termination shall be presented to the Department.

### V. MISCELLANEOUS

13. 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.
14. 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.



15. Change in Law or Regulation. In the event that the Risk Integrated System of Closure (“RISC”) is adopted by rule in Indiana, or in the event of any other change in applicable law or regulations, this Covenant shall be interpreted so as to ensure the continuing validity and enforceability of the restrictions listed in paragraph 8, above. In no event shall this Covenant be rendered unenforceable if Indiana’s laws, regulations, RISC guidelines, or policies for environmental restrictive covenants or institutional or engineering controls change as to form or content. All statutory references include any successor provisions.
16. 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:  
Mr. Mohamad Shouman and Issa Shoman  
7305 South Kennedy Avenue  
Hammond, Indiana 46323

To Department:  
IDEM, Office of Land Quality  
IGCN-Suite 1154  
100 N. Senate Ave., Room 1101  
Indianapolis, IN 46204-2251  
Attn: Brian Pace, ELTF Technical Section

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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.

17. 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 of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.
18. Liability. An Owner’s rights and obligations under this instrument terminate upon transfer of the Owner’s interest in the Real Estate, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
19. Authority to Execute and Record. The undersigned persons executing this Covenant on behalf of the Owner represent and certify that they are duly authorized and have been fully empowered to execute, record, and deliver this Covenant.

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

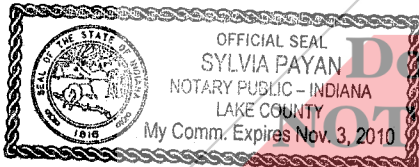
IN WITNESS WHEREOF, the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 9<sup>th</sup> day of November, 2009.

M. Shou Owner

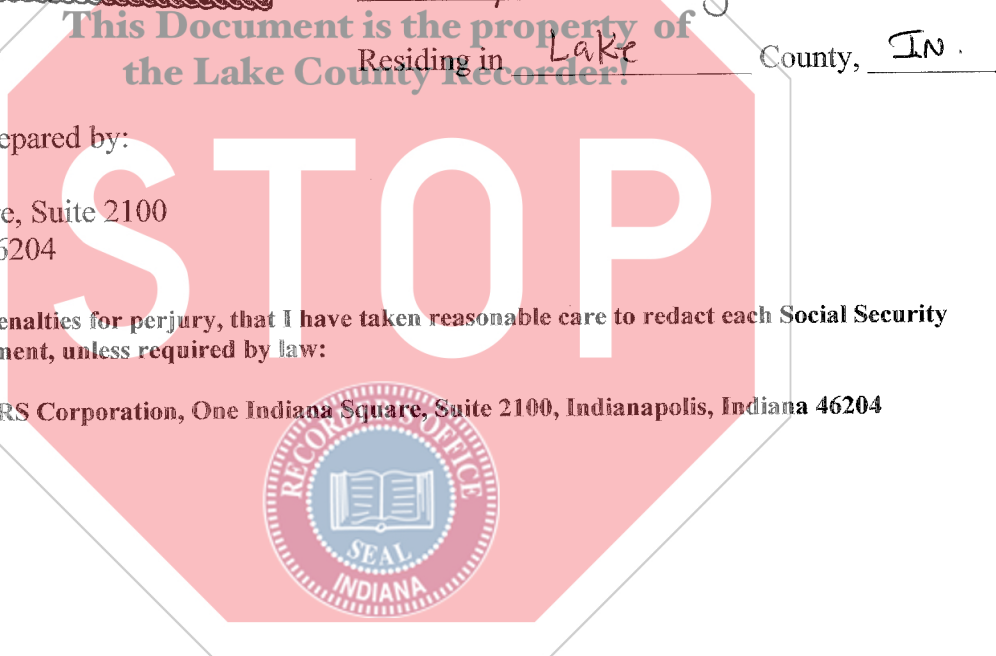
STATE OF Indiana )  
 ) SS:  
COUNTY OF Lake )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Mohemad Shoumen, the owner 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 9<sup>th</sup> day of November, 2009.



Sylvia J. Payan  
Sylvia J. Payan, Notary Public



↓  
This instrument prepared by:  
URS Corporation  
One Indiana Square, Suite 2100  
Indianapolis, IN 46204

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:

**Kara Czechowski, URS Corporation, One Indiana Square, Suite 2100, Indianapolis, Indiana 46204**

**EXHIBIT A**

**LEGAL DESCRIPTION OF REAL ESTATE**



**WARRANTY DEED**

THIS INDENTURE WITNESSETH, That Mubarak Ibrahim, CONVEYS AND WARRANTS to Mohamad Shouman and Issa Shoman, both of Will County, in the State of Illinois, for the sum of One Dollars and No Cents(\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Not in Tenancy in Common, but in JOINT TENANCY TO HAVE AND TO HOLD said premises not in tenancy in common, but in joint tenancy forever the following described real estate in Lake County, Indiana:

Parcel One:

Lots 6, 7, 8, 9 and 10, in Block 1, in J.R. Brant's Parkview Addition to Hammond, as per plat thereof recorded in Plat Book 20, page 21, in the Office of the Recorder of Lake County, Indiana.

Parcel Two:

Lot 11, and the North 13.0 feet of Lot 12 (except the South 6.0 feet of the East 8.0 feet thereof), more particularly described as follows: Beginning at the Northwest corner of Lot 11; thence South along the West line of Lots 11 and 12, a distance of 38.0 feet; thence East parallel to and 38.0 feet South of the North line of Lot 11, 98.44 feet; thence North parallel to and 8.0 feet West of the East line of Lot 12, a distance of 6.0 feet; thence East parallel and 32.0 feet South of the North line of Lot 11, 8.0 feet; thence North on the East line of Lots 11 and 12, 32.0 feet; thence West on the North line of Lot 11, 106.44 feet to the place of the beginning, in Block 1, in J.R. Brant's Parkview Addition to Hammond, as per plat thereof recorded in Plat Book 20, page 21, in the Office of the Recorder of Lake County, Indiana.

Subject to real estate taxes due and payable in 2002 and all subsequent taxes.

Subject to any and all easements, agreements and restrictions of record. The address of such real estate is commonly known as 7305 S. Kennedy Ave. Hammond, Indiana. Tax bills should be sent to Grantees at such address unless otherwise indicated below.

IN WITNESS WHEREOF, Mubarak Ibrahim, executed this Warranty Deed this 30th day of January, 2003.

Signature:

Printed:

Mubarak Ibrahim



STATE OF Illinois )

COUNTY OF Cook )

ACKNOWLEDGEMENT



**AFFIDAVIT OF TITLE COVENANT AND WARRANTY**

The undersigned affiants, being first duly sworn, on oath sayeth, and also covenant with and warrant to the grantees hereinafter named: Mohamad A. Shouman and Issa Shoman.

That affiants has an interest in the premises described below or in the proceeds thereof or is the grantor in the deed dated January 30, 2003, to Mohamad A. Shouman and Issa Shoman, grantees, conveying the following described premises:

Parcel One:

Lots 6, 7, 8, 9 and 10, in Block 1, in J.R. Brant's Parkview Addition to Hammond, as per plat thereof recorded in Plat Book 20, page 21, in the Office of the Recorder of Lake County, Indiana.

Parcel Two:

Lot 11, and the North 13.0 feet of Lot 12 (except the South 6.0 feet of the East 8.0 feet thereof), more particularly described as follows: Beginning at the Northwest corner of Lot 11; thence South along the West line of Lots 11 and 12, a distance of 38.0 feet; thence East parallel to and 38.0 feet South of the North line of Lot 11, 98.44 feet; thence North parallel to and 8.0 feet West of the East line of Lot 12, a distance of 6.0 feet; thence East parallel and 32.0 feet South of the North line of Lot 11, 8.0 feet; thence North on the East line of Lots 11 and 12, 32.0 feet; thence West on the North line of Lot 11, 106.44 feet to the place of the beginning, in Block 1, in J.R. Brant's Parkview Addition to Hammond, as per plat thereof recorded in Plat Book 20, page 21, in the Office of the Recorder of Lake County, Indiana.

That no labor or material has been furnished for premises within the last four months, that is not fully paid for.

That since the title date of January 22, 2003, in the report on title issued by First American Title anything that could in any way affect the title to premises, and no proceedings have been filed by or against affiant, nor has any judgment or decree been rendered against affiant, nor is there any judgment note or other instrument that can result in a judgment or decree against affiant within five days from the date hereof.

That all water taxes, except the current bill, have been paid, and that all the insurance policies assigned have been paid for.

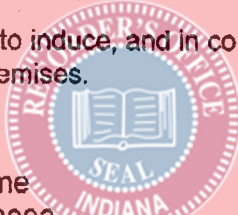
That this instrument is made to induce, and in consideration of, the said grantee's consummation of the purchase of premises.

Affiant further states: NONE .

Subscribed and sworn to before me

on February 4, 2003

Paula Podvin  
NOTARY PUBLIC



Mohamad A. Shouman  
Mubarak brahim

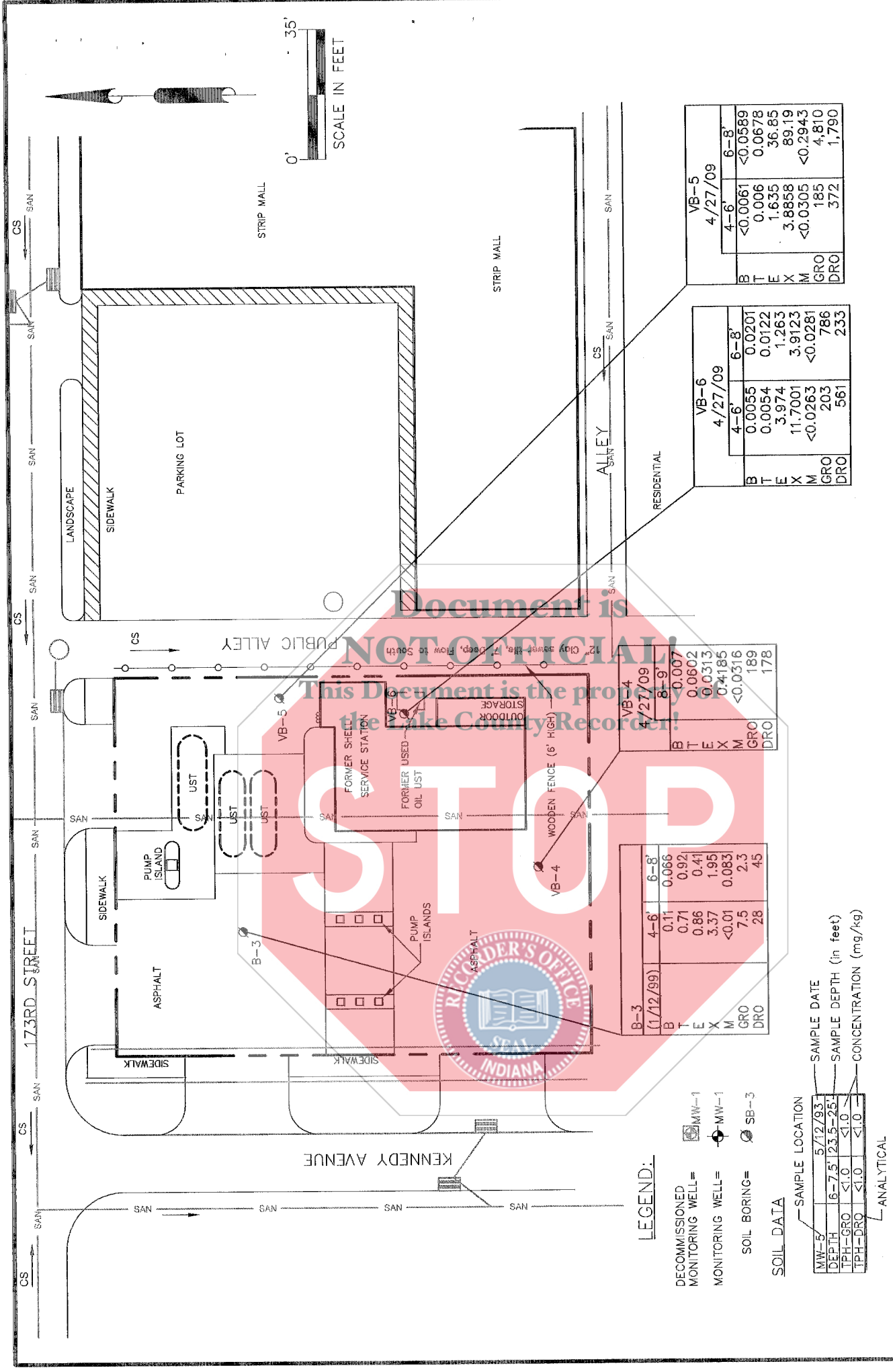
PREPARED BY: MICHAEL M. SILBERT, 19 South LaSalle Street, Suite 802, Chicago, Illinois 60603  
(312) 782-0808 Fax No. (312) 845-2902

E:\BRAHIM, MUBARAK\AFFIDAVIT OF TITLE COVENANT AND WARRANTY.DOC

**EXHIBIT B**

**MAP DEPICTING THE LOCATION OF THE CHEMICALS OF CONCERN**





STOP

This Document is the property of the Lake County Recorder!

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**LEGEND:**

- DECOMMISSIONED MONITORING WELL = MW-1
- MONITORING WELL = MW-1
- SOIL BORING = SB-3

**SOIL DATA**

MW-S	DEPTH	TPH-GRO	TPH-DRO	ANALYTICAL	SAMPLE LOCATION	SAMPLE DATE	SAMPLE DEPTH (in feet)	CONCENTRATION (mg/kg)
B-3	(1/12/99)					5/12/93	6-7.5'	23.5-25'
B		0.11	0.066					
T		0.71	0.92					
E		0.86	0.41					
X		3.37	1.95					
M		<0.01	0.0831					
GRO		7.5	2.3					
DRO		28	45					

**B-3**  
4/27/09  
8-9'

B	0.007
T	0.0602
E	0.0313
X	0.4185
M	<0.0316
GRO	189
DRO	178

**B-3**  
4/27/09  
4-6' 6-8'

B	0.071	0.066
T	0.86	0.41
E	3.37	1.95
X	<0.01	0.0831
M	7.5	2.3
GRO	28	45
DRO		

**VB-6**  
4/27/09  
4-6' 6-8'

B	0.0055	0.0201
T	0.0054	0.0122
E	3.974	1.263
X	11.7001	3.9123
M	<0.0263	<0.0281
GRO	203	786
DRO	561	233

**VB-5**  
4/27/09  
4-6' 6-8'

B	<0.0061	<0.0589
T	0.006	0.0678
E	1.635	36.85
X	3.8858	89.19
M	<0.0305	<0.2943
GRO	185	4.810
DRO	372	1,790

**ANALYTICAL DESCRIPTION:**

- B: BENZENE
- T: TOLUENE
- E: ETHYLBENZENE
- X: XYLENES
- M: METHYL TERTIARY-BUTYL ETHER
- DRC: TOTAL PETROLEUM HYDROCARBONS-DIESEL RANGE ORGANICS
- GRO: TOTAL PETROLEUM HYDROCARBONS-GASOLINE RANGE ORGANICS

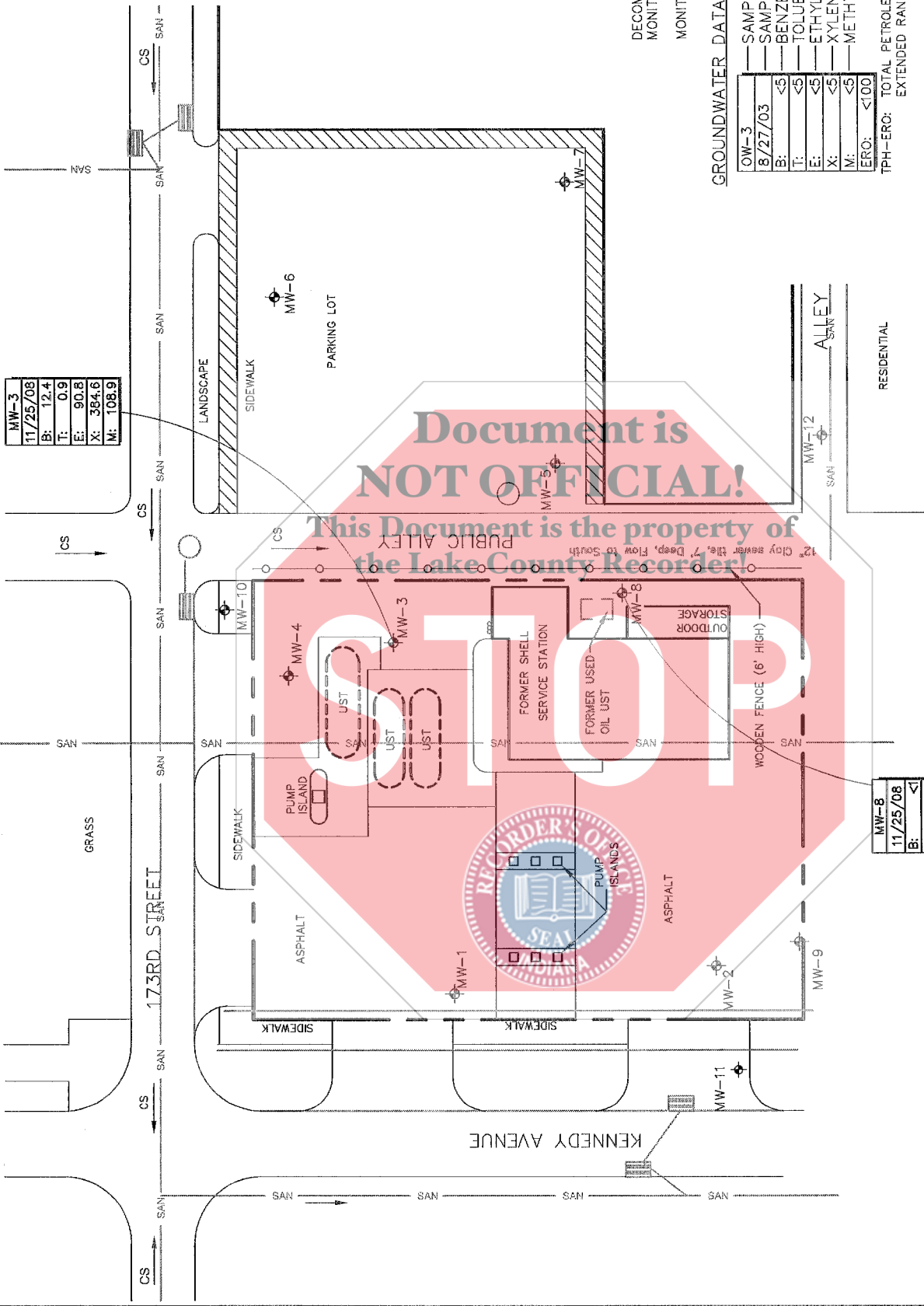
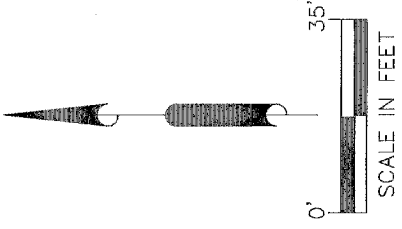
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INDIANAPOLIS, IN 46204

**EXHIBIT B - SOIL**

7305 KENNEDY AVE  
 CLIENT: SHELL OIL PRODUCTS US  
 SCALE: 1" = 35'  
 HAMMOND, INDIANA  
 JOB NUMBER: 49194850  
 DATE: 1/18/06  
 REV: 0



MW-3
11/25/08
B: 12.4
T: 0.9
E: 90.8
X: 364.6
M: 108.9

MW-8
11/25/08
B: <1
T: <1
E: 1.3
X: <3
M: 70.8
ERO: 404

**LEGEND:**

- DECOMMISSIONED MONITORING WELL =
- MONITORING WELL =

**GROUNDWATER DATA:**

OW-3	SAMPLE LOCATION
8/27/03	SAMPLE DATE
B: <5	BENZENE
T: <5	TOLUENE
E: <5	ETHYLBENZENE
X: <5	XYLENES
M: <5	METHYL-TERT-BUTYL ETHER
ERO: <100	TPH-ERO: TOTAL PETROLEUM HYDROCARBONS-EXTENDED RANGE ORGANICS

- NOTES:**
1. RESULTS EXPRESSED IN MICROGRAMS PER LITER.
  2. NS = NOT SAMPLED
  3. ND = NOT DETECTED

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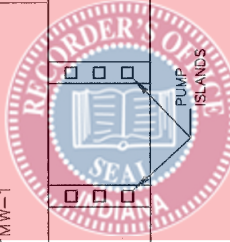


EXHIBIT B - GROUNDWATER

7305 KENNEDY AVE      HAMMOND, INDIANA

CLIENT: SHELL OIL PRODUCTS US      JOB NUMBER: 49194880

SCALE: 1" = 35'      EXHIBIT      B      DATE: 11/25/08      REV: 0

INDIANAPOLIS, INDIANA

DPS

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**TABLE 1**

**LIST OF CHEMICALS OF CONCERN AND CONCENTRATION LEVELS/DETECTED  
PARAMETERS**





Former Shell Gasoline Station  
7305 Kennedy Avenue, Hammond, IN

Table 1  
Chemicals of Concern  
Groundwater Analytical Data

Well #	Date Sampled	Static Groundwater Elevation (feet)	Benzene (ug/L)	Toluene (ug/L)	Ethylbenzene (ug/L)	Xylenes (ug/L)	MTBE (ug/L)	TRPH / ERO (ug/L)
<b>RISC RDCL/LUST Cleanup Objective</b>			<b>5</b>	<b>1,000</b>	<b>700</b>	<b>10,000</b>	<b>40</b>	<b>260</b>
<b>RISC Industrial Default Cleanup Levels</b>			<b>52</b>	<b>8,200</b>	<b>10,000</b>	<b>20,000</b>	<b>870</b>	<b>2,500</b>
MW-3	11/25/08	87.90	12.4	0.9	90.8	384.6	108.9	NA
MW-8	11/25/08	87.61	<1	<1	1.3	<3	70.8	404

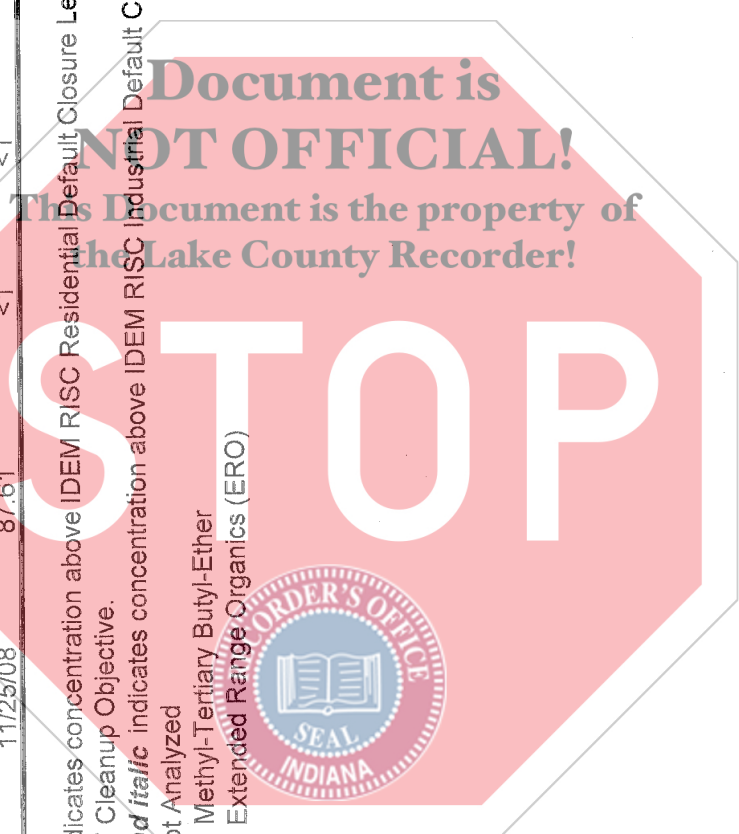
**Bold** indicates concentration above IDEM RISC Residential Default Closure Level (RDCL) or IDEM LUST Cleanup Objective.

**Bold and italic** indicates concentration above IDEM RISC Industrial Default Closure Level (IDCL).

NA = Not Analyzed

MTBE = Methyl-Tertiary Butyl-Ether

TRPH = Extended Range Organics (ERO)



Former Shell Gasoline Station  
7305 Kennedy Avenue, Hammond, IN

Table 1  
Chemicals of Concern  
Soil Analytical Data

	Boring ID/Sample ID/Depth									
	*B-3 (4-6')	*B-3 (6-8')	*VB-4 (8-9')	*VB-5 (4-6')	*VB-5 (6-8')	*VB-6 (4-6')	*VB-6 (6-8')	RISC Default Residential	RISC Default Commercial/ Industrial	
Date	1/13/99								4/27/09	
COC	(results ppm)									
Benzene	0.11	0.066	0.007	<0.0061	<0.0589	<0.0055	0.0201	0.034	0.35	
Toluene	0.71	0.92	0.0602	0.0060	0.0678	0.0054	0.0122	12	240	
Ethylbenzene	0.86	0.41	0.0313	1.635	36.85	3.974	1.263	13	160	
Xylenes	3.37	1.95	0.0190	3.8858	89.19	11.7001	3.9123	170	170	
MTBE	<0.01	0.083	<0.0316	<0.0305	<0.2943	<0.0263	<0.0281	0.18	3.9	
TPH Gasoline	7.5	2.3	189	185	4,810	203	786	120	1,500	
TPH Diesel	28	45	178	372	1,790	561	233	230	2,300	

\*\*\*I Indicates soil sample was saturated. Per Chapter 3 of Risc Users Guide dated 8/26/08, the PECs can only be calculated from unsaturated soils. Analytical results from saturated soils should not be compared to the Closure Levels.  
NA = Not Analyzed  
NL = Not Listed