

44

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2013 090903 2013 DEC 12 AM 9:27
Environmental Restrictive Covenant

MICHAEL B. DROWN
RECORDER

THIS ENVIRONMENTAL RESTRICTIVE COVENANT is made this 5 day of November, 2013, by The Majestic Star Casino, LLC, an Indiana limited liability company ("Owner").

WHEREAS: To the best knowledge of Owner, Owner acquired fee simple title to that certain real estate in the County of Lake, Indiana, more particularly described in the attached **Exhibit "A"** ("Real Estate"), which is hereby incorporated and made a part hereof, by deed dated February 9, 2004, and recorded on February 19, 2004, as Deed Record 2004-014290, in the Office of the Recorder of Lake County, Indiana. The Real Estate, which was subsequently subdivided and as described in **Exhibit A**, is now comprised of part of the property identified by the county by the following parcel identification numbers: 45-03-23-400-005.000-004, 45-03-24-300-002.000-004, and 45-03-26-200-001.000-004, depicted on **Exhibit "B,"** attached hereto.

WHEREAS: A No Further Action ("NFA") Letter and an NFA Correction Letter, copies of which are 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 following corrective action to address a release of petroleum and hazardous substances at the Former Lehigh Portland Cement facility ("Site"), Program site number BFD #4030005, depicted on **Exhibit "D"** attached hereto, of which the Real Estate is a part.

WHEREAS: The NFA Letter, as approved by the Department, provides that certain contaminants of concern ("COCs") were detected in soil on the Real Estate but will not pose an unacceptable risk to human health at the detected concentrations provided that the land use restrictions contained herein are implemented and maintained to ensure the protection of public health, safety, or welfare, and the environment. The COCs are, benzo(a)pyrene, benzo(b)fluoranthene, dibenz(a,h)anthracene, arsenic, and thallium.

WHEREAS: Soil and groundwater on the Real Estate were sampled for total petroleum hydrocarbons ("TPH")-extended range organics ("ERO"), TPH-gasoline range organics ("GRO"), volatile organic compounds ("VOCs"), semi-volatile organic compounds ("SVOCs"), polyaromatic hydrocarbons ("PAHs"), polychlorinated biphenyls ("PCB"), Resource Conservation and Recovery Act ("RCRA") metals, thallium, and free cyanide. Investigations revealed that detected COC concentrations exceeded their respective residential direct contact ("Direct Contact") screening levels established by IDEM in the Remediation Closure Guide ("RCG") (March 22, 2012 and subsequent revisions). The detected levels of benzo(a)pyrene, benzo(b)fluoranthene, dibenzo(a,h)anthracene, arsenic, and thallium were below their respective RCG Direct Contact commercial/industrial and excavation screening levels. All other sampled constituents were below their respective RCG direct contact screening levels.

WHEREAS: IDEM approved conditional commercial/industrial closure of environmental conditions on the Real Estate under the RCG because: 1) soil contaminant sources were removed

Document is the property of
NOT OFFICIAL!
STOP
FILED
DEC 12 2013
PEGGY HOSING-KATONA
LAKE COUNTY CLERK/AUDITOR

006976 CASH
ID# 9800
ME

from the Real Estate; 2) all surrounding surface soil sample results were below their respective RCG commercial/industrial direct contact screening levels for benzo(a)pyrene, benzo(b)fluoranthene, dibenzo(a,h)anthracene, arsenic, and thallium; 3) the contaminants are delineated, limited in extent, and not considered to be an exposure risk; and, 4) all other detected levels of COCs were below their respective RCG residential Direct Contact screening levels. **Exhibit "B"** depicts the sample locations on the Real Estate at which COCs were detected above applicable RCG screening levels. Table 1, attached hereto as **Exhibit "E,"** summarizes analytical results above applicable RCG soil Direct Contact screening levels on the Real Estate.

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

NOW THEREFORE, Owner hereby subjects the Real Estate to the following restrictions and provisions, which shall be binding on Owner and all future owners of the Real Estate:

I. RESTRICTIONS

1. Restrictions. The Owner shall:
 - (a) Not use or allow the use of the Real Estate for residential purposes, including, but not limited to, daily child care facilities or educational facilities for children (e.g., daycare centers or K-12 schools).
 - (b) Not use the Real Estate for any agricultural use.

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.

from the Real Estate; 2) all surrounding surface soil sample results were below their respective RCG commercial/industrial direct contact screening levels for benzo(a)pyrene, benzo(b)fluoranthene, dibenzo(a,h)anthracene, arsenic, and thallium; 3) the contaminants are delineated, limited in extent, and not considered to be an exposure risk; and, 4) all other detected levels of COCs were below their respective RCG residential Direct Contact screening levels. **Exhibit "B"** depicts the sample locations on the Real Estate at which COCs were detected above applicable RCG screening levels. Table 1, attached hereto as **Exhibit "E,"** summarizes analytical results above applicable RCG soil Direct Contact screening levels on the Real Estate.

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

NOW THEREFORE, Owner hereby subjects the Real Estate to the following restrictions and provisions, which shall be binding on Owner and all future owners of the Real Estate:

I. RESTRICTIONS

1. Restrictions. The Owner shall:
- (a) Not use or allow the use of the Real Estate for residential purposes, including, but not limited to, daily child care facilities or educational facilities for children (e.g., daycare centers or K-12 schools).
 - (b) Not use the Real Estate for any agricultural use.

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 LAKE 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 Lake 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, RCG 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:
The Majestic Star Casino, LLC
Attn: General Counsel
1 Buffington Harbor Drive
Gary, IN 46406

To Department:
Indiana Brownfields Program
100 N. Senate Avenue, Rm. 1275
Indianapolis, Indiana 46204
ATTN: John Morris

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 persons executing this Covenant represents that he or she is the authorized representative of MSC or Trust, as applicable, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant for on behalf of said entity.



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

IN WITNESS WHEREOF, The undersigned parties have caused this Environmental Restrictive Covenant to be executed as of the dates set forth in the notary provisions below to be effective as of the date first above written.

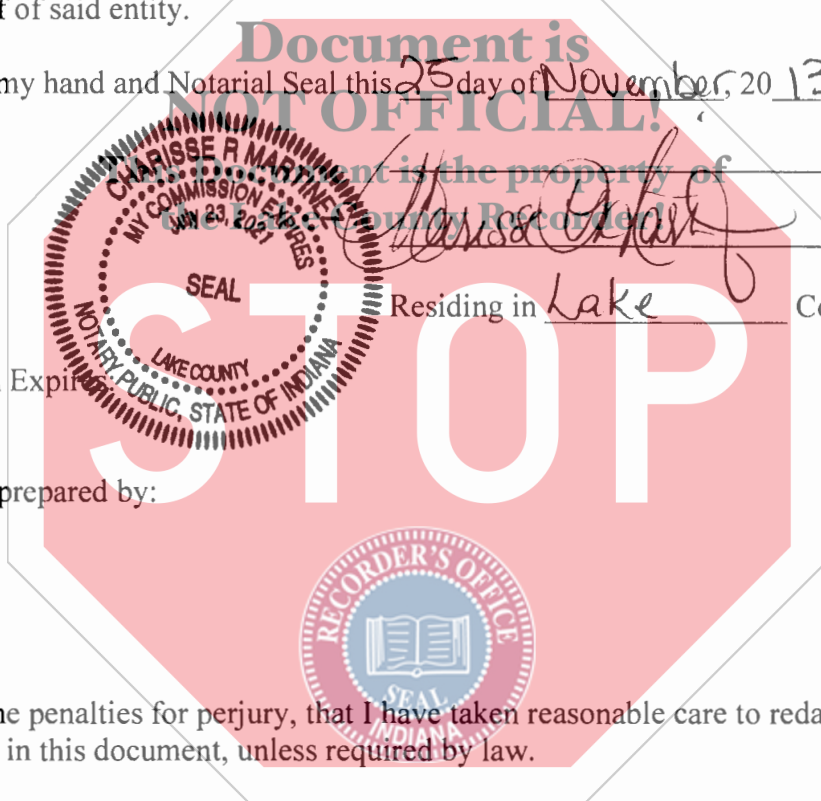
THE MAJESTIC STAR CASINO, LLC, an
Indiana limited liability company

By: [Signature]
Peter M. Liguori
President & CEO

STATE OF IN)
) SS:
COUNTY OF Lake)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Peter M Liguori, the President/CEO of The Majestic Star Casino, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this 25 day of November, 2013



[Signature], Notary Public
Residing in Lake County, IN

My Commission Expires

This instrument prepared by:

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.

(Printed Name of Declarant)

EXHIBIT A

Limited Warranty Deed Originally Conferring Ownership

Current Legal Description of MSC Real Estate



STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2004 014290

2004 FEB 19 PM 1:45

MORRIS...
RECORD...

LIMITED WARRANTY DEED

THIS INDENTURE WITNESSETH that Gary New Century, LLC, a Delaware limited liability company ("Grantor"), BARGAINS, SELLS AND CONVEYS to The Majestic Star Casino, LLC, an Indiana limited liability company ("Grantee"), for the sum of Ten and 00/100 Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Lake County, in the State of Indiana (the "Real Estate"):

<SEE **EXHIBIT A** ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE>

Grantor, as its sole warranty herein, specially warrants to Grantee, and to Grantee's successors and assigns, that Grantor will forever defend title to the Real Estate (subject to those matters set forth on **Exhibit B** attached hereto) against those claims, and only those claims, of all persons who shall claim title to or assert claims affecting the title to the Real Estate, or any part thereof, by or through, or based upon the acts of Grantor, but not otherwise.

The undersigned person executing this deed on behalf of Grantor represents and certifies that she is the Vice President and Chief Financial Officer of Remark Land Company, Manager and Member of Grantor, and has been fully empowered, by proper resolution of the Board of Directors of Remark Land Company and resolutions of Grantor, to execute and deliver this Deed; that Grantor has full company capacity to convey the real estate described herein; and that all necessary company action for the making of such conveyance has been taken and done

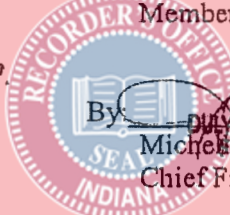
IN WITNESS WHEREOF, Grantor has caused this deed to be executed this 9 day of February, 2004.

GARY NEW CENTURY, LLC, a Delaware limited liability company

By: Remark Land Company, its Manager and Member

HOLD FOR MERIDIAN TITLE CORP.

3407 LK03



By: [Signature]
DULY ENTERED FOR TAXATION SUBJECT TO
MICHELE ACCIARONE FOR TRUSTEE and
Chief Financial Officer

FEB 19 2004

STEPHEN R. STIGLICH
LAKE COUNTY AUDITOR 001193

STATE OF MICHIGAN)
) SS:
COUNTY OF WAYNE)

Before me, a Notary Public in and for said County and State, personally appeared Michelle Sherman, the Vice President and Chief Financial Officer of Remark Land Company, the Manager and Member of Gary New Century, LLC, who acknowledged execution of the foregoing deed as such officer acting for and on behalf of Remark Land Company in its capacity as Manager and Member of said Grantor, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 9 day of February, 2004.

Angela Bell Palmer

(signature)

ANGELA BELL PALMER
Notary Public, Oakland County, MI
My Commission Expires Oct 23, 2004

(printed name)

Notary Public

My Commission Expires: _____

County of Residence: _____

SEND TAX STATEMENTS TO AND
GRANTEE'S MAILING ADDRESS IS:

Jon S. Bennett, Chief Financial Officer
The Majestic Star Casino, LLC
301 Fremont Street, 12th Floor
Las Vegas, Nevada 89101



This instrument was prepared by Mark D. Grant, Esq., ICE MILLER, One American Square,
Box 82001, Indianapolis, Indiana 46282-0002; Telephone (317) 236-2100.

ALTA/ACSM Land Title Survey (Parcel 1)

Prepared For: The Majestic Star Casino, LLC

By: DLZ Industrial, LLC on 4-24-2012

Project Number 1150-8097-90, Drawing Number 8097AL01-1

PARCEL 1:

A PARCEL OF LAND IN THE SOUTHEAST QUARTER OF FRACTIONAL SECTION 23, THE SOUTHWEST QUARTER OF FRACTIONAL SECTION 24, THE NORTHWEST QUARTER OF FRACTIONAL SECTION 25, AND THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF GARY, LAKE COUNTY, INDIANA, SAID PARCEL CONSISTING OF A PART OF THOSE LANDS CONVEYED TO LEHIGH PORTLAND CEMENT COMPANY AS RECORDED IN LAKE COUNTY DOCUMENT 707259, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CAPPED IRON ROD AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE NORTH 00°23'05" WEST (SAID BEARING BEING RELATIVE TO THE INDIANA STATE PLANE COORDINATE SYSTEM WEST ZONE, NAD83), 492.62 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF THE ELGIN, JOLIET & EASTERN RAILWAY COMPANY (FORMERLY THE INDIANA HARBOR RAILROAD COMPANY) AS RECORDED IN LAKE COUNTY DEED RECORD 117, PAGE 10; THENCE SOUTH 46°59'40" EAST, 228.30 FEET ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE; THENCE 1404.64 FEET ALONG AN ARC ON SAID NORTHEASTERLY RIGHT-OF-WAY LINE, SAID ARC BEING CONVEX TO THE SOUTHWEST, HAVING RADIUS OF 11309.20 FEET, AND SUBTENDED BY A LONG CHORD BEARING SOUTH 50°33'09" EAST, 1403.74 FEET; THENCE SOUTH 54°06'39" EAST, 2971.64 FEET ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE TO THE SOUTHERLY CORNER OF PARCEL 1 CONVEYED TO BUFFINGTON HARBOR RIVERBOATS, L.L.C. AS RECORDED IN LAKE COUNTY DOCUMENT 95067683; THENCE SOUTH 54°06'39" EAST, 355.66 FEET ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE OF THE ELGIN, JOLIET, & EASTERN RAILWAY COMPANY AS RECORDED IN LAKE COUNTY DEED RECORD 117, PAGE 10 TO THE POINT OF BEGINNING OF THIS DESCRIPTION;

- 1) THENCE SOUTH 54°06'39" EAST, 2300.77 FEET TO THE NORTHWESTERLY LINE OF PARCEL G-3 CONVEYED TO MARBLEHEAD LIME COMPANY AS RECORDED IN LAKE COUNTY DOCUMENT 91065414;
- 2) THENCE NORTH 35°53'21" EAST, 85.00 FEET ALONG SAID LINE TO THE NORTHEASTERLY LINE OF AN ELECTRIC POWER LINE EASEMENT, DESCRIBED IN AN AGREEMENT FROM UNIVERSAL-ATLAS CEMENT COMPANY TO UNITED STATES STEEL CORPORATION, DATED AUGUST, 16, 1954;
- 3) THENCE NORTH 54°06'39" WEST, 1791.77 FEET ALONG SAID LINE;
- 4) THENCE NORTH 60°10'19" EAST, 393.32 FEET TO A RAILROAD SPIKE;
- 5) THENCE NORTH 34°06'39" WEST, 284.87 FEET TO A 5/8" REBAR WITH CAP STAMPED "FIRM #0058";
- 6) THENCE NORTH 55°53'21" EAST, 1,270.59 FEET TO A 5/8" REBAR WITH CAP STAMPED "FIRM #0058" ON THE SOUTHERLY LINE OF PARCEL G-2, CONVEYED TO MARBLEHEAD LIME COMPANY IN LAKE COUNTY DOCUMENT 91065414;
- 7) THENCE NORTH 73°30'38" WEST, 103.24 FEET ALONG SAID SOUTHERLY LINE TO THE SOUTHWESTERLY LINE OF SAID PARCEL;
- 8) THENCE NORTH 34°00'22" WEST, 320.22 FEET ALONG SAID SOUTHERLY LINE AND THE NORTHWESTERLY EXTENSION THEREOF;
- 9) THENCE SOUTH 55°53'21" WEST, 605.64 FEET;
- 10) THENCE SOUTH 34°06'39" EAST, 255.00 FEET;
- 11) THENCE SOUTH 55°53'21" WEST, 600.00 FEET;
- 12) THENCE NORTH 34°06'39" WEST, 236.63 FEET;
- 13) THENCE SOUTH 35°53'21" WEST, 551.21 FEET;
- 14) THENCE SOUTHWESTERLY 79.52 FEET ALONG A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 94.22 FEET AND A CHORD BEARING SOUTH 65°28'30" WEST, 77.18 FEET;
- 15) THENCE SOUTH 42°41'33" WEST, 53.53 FEET TO THE POINT OF BEGINNING, CONTAINING 18.236 ACRES, MORE OR LESS.

ALTA/ACSM Land Title Survey (Parcel 2)

Prepared For: The Majestic Star Casino, LLC

By: DLZ Industrial, LLC on 4-24-2012

Project Number 1150-8097-90, Drawing Number 8097AL01-2

PARCEL 2:

A PARCEL OF LAND IN THE SOUTHEAST QUARTER OF FRACTIONAL SECTION 23, THE NORTH HALF OF SECTION 26, AND THE WEST HALF OF FRACTIONAL SECTION 25, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF GARY, LAKE COUNTY, INDIANA, (SAID PARCEL CONSISTING OF A PART OF THE THIRTY-THREE ACRE PARCEL AND A PART OF THE SECOND PARCEL AS DESCRIBED IN LAKE COUNTY DEED RECORD 308, PAGE 22), BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CAPPED IRON ROD AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE NORTH $00^{\circ}23'05''$ WEST (SAID BEARING BEING RELATIVE TO THE INDIANA STATE PLANE COORDINATE SYSTEM WEST ZONE, NAD83), 79.78 FEET ALONG THE WEST LINE OF SAID SECTION TO THE SOUTHWESTERLY CORNER OF PARCEL 2 CONVEYED TO BUFFINGTON HARBOR RIVER BOATS, L.L.C. AS DESCRIBED IN LAKE COUNTY DOCUMENT 95067683, THENCE SOUTH $32^{\circ}06'05''$ EAST, 1079.86 FEET ALONG SOUTHWESTERLY LINE OF SAID PARCEL 2; THENCE SOUTH $40^{\circ}16'57''$ EAST, 738.04 FEET ALONG SAID SOUTHWESTERLY LINE; THENCE ALONG SAID SOUTHWESTERLY LINE 565.04 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 17088.80 FEET AND SUBTENDED BY A LONG CHORD BEARING SOUTH $41^{\circ}13'47''$ EAST, 565.02 FEET; THENCE SOUTH $43^{\circ}05'41''$ WEST 7.87 FEET ALONG A NORTHWESTERLY LINE OF SAID PARCEL 2 TO A CORNER OF SAID PARCEL, (SAID CORNER BEING THE POINT OF BEGINNING OF SAID THIRTY-THREE ACRE PARCEL); THENCE SOUTH $46^{\circ}54'19''$ EAST 1691.49 FEET ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 2 TO A CORNER OF SAID PARCEL, SAID CORNER BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

- 1) THENCE SOUTH $46^{\circ}54'26''$ EAST, 464.28 FEET TO A 5/8" REBAR WITH CAP STAMPED "FIRM #0058";
- 2) THENCE NORTH $41^{\circ}00'22''$ EAST, 387.30 FEET TO A 5/8" REBAR WITH CAP STAMPED "FIRM #0058";
- 3) THENCE NORTH $22^{\circ}00'21''$ EAST, 118.40 FEET;
- 4) THENCE NORTH $49^{\circ}38'51''$ WEST, 457.29 FEET TO THE SOUTHEASTERLY LINE OF SAID PARCEL 2;
- 5) THENCE SOUTH $34^{\circ}13'33''$ WEST, 169.18 FEET ALONG SAID SOUTHEASTERLY LINE;
- 6) THENCE SOUTH $36^{\circ}30'36''$ WEST, 207.34 FEET ALONG SAID LINE;
- 7) THENCE SOUTH $43^{\circ}27'47''$ WEST, 102.53 FEET ALONG SAID LINE TO THE POINT OF BEGINNING, CONTAINING 5.251 ACRES, MORE OR LESS.



EXHIBIT B

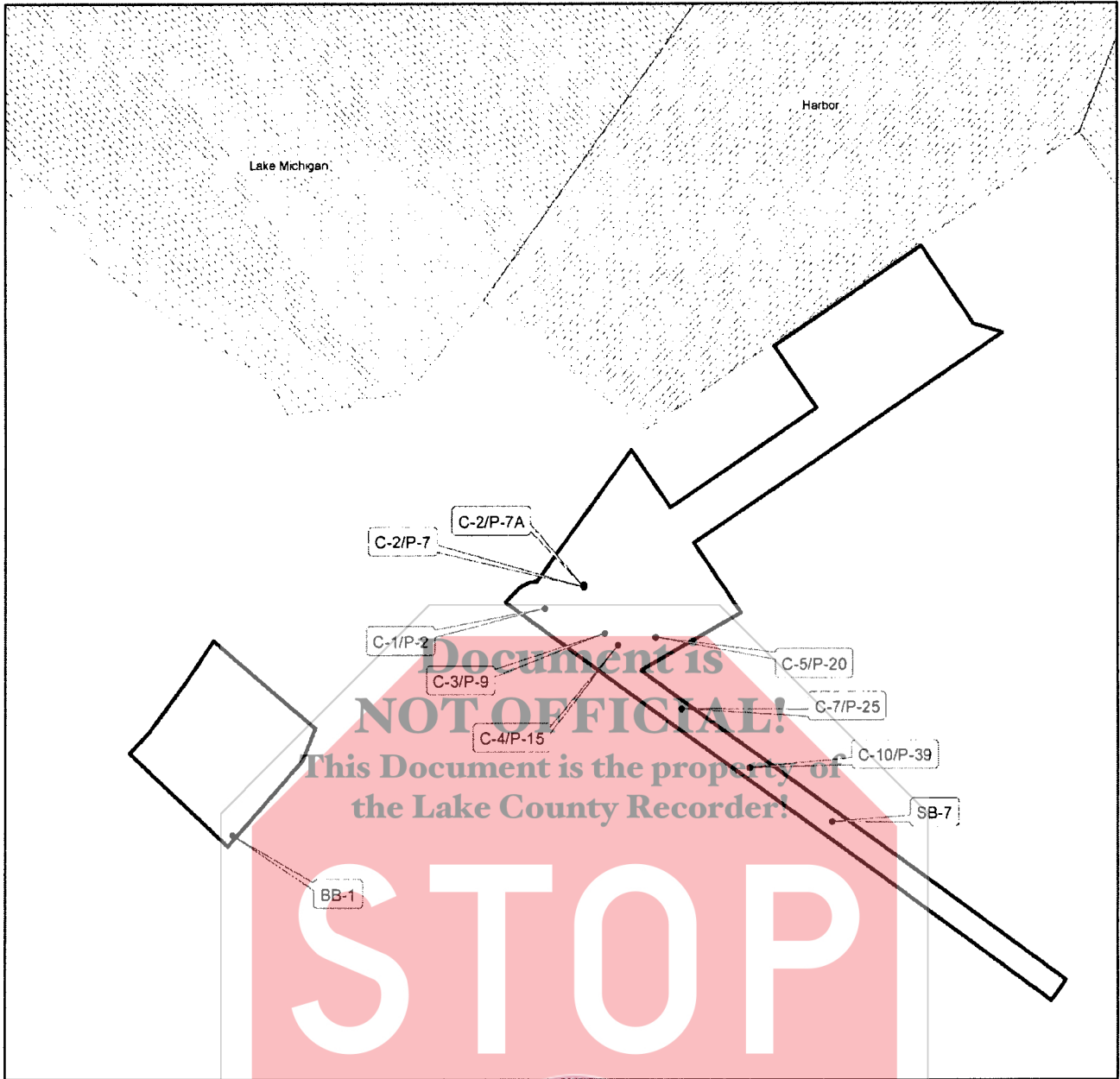
Map of the Real Estate

**Sample Locations at which COCs were Detected
Above Applicable RCG Screening Levels**



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

**BFD 4030005 - Majestic Star Casino, LLC
Environmental Restrictive Covenant & Soil Impacted Areas**



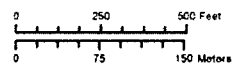
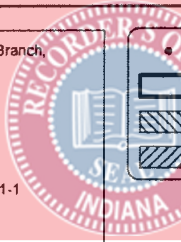
Mapped By: Mike Hill, IDEM, Office of Land Quality, Science Services Branch, Engineering & GIS Services, September 19, 2013

Legal Description Source:
Legal Description of MSC Real Estate
 ALTA/ACSM Land Title Survey (Parcel 1)
 Prepared For: The Majestic Star Casino, LLC
 By: DLZ Industrial, LLC on 4-24-2012
 Project Number 1150-8097-90, Drawing Number 8097AL01-1
 (Includes Parcel 1 & Parcel 2)

PLSS Info: Sections 23, 24, 25, & 26, T37N, R9W
 Calumet Township
 Lake County, 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.

	Sample Point
	Environmental Restrictive Covenant
	Lake Michigan
	Harbor



Lake County



Project Area



EXHIBIT C

Copy of NFA Letter and NFA Correction Letter





INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

Michael R. Pence
Governor

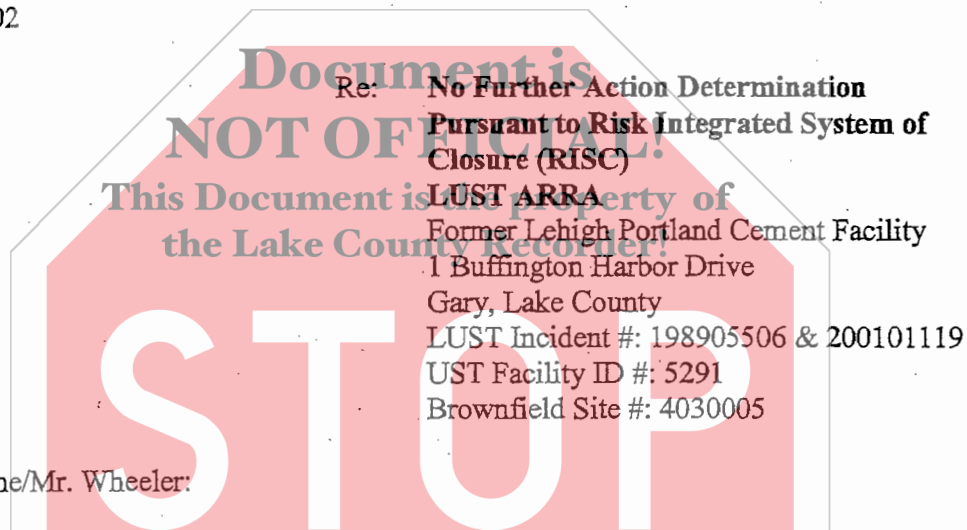
Thomas W. Easterly
Commissioner

100 North Senate Avenue
Indianapolis, Indiana 46204
(317) 232-8603
Toll Free (800) 451-6027
www.idem.IN.gov

February 22, 2013

James LeFresne
Vice President - Project Development
The Majestic Star Casino, LLC
1 Buffington Harbor Drive
Gary, IN 46406

John C. Wheeler
Liquidating Trustee
Majestic Gary Land Trust
c/o Development Specialists, Inc.
70 W. Madison Street, Suite 2300
Chicago, IL 60602



Re: **No Further Action Determination**
Pursuant to Risk Integrated System of
Closure (RISC)
LUST ARRA
Former Lehigh Portland Cement Facility
1 Buffington Harbor Drive
Gary, Lake County
LUST Incident #: 198905506 & 200101119
UST Facility ID #: 5291
Brownfield Site #: 4030005

Dear Mr. LeFresne/Mr. Wheeler:

Indiana Department of Environmental Management (IDEM) Brownfields staff have reviewed the *Soil/Groundwater Investigation and Remediation Report (Final Report)* dated December 16, 2011 prepared by ATC Associates, Inc. (ATC) regarding a release of petroleum at the property located at 1 Buffington Harbor Drive, Gary, Lake County (Site). The investigation, remediation, and monitoring activities documented in the Final Report 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 a petroleum release at this Site. As part of the approved ARRA remediation work plan, ATC reviewed publicly available documents¹ relating to previous environmental investigations and remedial activities at the Site. A list of those documents is attached as Table 1.

¹ The documents may be viewed electronically by searching the IDEM's Virtual File Cabinet on the Web at: <http://www.in.gov/idem/4101.htm>.

Site History

The approximately 165 acre-Site currently consists of 6 parcels located on and near the south shore of Lake Michigan, as denoted on the Table below and the attached Figure. The Site contains commercial facilities, including parking used in association with the Majestic Star Casino (MSC), former industrial buildings used for storage, vacant land, and abandoned industrial structures associated with the Majestic Gary land Trust (MGLT). The Site is bordered by Lake Michigan to the north, and by commercial and industrial properties in the remaining directions.

Parcel Identification

Parcel Number	Owner	General Address	Parcel ID	Acreage
1	MSC	1 Buffington Harbor Drive	45-03-23-400-001.000-004	10.68
2	MSC	APPR 1200 N Cline Avenue	45-03-23-400-002.000-004	6.078
3	MGLT	APPR 1200 N Cline Avenue	45-03-23-400-005.000-004	36.819
4	MGLT	None	45-03-24-300-002.000-004	44
5	MGLT	APPR 200 Morse Street	45-03-23-400-003.000-004	4.548
6	MSC/MGLT	APPR 200 Morse Street	45-03-26-200-001.000-004	63.574

Historical records indicate various cement production facilities operated on the Site from at least 1908 through 2000. The Lehigh Portland Cement Company owned the Site from 1980 until 2000 and operated in over 30 buildings. The operations at the Site accepted waste oils from outside sources that were utilized as fuel. Following the cement plant closure, the City of Gary (Gary) acquired the property to develop the lakefront areas. Subsequently, Barden Companies, Inc. (Barden) purchased the Site and established Gary New Century, LLC. After going through bankruptcy proceedings, the Site was deeded to the Majestic Star Casino, LLC (Majestic Star). Current Site reuse plans are for commercial/industrial redevelopment.

Petroleum Remediation Grant Project - Highline Soil Stockpile

In June and July 2007 with assistance of a Petroleum Remediation Grant from the Program, the City of Gary (Gary) removed 4,167 tons of stockpiled petroleum contaminated soil from an area known as Highline. The soil consisted of base materials from a former railroad spur line contaminated by oil and lubricants leakage from locomotive engines, and soils excavated during the removal of on-Site underground storage tanks (USTs). IDEM staff reviewed data from the *Corrective Action Report*, dated August 2, 2007, prepared by Gary's contractor, CHC Technologies, Inc., which detailed the soil excavation, disposal and associated confirmation sampling activities. In the August 9, 2007 PRG Project Status Letter, IDEM staff determined no further action would be necessary in the Highline area because the detected levels of total petroleum hydrocarbon (TPH)-extended range organics (ERO) and TPH-gasoline range organics (GRO) met the then-applicable IDEM Risk Integrated System of Closure (RISC) Technical

Resource Guidance Document (February 15, 2001 and applicable revisions) cleanup objectives. The letter, did, however, state that further work would be necessary to achieve closure for the entire Site.

ARRA Assessment and Remediation Activities

Historical Environmental Assessments - ATC Document Review

As part of the approved ARRA remediation work plan, ATC reviewed publicly available documents relating to previous environmental investigations and remedial activities at the Site. These documents detailed investigation and remediation activities that included: analytical results from over 800 soil and 300 groundwater samples; removal and disposal documentation of over 6,000 tons of contaminated soil and 80,000 gallons of contaminated water; and asbestos and lead paint assessments/abatement conducted on the former Site buildings. The historical documents identified 13 USTs (T1 through T13), which were removed between 1979 and 1999. Refer to the Table below for the UST contents and sizes.

Former UST Information

UST Location ID	Former Contents	Tank Size (gallons)	Closure Date
T1	Diesel	2,000	5/16/1989
T2	Fuel oil	3,000	12/1979
T3	Fuel oil	30,000	5/18/1989
T4	Gasoline	2,000	5/12/1999
T5	Unknown	Unknown	Unknown
T6	Gasoline	750	8/1/1995
T7	Gasoline	750	8/1/1995
T8	Gasoline	11,000	5/1989
T9	Diesel	10,000	1989
T10	Heating Oil	Unknown	Unknown
T11	Fuel Oil	2,000	1989
T12	Diesel	Unknown	Unknown
T13	Gasoline	560	Unknown

The *Environmental Site Assessment* dated May 1995, and prepared by Fluor Daniel, Inc., documents a sample (SS-14) of an oily residue collected from the concrete floor of the former Building 22. The polychlorinated biphenyl (PCB) Aroclor 1254 concentration was 332 parts per million (ppm), which exceeds the IDEM Remediation Closure Guide (RCG) (March 22, 2012 and subsequent revisions) commercial/industrial direct contact screening level of 7.4 ppm and the excavation screening level of 16 ppm. The PCB Aroclor 1254 concentration from a soil sample

(SS-15) collected from outside the building was below the laboratory detection limit. No soil samples were collected from soils underneath the former Building 22 concrete floor. The building was subsequently demolished and a new parking structure was placed over the location of SS-14.

Subsurface Investigation

The ATC document review determined that further investigation was necessary at UST locations T1, T2, T3, T4, T5, T8, T9 and T10. Soil and groundwater samples were collected and analyzed for all or some of the following contaminants of concern (COCs): TPH-ERO, TPH-GRO, volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), polycyclic aromatic hydrocarbons (PAHs), Resource Conservation and Recovery Act (RCRA) metals, thallium, and free cyanide. Soil and groundwater analytical results were compared to current residential and commercial/industrial default screening levels contained in the IDEM Remediation Closure Guide (RCG) (March 22, 2012 and subsequent revisions). Soil samples collected from 0 to 10 feet below ground surface (bgs) were compared to the RCG direct contact (Direct Contact) exposure pathway; soil samples collected from greater than 10 feet bgs were compared to the RCG migration to groundwater (MTG) exposure pathway.

In April 2011, 50 soil samples from 25 soil borings, 17 groundwater samples from temporary wells, and 8 groundwater samples from permanent wells were collected and analyzed for all or some of the COCs. Analytical results showed that surface (from 0 to 10 feet bgs) and subsurface (from greater than 10 feet bgs) soil on the Site was contaminated with PAHs, TPH-GRO, TPH-ERO, chromium, lead, thallium, and cyanide concentrations above their respective IDEM RCG residential and/or commercial/industrial screening levels. Based on these analytical results, 36 soil borings were advanced in the vicinity of the former UST locations T1, T2, T3, T4, T8, T9, and T10 in July 2011. Analytical results showed that detected concentrations in soil of benzo(a)pyrene, 2-methylnaphthalene, dibenz(a,h)anthracene, TPH-ERO, chromium, arsenic, lead, thallium, and cyanide exceeded their respective IDEM RCG residential screening levels. In addition, benzo(a)pyrene, chromium, and arsenic were detected in the soil at concentrations that exceeded their respective IDEM RCG commercial/industrial screening levels.

Groundwater analytical results from the April 2011 investigation detected concentrations of benzo(a)pyrene, dibenz(a,h)anthracene, and lead in samples collected from temporary monitoring wells above their respective RCG residential screening levels. All other sampled constituents collected from temporary and permanent monitoring wells were below their respective RCG residential screening levels.

Additional Non-ARRA Investigations

In addition to the ARRA related activities, the Baker Corporation (Baker) on behalf of Majestic Star, and American Structurepoint, Inc. (Structurepoint) on behalf of Gary, completed subsurface investigations on the Site. Baker collected soil samples from 92 soil borings and water samples from 20 locations in May 2011 and Structurepoint advanced 33 soil borings in June 2011.

Investigation results identified RCRA metals, SVOCs, and VOCs in the soil at concentrations that exceeded their IDEM RCG residential, commercial/industrial, and/or excavation screening levels. RCRA metals and SVOCs were also detected in groundwater above their IDEM RCG residential screening levels.

Soil Excavation

In October and November 2011, approximately 640 tons of contaminated soil was excavated from the vicinity of the former UST locations T1, T2, T3, T4, T9 and T10. A total of 63 confirmatory soil closure samples were collected from the sidewalls and base of the excavations (ranging from 0 to 8 feet bgs) and analyzed for the COCs. The sample results were compared to the IDEM RCG residential, commercial/industrial, and excavation screening levels. Confirmation soil samples showed:

- The benzo(a)pyrene level in confirmation soil sample BB-35A-EW (1.26 ppm) and BB-60A-WW (0.526 ppm) exceeded its RCG Direct Contact residential screening level of 0.26 ppm, but was below its IDCL of 2.1 ppm
- All other sampled constituents from the confirmation soil samples were below their respective Direct Contact residential screening levels.

Analytical results for groundwater encountered in samples in five of the excavation areas (T1 BB-60A, T8 P-1, T8 P-2, T9 B2 and T-10 B-1) showed:

- Benzo(a)pyrene and dibenzo(k)fluoranthene levels in groundwater from excavation T1-BB-60A exceeded their respective RCG residential screening levels.
- Benzo(a)pyrene and naphthalene levels in groundwater from excavation T-10 B-1 exceeded their respective RCG residential screening levels.
- All other sampled constituents were below their respective residential screening levels.

During soil excavation activities at the T9 B2 location, groundwater exhibited dirty foam on the surface described as an "oily mousse." Subsequently, on October 27, 2011, 1,000 gallons of water was removed and disposed from excavation T9.

Exploratory Excavations

Two test pits (P-1 and P-2) were excavated to 4 feet bgs near former tank location T8. Soil and groundwater samples were collected and analyzed for the COCs. All analytical results were below their respective IDEM RCG residential screening levels.

Current Soil Conditions

Table 2, attached, depicts results from samples of soil remaining on-Site that exceeded the IDEM RCG residential, commercial/industrial, and/or excavation screening levels. Benzo(a)pyrene at 1 location, lead at 3 locations, and thallium at 3 locations exceed their RCG excavation screening levels.

Groundwater

Detected concentrations of arsenic, benzo(a)anthracene, dibenzofuran, naphthalene, methylene chloride, 2-methylnaphthalene, PCB Aroclor 1248, selenium, and thallium in soil exceeded their respective RCG soil Migration to Groundwater (MTG) residential screening levels. See Table 3, attached, for detected concentrations and sample locations.

In October 2011, groundwater samples collected from the permanent monitoring well network were analyzed for the COCs. Analytical results were all below their respective RCG residential screening levels. Furthermore, potable water is supplied to the Site via a municipal water supply, and the City of Gary has an ordinance prohibiting groundwater use for potable purposes.

Statistical Analysis and Contaminant Evaluation

To determine an overall risk of exposure to remaining soils, a 95% upper confidence level (UCL) was calculated for arsenic, lead, thallium, and benzo(a)pyrene in on-Site soil using detected levels of the respective COCs. The UCL values were compared to RCG residential, commercial/industrial and excavation direct contact screening levels. The UCL values for lead and thallium were below their respective RCG Direct Contact residential screening levels. The UCL value for arsenic exceeded the RCG Direct Contact residential screening level but was below its commercial/industrial screening level. The benzo(a)pyrene value exceeded its RCG residential and commercial/industrial screening levels but was below its excavation screening level. While the calculated UCL for benzo(a)pyrene in soil exceeds the RCG commercial direct contact screening concentration, as shown in the attached Table 1, the elevated UCL result is biased by sample BB-92 (520 ppm), where benzo(a)pyrene also exceeds the RCG excavation level. As all other surface soil sample results are below the RCG commercial direct contact screening level for benzo(a)pyrene, and the contaminant is delineated on-Site, the benzo(a)pyrene concentration detected at BB-92 is not considered to be an exposure risk. Refer to the Table below for the calculated UCL results and comparative RCG values.

Contaminant	UCL (parts per million)	RCG Direct Contact Screening Levels (parts per million)		
		Residential	Commercial/ Industrial	Excavation
Arsenic	<i>6.32</i>	5.5	16	430
Lead	154.675	400	1,300	970
Thallium	0.5	1.1	10	17
Benzo(a)pyrene	30.79	0.26	2.1	130

Notes: *Italics* => Direct Contact Residential Screening Level
Bold => Direct Contact Commercial/Industrial Screening Level

An evaluation was conducted on benzo(a)anthracene, dibenzo(a,h)anthracene, and benzo(b)fluoranthene detected at sample location BB-77; and benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, dibenz(a,h)anthracene, and indeno(1,2,3-cd)pyrene in sample location BB-92; which were detected above their respective RCG Direct Contact commercial/industrial screening levels. Samples collected adjacent to B-77, and those delineating BB-92, showed all contaminants to be below RCG Direct Contact commercial/industrial screening levels. As all other surface soil sample results are below the RCG commercial direct contact screening level for benzo(a)anthracene, dibenzo(a,h)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, and indeno(1,2,3-cd)pyrene; and the contaminants are delineated and limited in extent; the contaminant levels detected at BB-77 and BB-92 are not considered to be an exposure risk.

Conclusion

Notwithstanding contaminant concentrations detected in surface soil, subsurface soil, and groundwater on Site above the RCG residential, commercial/industrial, and/or excavation screening levels, IDEM can approve a non-default commercial/industrial closure of the Site under the RCG for the following reasons:

- Soil contaminant sources were removed from the Site.
- The calculated UCL values for lead and thallium contamination remaining in on-Site surface soil are below their respective RCG Direct Contact residential screening levels.
- The calculated UCL value for arsenic contamination remaining in on-Site subsurface soil is below its RCG commercial/industrial screening value.
- While benzo(a)pyrene, benzo(a)anthracene, dibenzo(a,h)anthracene, benzo(b)fluoranthene, indeno(1,2,3-cd)pyrene, and chrysene were detected in two soil sample locations above their respective RCG Direct Contact commercial/industrial screening levels, the contaminants are delineated on-Site and concentrations detected in all other soil samples are below their respective RCG Direct Contact commercial/industrial screening levels. Therefore, the contaminants are limited in extent and are not considered to be a Site exposure risk.
- All other COC concentrations detected in on-Site soil are below their respective RCG Direct Contact commercial/industrial screening levels.
- Although certain COC concentrations in subsurface soil exceed their respective RCG residential MTG screening levels, groundwater analytical results for all COCs are below their RCG residential screening levels, thus suggesting that no migration of contaminants from soil to groundwater is occurring.
- SS-14, in which PCBs were detected above applicable screening levels, was collected from the concrete floor of the former Building 22 which was subsequently demolished.

Furthermore, a soil sample collected adjacent to the building footprint was below the laboratory detection limit and a parking structure has been constructed above the SS-14 location, thus eliminating any potential direct contact exposure.

- The City of Gary Ordinance No. 7930 prohibits the use and installation of potable water wells, thereby helping to eliminate exposure to groundwater contamination.

Based on the information regarding known contaminant levels reviewed by IDEM, IDEM concludes that current Site conditions meet IDEM RCG non-default commercial/industrial closure standards and thus do not warrant a response action at this time and IDEM does not plan to take a response action to address contamination remaining on the Site. 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 no further action (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 NFA determination as the situation may warrant.

Since the Site will be utilized for commercial/industrial use and certain COC levels remain in soil on-Site above their respective RCG residential screening levels, an environmental restrictive covenant (ERC) is required to be recorded on the deeds for the parcels comprising the Site. IDEM is requiring land use restrictions via the enclosed ERCs with the following provisions, summarized below:

- Not use the Site for residential purposes, including, but not limited to, daily care facilities (e.g., daycare centers, schools and senior citizen facilities).
- Shall not use the Site for any agricultural purposes.
- Maintain the parking structure over the area of SS-14. If said parking structure is removed, complete a subsurface investigation of the area beneath SS-14 and mitigate any exposure risks based upon the results of the investigation.

In order for IDEM to consider this letter effective, the ERCs must be recorded on the deeds for the parcels comprising the Site in the Lake County Recorder's Office. Please return certified copies of the filed documents to the address listed below:

Indiana Brownfields Program
100 North Senate Avenue, Room 1275
Indianapolis, Indiana, 46204
ATTN: John Morris

Former Lehigh Cement - ARRA NFA Letter
BFD #4030005
February 22, 2013
Page 9 of 9

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 John Morris of the Indiana Brownfields Program at 317-234-8099 or toll-free at 1(800) 451-6027, extension 4-8099 or by e-mail at JoMorris1@ifa.IN.gov

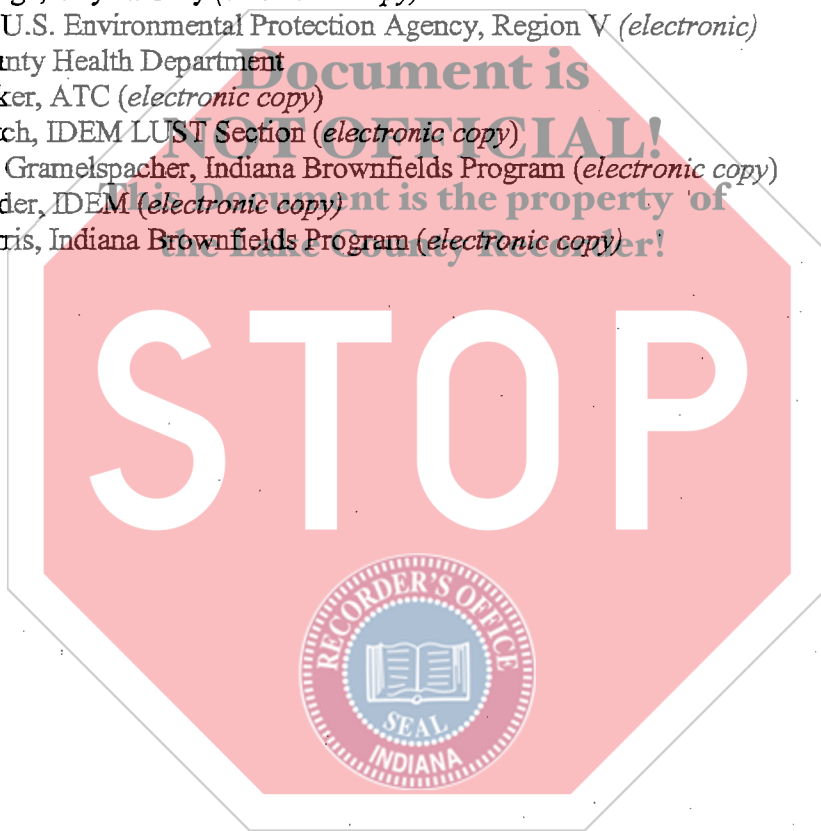
Sincerely,



Craig Schroer, Branch Chief
Underground Storage Tank Branch
Office of Land Quality

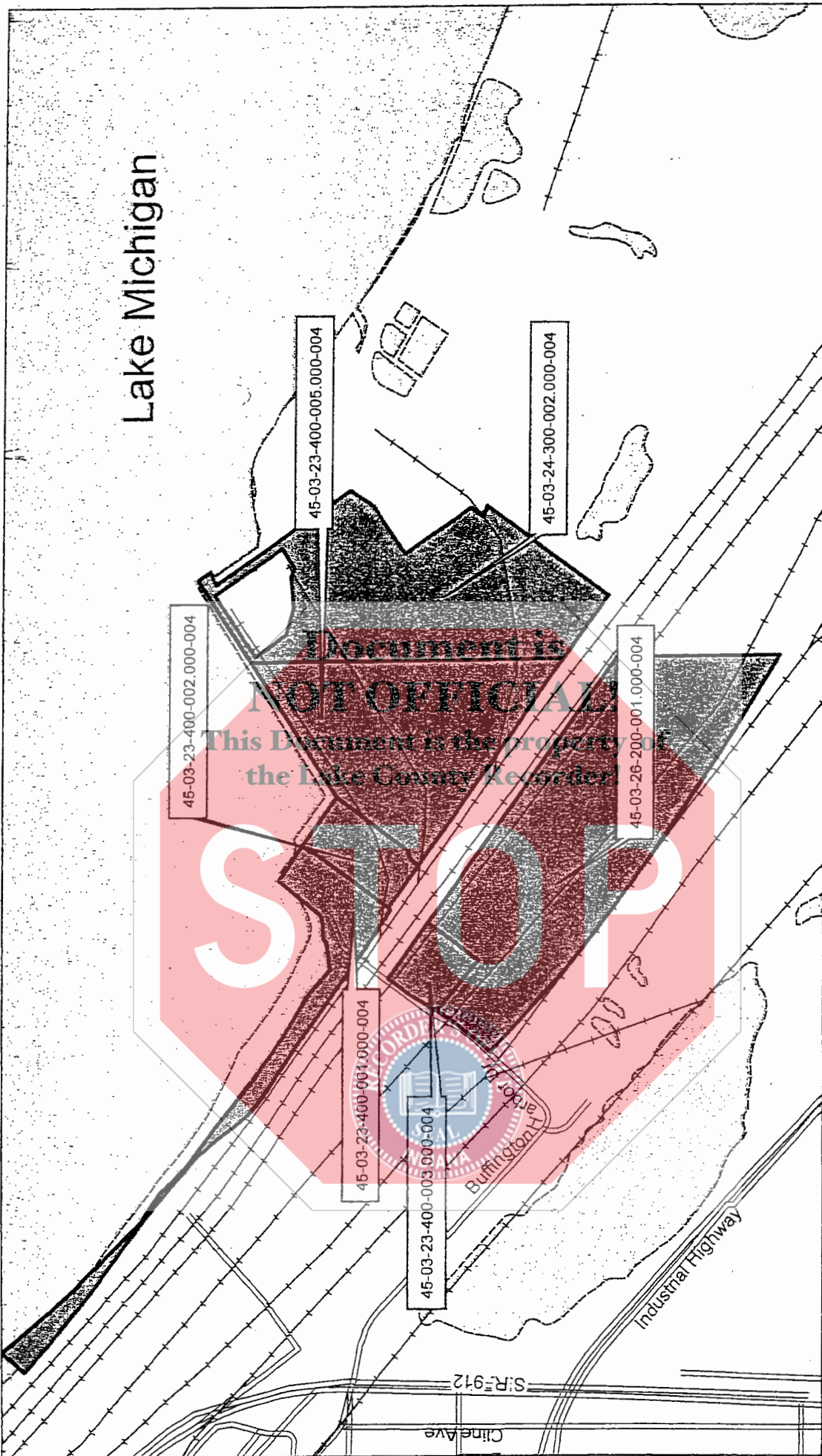
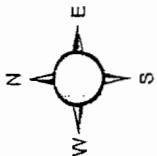
Attachments
Enclosure

cc: Lauren Riga, City of Gary (*electronic copy*)
Jan Pels, U.S. Environmental Protection Agency, Region V (*electronic*)
Lake County Health Department
Rob Walker, ATC (*electronic copy*)
Tim Veatch, IDEM LUST Section (*electronic copy*)
Meredith Gramelspacher, Indiana Brownfields Program (*electronic copy*)
Kim Vedder, IDEM (*electronic copy*)
John Morris, Indiana Brownfields Program (*electronic copy*)

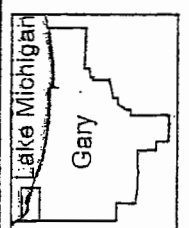




Former LeHigh Parcels Gary, Lake County, Indiana



Sources:
 Sample Data - Obtained from former LeHigh and Buffalo Harbor reports.
 Parcel Data - Lake County, Indiana.
 All other data obtained from the State of Indiana Geographic Information Officer's (GIO) data library
 Map Projection: UTM Zone 16 N
 Map Datum: NAD83



Legend

- Railroad
- Road
- Parcel Boundary
- Waterbody

0 250 500 1,000 Feet

0 62.5 125 250 Meters

This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.
 Mapped By:
 Kim Vedder, Office of Land Quality
 Date: 12/17/2012

This Document is the property of
 the Lake County Recorder
 STOP
 NOT OFFICIAL

Table 1
Documents Reviewed
Soil/Groundwater Investigation and Remediation Report
Former Lehigh Portland Cement Company
One Buffington Harbor Drive - Gary, IN
ATC Project No. 86.35994.0013

Report Title	Author	Date
Phase I Environmental Site Assessment - Buffington Station	Finor Daniel	May-95
Phase II Environmental Site Assessment Buffington Station	Finor Daniel	May-95
UST Closure Notification - Lehigh Portland Cement Co.	Krikau, Pyles, Rysiewicz and Associates, Inc.	18-Aug-1995
UST System Closure Report - Lehigh Portland Cement, Buffington Harbor	Krikau, Pyles, Rysiewicz and Associates, Inc.	28-May-1999
Phase I Environmental Site Assessment - Lehigh Portland Cement Company Property - Buffington Station	Cole Associates, Inc.	October-99
Phase II Environmental Site Assessment - Lehigh Portland Cement Company Property - Buffington Station	Cole Associates, Inc.	November-99
Phase 2 Environmental Site Assessment - Former Lehigh Portland Cement Company Property, Buffington Station	CHC Technologies, Inc.	14-Dec-2000
Initial Site Characterization Report - Project Site B-13 at Gary New Century LLC (Former Lehigh Portland Cement Company Property)	CHC Technologies, Inc.	November-01
Initial Site Characterization Report - Project Site B-14 at Gary New Century LLC (Former Lehigh Portland Cement Company Property)	CHC Technologies, Inc.	November-01
Initial Site Characterization Report - Project Site B-14/20 at Gary New Century LLC (Former Lehigh Portland Cement Company Property)	CHC Technologies, Inc.	November-01
Initial Site Characterization Report - Project Site B-30 at Gary New Century LLC (Former Lehigh Portland Cement Company Property)	CHC Technologies, Inc.	November-01
Initial Site Characterization Report - Project Site B-33 at Gary New Century LLC (Former Lehigh Portland Cement Company Property)	CHC Technologies, Inc.	November-01
Initial Site Characterization Report - Project Site B-35 at Gary New Century LLC (Former Lehigh Portland Cement Company Property)	CHC Technologies, Inc.	November-01
Portland Cement Company)	CHC Technologies, Inc.	April-02
Closure Report for Project Site B-14 Hot Spot 1, Gary New Century LLC (Former Lehigh Portland Cement Company Property)	CHC Technologies, Inc.	August-03
Closure Report for Project Site B-14 Hot Spot 2, Gary New Century LLC (Former Lehigh Portland Cement Company Property)	CHC Technologies, Inc.	August-03
Technical Comments - Closure Reports B-14, B-40 Corrective Action Progress Report - Former Lehigh Portland Cement - Buffington Harbor	Indiana Department of Environmental Management	4-Jan-2004
Phase II Environmental Site Assessment Report and Impacted Soil Closure Report - Former Lehigh Portland Cement Company, Buffington Harbor	Integrated Environmental Solutions, Inc.	25-Oct-2004
Soil and Groundwater Investigation - Former Lehigh Portland Cement Co., Inc.	ATC Associates Inc.	4-Nov-2005
Additional Soil and Groundwater Investigation - Former Lehigh Cement Plant, Buffington Harbor	ATC Associates Inc.	1-Feb-2006
Remediation Work Plan - Gary Marina Access Road Phase 2A	ATC Associates Inc.	15-Feb-2006

Table 2
Former LeHigh Portland Cement/Bufington Harbor
Surface Soil Sample Results Exceeding Direct Contact Residential Screening Levels

Sample			Contaminant Detected (parts per million)									
Location	Date	Depth (feet bgs)	Benzo(a)anthracene	Benzo(a)pyrene	Benzo(b) fluoranthene	Dibenz(a,h) anthracene	Indeno(1,2,3-cd) pyrene	Chrysene	Arenic	Thallium	Lead	Chromium hexavalent
SS-03	7/1994	unk	-	-	-	-	-	-	-	-	-	-
SS-08	7/1994	unk	-	-	-	-	-	-	5.65	-	-	-
SB-4	9/1999	2-4	-	-	-	-	-	-	5.72	-	-	-
SB-7	10/1999	2-4	-	1.07	-	0.541	-	-	-	-	-	-
SB-10	10/1999	8-11	-	0.643	-	-	-	-	-	-	-	-
SB-11	10/1999	4-6	-	0.794	-	-	-	-	-	-	-	-
SB-12	10/1999	6-8	-	0.362	-	-	-	-	-	-	-	-
SB-16	10/1999	1-3	-	-	-	-	-	-	12.8	-	-	-
B30Hmw-2	7/2001	unk	-	-	-	-	-	-	12.2	-	-	-
BB-22	9/2005	unk	-	-	-	-	-	-	-	-	-	-
BB-72A	9/2005	unk	-	0.25	-	-	-	-	-	-	-	-
BB-84	9/2005	unk	-	0.27	-	-	-	-	-	-	-	-
BB-86	9/2005	unk	-	0.22	-	-	-	-	-	-	-	-
BB-87	9/2005	unk	-	0.39	-	-	-	-	-	-	-	-
C-1/P-2	9/2005	2-4	-	-	-	-	-	-	6.36	6.4	-	-
RCG	Residential		2.1	0.21	2.1	0.21	2.1	210	5.5	1.1	400	4.1
Soil Direct Contact Screening Levels (parts per million)	Commercial/Industrial		21	2.1	21	2.1	21	2,100	16	10	1,300	56
	Excavation		1,300	130	1,300	130	1,300	100,000	430	17	970	2,400

Notes: *Italics* = >Direct Contact Residential Screening Level
Bold = > Direct Contact Commercial/Industrial Screening Level
Bold = > Excavation Screening Level
bgs = below grade surface
"-" = below Direct Contact Residential Screening Level
unk = unknown

Table 2 Continued
Former LeHigh Portland Cement/Bufington Harbor
Surface Soil Sample Results Exceeding Direct Contact Residential Screening Levels

Sample		Contaminant Detected (parts per million)										
Location	Date	Depth (feet bgs)	Benzo(a)anthracene	Benzo(a)pyrene	Benzo(b) fluoranthene	Dibenz(a,h) anthracene	Indeno(1,2,3-cd) pyrene	Chrycene	Areneic	Thallium	Lead	Chromium hexavalent
C-10/P-38	9/2005	0-2	-	-	-	-	-	-	-	13.6	-	-
C-10/P-39	9/2005	4-6	-	-	-	-	-	-	6.1	-	-	-
C-10/P-40	9/2005	0-2	-	-	-	-	-	-	16.6	6.75	-	-
C-2/P-7	9/2005	0-2	-	0.86	-	-	-	-	6.7	4.03	-	-
C-2/P-7	9/2005	4-6	-	1.7	2.2	-	-	-	-	3.4	-	-
C-3/P-9	9/2005	0-2	-	-	-	-	-	-	6.91	3.45	-	-
C-4/P-15	9/2005	2-4	-	-	-	-	-	-	-	4.25	-	-
C-4/P-15	9/2005	8-10	-	-	-	-	-	-	-	3.07	-	-
C-5/P-20	9/2005	0-2	-	-	-	-	-	-	8.25	4.83	-	-
C-5/P-20	9/2005	4-6	-	-	-	-	-	-	-	3.63	-	-
C-6/P-24	9/2005	0-2	-	-	-	-	-	-	-	4.15	-	-
C-6/P-24	9/2005	8-10	-	-	-	-	-	-	-	7.76	-	-
C-7/P-25	9/2005	0-2	-	-	-	-	-	-	5.99	3.36	-	-
C-7/P-26	9/2005	0-2	-	-	-	-	-	-	-	5.1	-	-
C-7/P-26	9/2005	8-10	-	0.48	-	-	-	-	-	4.45	-	-
RCG	Residential		2.1	0.21	2.1	0.21	2.1	210	5.5	1.1	400	4.1
Soil Direct Contact Screening Levels (parts per million)	Commercial/Industrial		21	2.1	21	2.1	21	2,100	16	10	1,300	56
	Excavation		1,300	130	1,300	130	1,300	100,000	430	17	970	2,400

Notes: *Italics* = > Direct Contact Residential Screening Level
Bold = > Direct Contact Commercial/Industrial Screening Level
Bold = > Excavation Screening Level
 bgs = below grade surface
 "bgs" = below Direct Contact Residential Screening Level

Table 2 Continued
Former LeHigh Portland Cement/Bufington Harbor
Surface Soil Sample Results Exceeding Direct Contact Residential Screening Levels

Sample			Contaminant Detected (parts per million)									
Location	Date	Depth (feet bgs)	Benz(a)anthracene	Benz(a)pyrene	Benz(b) fluoranthene	Dibenz(a,h) anthracene	Indeno(1,2,3-cd) pyrene	Chryrene	Arsenic	Thallium	Lead	Chromium hexavalent
C-7/P-27	9/2005	2-4	-	-	-	-	-	-	-	5.37	-	-
C-7/P-27	9/2005	6-8	-	-	-	-	-	-	-	4.38	-	-
C-8/P-30	9/2005	0-2	-	-	-	-	-	-	-	5.03	-	-
C-8/P-31	9/2005	0-2	-	-	-	-	-	-	-	14.6	-	-
C-8/P-31	9/2005	6-8	-	-	-	-	-	-	-	19.5	-	-
C-8/P-32	9/2005	0-2	-	-	-	-	-	-	5.64	6.12	-	-
C-8/P-32	9/2005	8-10	-	-	-	-	-	-	7.2	-	-	-
C-8/P-32	9/2005	8-10	-	-	-	-	-	-	-	6.27	-	-
C-9/P-34	9/2005	0-2	-	-	-	-	-	-	-	3.34	-	-
C-9/P-36	9/2005	0-2	-	-	-	-	-	-	-	20.6	-	-
C-2/P-7A	11/2005	0-2	-	0.63	-	-	-	-	-	-	-	-
C-2/P-7A	11/2005	2-4	-	0.22	-	-	-	-	-	-	-	-
B14-19	1/2006	6-8	-	-	-	-	-	-	-	2.74	-	-
B14-15	1/2006	2-4	-	-	-	-	-	-	-	5.32	-	-
B14-16	1/2006	0-2	-	-	-	-	-	-	8.63	11.1/13.3	-	-
RCG Soil Direct Contact Screening Levels (parts per million)	Residential		2.1	0.21	2.1	0.21	2.1	2.1	5.5	1.1	400	4.1
	Commercial/Industrial		21	2.1	21	2.1	21	2,100	16	10	1,300	56
	Excavation		1,300	130	1,300	130	1,300	100,000	430	17	970	2,400

Notes: *Italics* = > Direct Contact Residential Screening Level
Bold = > Direct Contact Commercial/Industrial Screening Level
Bold = > Excavation Screening Level
bgs = below grade surface
“-” = below Direct Contact Residential Screening Level

Table 2 Continued
 Former LeHigh Portland Cement/Bufington Harbor
 Surface Soil Sample Results Exceeding Direct Contact Residential Screening Levels

Sample		Contaminant Detected (parts per million)										
Location	Date	Depth (feet bgs)	Benz(o)a)anthracene	Benz(o)a)pyrene	Benzo(b) fluoranthene	Dibenz(a,h) anthracene	Indeno(1,2,3-cd) pyrene	Chrysene	Arenic	Thallium	Lead	Chromium hexavalent
B14-17	1/2006	0-2	-	-	-	-	-	-	10.6	23.5	634	-
B14-14 (offsite)	1/2006	0-2	-	-	-	-	-	-	-	2.29	-	-
		6-8	-	-	-	-	-	-	-	2.61	-	-
B14MW-6 (offsite)	1/2006	0-2	-	-	-	-	-	-	-	5.88	-	-
B14MW-7 (offsite)	1/2006	0-2	-	-	-	-	-	-	-	8.19	-	-
B14MW-8	1/2006	0-2	-	-	-	-	-	-	7.1	2.7	617	-
B14MW-9	1/2006	0-2	-	-	-	-	-	-	-	-	-	-
T10-B2	4/2011	0 - 0.5	-	0.81	-	-	-	-	-	-	-	-
T10-B3	4/2011	0 - 0.5	-	1.22	-	-	-	-	-	-	-	-
BB-32	5/2011	0.5-1.5	-	0.25	-	-	-	-	-	-	-	-
BB-33	5/2011	1-2	-	0.44	-	-	-	-	11	-	-	-
BB-34	5/2011	6-7	-	0.31	-	-	-	-	-	-	-	-
BB-36	5/2011	8-9	-	0.46	-	-	-	-	-	-	-	-
RCG	Residential		2.1	0.21	2.1	0.21	2.1	210	5.5	1.1	400	4.1
Soil Direct Contact Screening Levels (parts per million)	Commercial/Industrial		21	2.1	21	2.1	21	2,100	16	10	1,300	56
	Excavation		1,300	130	1,300	130	1,300	100,000	430	17	970	2,400

Notes: *Italics* = > Direct Contact Residential Screening Level
Bold = > Direct Contact Commercial/Industrial Screening Level
Bold = > Excavation Screening Level
 bgs = below grade surface
 "u" = below Direct Contact Residential Screening Level

Table 2 Continued
Former LeHigh Portland Cement/Bufington Harbor
Surface Soil Sample Results Exceeding Direct Contact Residential Screening Levels

Sample			Contaminant (parts per million)									
Location	Date	Depth (feet bgs)	Benzo(a)anthracene	Benzo(a)pyrene	Benzo(b) fluoranthene	Dibenz(a,h) anthracene	Indeno(1,2,3-cd) pyrene	Chrysene	Arsenic	Thallium	Lead	Chromium hexavalent
BB-38	5/2011	3-4	-	0.25	-	-	-	-	-	-	-	-
BB-57	5/2011	0.5-1.5	-	-	-	-	-	-	6.2	-	-	-
BB-58	5/2011	2-3	-	0.36	-	-	-	-	-	-	-	-
BB-59	5/2011	1-2	-	-	-	-	-	-	25	-	-	-
BB-77	5/2011	2-3	60	36/0.28	41	7.2	14	-	-	-	-	-
BB-79	5/2011	4-5	-	1.2	-	0.29	-	-	-	-	-	-
BB-81	5/2011	2-4	-	0.9	-	0.22	-	-	-	-	-	-
BB-82A	5/2011	2-3	-	-	-	-	-	-	12	-	-	-
BB-1	5/2011	0.5-1	-	0.22	-	-	-	-	10	-	-	-
BB-5	5/2011	1-2	-	0.24	-	-	-	-	5.8	-	-	-
BB-10	5/2011	1-2	-	-	-	-	-	-	28	-	-	-
BB-15	5/2011	1-2	-	-	-	-	-	-	33/19	-	-	-
BB-16	5/2011	0.2-1.2	-	0.46	-	-	-	-	-	-	-	-
BB-17	5/2011	0.2-1.2	-	0.21	-	-	-	-	-	-	-	-
BB-18	5/2011	0.5-1.5	-	0.22	-	-	-	-	17	-	-	-
RCG	Residential		2.1	0.21	2.1	0.21	2.1	210	5.5	1.1	400	4.1
Soil Direct Contact Screening Levels (parts per million)	Commercial/Industrial		21	2.1	21	2.1	21	2,100	16	10	1,300	56
	Excavation		1,300	130	1,300	130	1,300	100,000	430	17	970	2,400

Notes: *Italics* = > Direct Contact Residential Screening Level
Bold = > Direct Contact Commercial/Industrial Screening Level
Bold = > Excavation Screening Level

bgs = below grade surface
 "-" = below Direct Contact Residential Screening Level

Table 2 Continued
 Former LeHigh Portland Cement/Bufington Harbor
 Surface Soil Sample Results Exceeding Direct Contact Residential Screening Levels

Sample		Contaminant Detected (parts per million)										
Location	Date	Depth (feet bgs)	Benzo(a)anthracene	Benzo(a)pyrene	Benzo(b) fluoranthene	Dibenz(a,h) anthracene	Indeno(1,2,3-cd) pyrene	Chrysenes	Arsenic	Thallium	Lead	Chromium hexavalent
BB-74	5/2011	1-2	-	0.37	-	-	-	-	-	-	-	-
BB-75	5/2011	3-4	-	2	-	0.32	-	-	-	-	-	-
BB-92	5/2011	0-1.5	770	520	230	79	350	650	-	-	-	-
BB-27	5/2011	1-2	-	-	-	-	-	-	7.2	-	-	-
BB-89 (offsite)	5/2011	0-2	-	0.26	-	-	-	-	11	-	-	-
BB-41	5/2011	0-2	-	0.37	-	-	-	-	-	-	-	-
BB-42	5/2011	1-2	-	0.56	-	-	-	-	-	-	-	-
BB-43	5/2011	0.5-1.5	-	0.28	-	-	-	-	-	-	-	-
BB-46	5/2011	3-4	-	-	-	-	-	-	6.1/7.8	-	-	-
BB-49	5/2011	2-3	-	0.21	-	-	-	-	-	-	-	-
BB-63	5/2011	4-5	-	0.27	-	-	-	-	-	-	-	-
BB-65	5/2011	4-5	-	0.48	-	-	-	-	-	-	-	-
BB-67A	5/2011	2-3	-	-	-	-	-	-	9.4	-	-	-
BB-68A	5/2011	2-3	-	-	-	-	-	-	9	-	-	-
BB-85	5/2011	3-4	-	1.1/0.37	-	-	-	-	24/32	-	-	-
RCG	Residential		2.1	0.21	2.1	0.21	2.1	2.10	5.5	1.1	400	4.1
Soil Direct Contact Screening Levels (parts per million)	Commercial/Industrial		21	2.1	21	2.1	21	2,100	16	10	1,300	56
	Excavation		1,300	130	1,300	130	1,300	100,000	430	17	970	2,400

Notes: *Italics* = > Direct Contact Residential Screening Level bgs = below grade surface
Bold = > Direct Contact Commercial/Industrial Screening Level "-" = below Direct Contact Residential Screening Level
Bold = > Excavation Screening Level

Table 2 Continued
Former LeHigh Portland Cement/Bufington Harbor
Surface Soil Sample Results Exceeding Direct Contact Residential Screening Levels

Sample		Contaminant Detected (parts per million)										
Location	Date	Depth (feet bgs)	Benzo(a)anthracene	Benzo(a)pyrene	Benzo(b) fluoranthene	Dibenz(a,h) anthracene	Indeno(1,2,3-cd) pyrene	Chrysene	Acenaphthene	Thallium	Lead	Chromium hexavalent
B14B Seg3	6/2011	6-8	-	-	-	-	-	-	6	-	-	-
B16A Seg3	6/2011	0-2	-	-	-	-	-	-	51.2	-	-	-
B40-72A	6/2011	0-2	-	-	-	-	-	-	14.7	-	-	-
B14-B20A	6/2011	0-2	-	-	-	-	-	-	7.2	-	-	-
B14-B21A	6/2011	0-2	-	-	-	-	-	-	49.8	-	1,020	-
B14-B22A	6/2011	0-2	-	-	-	-	-	-	34.8	-	-	-
B14-B23A	6/2011	0-2	-	-	-	-	-	-	9.5	-	-	-
B14-B23B	6/2011	4-6	-	-	-	-	-	-	16.1	-	2,060	-
B14-B24A	6/2011	0-2	-	-	-	-	-	-	16.2	-	672	-
B14-B25A	6/2011	0-2	-	-	-	-	-	-	27.2	-	1,110	-
B14-B26B	6/2011	4-6	-	-	-	-	-	-	30.5	-	-	-
B14-B28A	6/2011	0-2	-	-	-	-	-	-	25.3	-	-	-
B14-B28A	6/2011	0-2	-	-	-	-	-	-	-	-	809	-
T3-B4	7/2011	2-3	-	0.687	-	-	-	-	-	-	-	-
T3-B8	7/2011	0-0.5	-	-	-	-	-	-	13	-	-	-
Soil Direct Contact Screening Levels (parts per million)	Residential		2.1	0.21	2.1	0.21	2.1	210	5.5	1.1	400	4.1
	Commercial/Industrial		21	2.1	21	2.1	21	2,100	16	10	1,300	56
	Excavation		1,300	130	1,300	130	1,300	100,000	430	17	970	2,400

Notes: *Italics* = >Direct Contact Residential Screening Level
Bold = > Direct Contact Commercial/Industrial Screening Level
Bold = > Excavation Screening Level
bgs = below grade surface
“-” = below Direct Contact Residential Screening Level

Table 2 Continued
Former LeHigh Portland Cement/Bufington Harbor
Surface Soil Sample Results Exceeding Direct Contact Residential Screening Levels

Sample		Contaminant Detected (parts per million)										
Location	Date	Depth (feet bgs)	Benzo(a)anthracene	Benzo(a)pyrene	Benzo(b) fluoranthene	Dibenz(a,h) anthracene	Indeno(1,2,3-cd) pyrene	Chrysene	Arsenic	Thallium	Lead	Chromium hexavalent
T4-B6	7/2011	2-3	-	<i>0.751</i>	-	<i>0.239</i>	-	-	-	-	-	-
T4-B7	7/2011	2-3	-	<i>0.862</i>	-	<i>0.285</i>	-	-	-	-	-	-
T4-B7	7/2011	4-5	-	<i>0.223</i>	-	-	-	-	-	-	-	-
T8-B5 0-0.5	7/2011	0-0.5	-	-	-	-	-	-	7.6	-	-	-
T8-B5	7/2011	4-5	-	-	-	-	-	-	7.3/14.1	-	-	-
T10-B6	7/2011	0-0.5	-	<i>0.419</i>	-	-	-	-	-	-	-	-
T1-B10	7/2011	5-6	-	-	-	-	-	-	-	3	-	-
T1-B7	7/2011	5-6	-	<i>0.472</i>	-	-	-	-	-	-	-	-
T1-B9	7/2011	5-6	-	-	-	-	-	-	-	3.5	-	-
T1-B9	7/2011	8-9	-	-	-	-	-	-	-	2.1	-	-
T2-B6	7/2011	2-3	-	-	-	-	-	-	8.4	-	-	-
T2-B7	7/2011	2-3	-	-	-	-	-	-	6.3	-	-	-
T2-B8	7/2011	2-3	-	-	-	-	-	-	-	-	-	18
T2-B8	7/2001	5	-	-	-	-	-	-	-	-	-	12.5
T2-B10	7/2011	0-0.5	-	<i>0.987</i>	-	-	-	-	-	-	-	-
RCG Soil Direct Contact Screening Levels (parts per million)	Residential		2.1	0.21	2.1	0.21	2.1	2.1	5.5	1.1	400	4.1
	Commercial/Industrial		21	2.1	21	2.1	21	2,100	16	10	1,300	56
	Excavation		1,300	130	1,300	130	1,300	100,000	430	17	970	2,400

Notes: *Italics* = >Direct Contact Residential Screening Level
Bold = > Direct Contact Commercial/Industrial Screening Level
Bold = > Excavation Screening Level
bgs = below grade surface
“-“ = below Direct Contact Residential Screening Level

Table 2 Continued
Former LeHigh Portland Cement/Bufington Harbor
Surface Soil Sample Results Exceeding Direct Contact Residential Screening Levels

Sample			Contaminant Detected (parts per million)									
Location	Date	Depth (feet bgs)	Benz(a)anthracene	Benz(a)pyrene	Benz(b) fluoranthene	Dibenz(a,h) anthracene	Indeno(1,2,3-cd) pyrene	Chrysene	Arsenic	Thallium	Lead	Chromium hexavalent
T1-B5	8/2011	7-8	-	-	-	-	-	-	6.6	4.3	-	-
T1-B6	8/2011	5-6	-	0.695	-	-	-	-	-	-	-	-
T1-B6	8/2011	7-8	-	-	-	-	-	-	-	2.8	-	-
BB-35A	10/2011	BTM	-	0.224	-	-	-	-	-	-	-	-
T3-B3	10/2011	8-10	-	0.237	-	-	-	-	-	-	-	-
BB-35A	11/2011	EW	2.33	1.26/1.7	-	0.829/1.06	-	-	-	-	-	-
BB-60A (EW)	10/2011	unk	-	0.303	-	-	-	-	-	-	-	-
BB-60A (NW)	10/2011	unk	-	0.368	-	-	-	-	-	-	-	-
BB-60A (SW)	10/2011	unk	-	0.43	-	-	-	-	-	-	-	-
BB-60A (WW)	10/2011	unk	-	0.526	-	-	-	-	-	-	-	-
RCG	Residential		2.1	0.21	2.1	0.21	2.1	210	5.5	1.1	400	4.1
Soil Direct Contact Screening Levels (parts per million)	Commercial/Industrial		21	2.1	21	2.1	21	2,100	16	10	1,300	56
	Excavation		1,300	130	1,300	130	1,300	100,000	430	17	970	2,400

Notes: *Italics* = > Direct Contact Residential Screening Level
Bold = > Direct Contact Commercial/Industrial Screening Level
Bold = > Excavation Screening Level
bgs = below grade surface
"-" = below Direct Contact Residential Screening Level
unk = unknown

Table 3
Former LeHigh Portland Cement/Buffington Harbor
Subsurface Soil Sample Results Exceeding MTG Residential Screening Levels

Sample		Contaminant Detected (parts per million)									
Location	Date	Depth (feet bgs)	Arsenic	Benzo(a)anthracene	Dibenzofuran	Naphthalene	Methylene chloride	2-Methylnaphthalene	PCB Aroclor 1248	Selenium	Thallium
SSB-2	7/1994	unk	-	-	1.5	0.76	-	-	-	-	-
SSB-6	7/1994	unk	16.6	5	17	-	-	-	-	-	-
SS-12	7/1994	unk	-	-	-	-	-	1.28	-	-	-
SS-08	7/1994	unk	-	-	-	-	-	-	-	-	-
FB-5	11/2000	unk	-	-	4.2	-	-	36	-	-	-
B35-9	6/2001	unk	-	-	2.8	-	-	-	-	-	-
B33-A2	6/2001	unk	-	-	5.9	-	-	-	-	-	-
B30Hmw-2	7/2001	unk	12.2	-	-	0.31	-	-	-	-	-
B30Hmw-1	7/2001	unk	-	-	-	0.056	-	-	-	-	-
C-10/P-40	9/2005	10-12	12	-	-	0.05	-	-	-	-	6.2
BB-22	9/2005	unk	-	-	-	-	-	-	-	-	-
BB-84	9/2005	unk	-	-	-	0.21	-	-	-	-	-
BB-13	9/2005	unk	-	-	-	0.12	-	-	-	-	-
C-8/P-31	9/2005	10-12	-	-	-	-	-	-	-	9.12	9.78
C-8/P-32	9/2005	18-20	19.6	-	-	-	-	-	-	-	7.33
T1-B2	4/2011	12-14	-	-	-	-	-	-	-	-	6
T2-B2	4/2011	18-20	-	-	-	0.503	-	-	-	-	-
T8-P2	10/2011	unk	-	-	-	0.0995	-	-	-	-	-
RCG Soil MTG Residential Screening Levels (parts per million)			5.9	2.1	2.1	0.092	0.025	2.8	1	5.3	2.9

Notes: *Italics* = >MTG Residential Screening Level
 "-" = below MTG Residential Screening Level
 unk = unknown
 MTG = Migration To Groundwater
 bgs = below grade surface



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Michael R. Pence
Governor

Thomas W. Easterly
Commissioner

November 15, 2013

James LeFresne
President, Trillium Capital Development, Inc.
Authorized Representative for
The Majestic Star Casino, LLC
1 Buffington Harbor Drive
Gary, IN 46406

John C. Wheeler
Liquidating Trustee
Majestic Gary Land Trust
c/o Development Specialists, Inc.
70 W. Madison Street, Suite 2300
Chicago, IL 60602

Document is
NOT OFFICIAL
This Document is the property of
the Lake County Recorder
STOP

Re: **No Further Action Determination
Correction for Ownership Clarification**
Former Lehigh Portland Cement Facility
1 Buffington Harbor Drive
Gary, Lake County
LUST Incident #: 198905506 & 200101119
UST Facility ID #: 5291
Brownfield Site #: 4030005

Dear Msrs. LeFresne and Wheeler:

On February 22, 2013, the Indiana Department of Environmental Management (IDEM) issued a No Further Action (NFA) determination letter for the above-referenced facility which, as a part of conditional commercial/industrial closure of the environmental conditions on the site, included several environmental restrictive covenants (ERCs) that were to be recorded on the deeds for several of the parcels that formerly comprised the Lehigh Portland Cement Facility (Former Lehigh Facility). Subsequent to the issuance of the NFA, it was brought to IDEM's attention that the parcel ownership information upon which the ERCs were based was not accurate. IDEM has now clarified the current ownership of the property that composed the Former Lehigh Facility. This letter (NFA Correction Letter) corrects the errors in the February 22, 2013 NFA and provides the correct number of proposed ERCs associated with the correct deeds for those portions of the Former Lehigh Facility that require land use restrictions as condition of IDEM's NFA determination in order to ensure no exposure risks associated with contamination remaining on the affected properties.



Site History

The approximately 165-acre Former Lehigh Facility consists of eight parcels (as identified by the county) located on and near the south shore of Lake Michigan and is bordered by Lake Michigan to the north, and by commercial and industrial properties in the remaining directions. The owners of the eight parcels are indicated on the table below. The Former Lehigh Facility contains commercial facilities, including parking used in association with the Majestic Star Casino, former industrial buildings used for storage, vacant land, and abandoned industrial structures. Pursuant to the conditions of the February 22, 2013 NFA letter, ERCs are required to be recorded on three separate deeds that cover the areas of the Former Lehigh Facility affected by remaining contamination.

Parcel Identification for the Former Lehigh Facility

Parcel No.	Owner(s)	General Address	Parcel ID	Total Acreage	Date of MSC Deed	Date of MGLT Deed
1 ¹	MSC	1 Buffington Harbor Drive	45-03-23-400-001.000-004	10.68	12/31/06	N/A
2	Gary New Century, LLC	Buffington Harbor Drive	45-03-23-400-007.000-004	4.284	N/A	
3	Gary New Century, LLC	Buffington Harbor Drive	45-03-24-300-004.000-004	1.517		
4	MSC	APPR 1200 N Cline Avenue	45-03-23-400-002.000-004	6.078	9/29/00	12/1/11
5	MSC/MGLT	APPR 1200 N Cline Avenue	45-03-23-400-005.000-004	36.819	2/9/04	
6	MSC/MGLT	None	45-03-24-300-002.000-004	44		
7	MGLT	APPR 200 Morse Street	45-03-23-400-003.000-004	4.548	N/A	
8	MSC/MGLT	APPR 200 Morse Street	45-03-26-200-001.000-004	63.574	2/9/04	

Note: N/A = Not Applicable

Historical records indicate various cement production facilities operated on the Former Lehigh Facility from at least 1908 through 2000. The Lehigh Portland Cement Company owned the Former Lehigh Facility from 1980 until 2000 and operated in over 30 buildings. The operations at the Former Lehigh Facility accepted waste oils from outside sources that were

¹ The property identified as parcels 1-3 on the table, while part of the Former Lehigh Facility, did not have any environmental conditions necessitating land use restrictions. See below for discussion on environmental restrictive covenants.

utilized as fuel. Following the cement plant closure, the City of Gary (Gary) acquired the Former Lehigh Facility to develop the lakefront areas. Subsequently, Barden Companies, Inc. (Barden) purchased the Former Lehigh Facility and established Gary New Century, LLC. Majestic Star Casino, LLC (MSC) is the successor owner to Gary New Century, LLC.² On December 1, 2011, through the MSC bankruptcy proceedings, four of the eight parcels comprising the Former Lehigh Facility were deeded in whole or in part to the Majestic Gary Land Trust. Current Site reuse plans are for commercial/industrial redevelopment.

As discussed in greater detail in the February 22, 2013 NFA Letter, since the Site will be utilized for commercial/industrial use and certain contaminant levels remain in soil on the Former Lehigh Facility above their respective residential screening levels under the Remediation Closure Guide (RCG) (March 22, 2012 and applicable revisions), an environmental restrictive covenant (ERC) is required to be recorded on the three deeds for the affected parcels partially comprising the Former Lehigh Facility. IDEM is requiring land use restrictions via the enclosed ERCs with the following provisions for all three ERCs, summarized below:

- Not use the property for residential purposes, including, but not limited to, daily care facilities (e.g., daycare centers, schools and senior citizen facilities).
- Shall not use the property for any agricultural purposes.

The ERC for the deed for the property on which the parking garage sits also requires the following additional land use restriction, summarized below:

- Maintain the parking structure over the area of SS-14. Neither engage in nor allow demolition of the current parking structure or excavation of soil below the existing parking structure without first submitting a work plan for approval by IDEM at least sixty (60) days prior to beginning work. If the parking structure is removed, complete a subsurface investigation of the area beneath SS-14 and mitigate any exposure risks based upon the results of the investigation.

In order for IDEM to consider this letter effective, the ERCs must be recorded on the deeds for the affected parcels in the Lake County Recorder's Office. Please return certified copies of the filed documents to the address listed below:

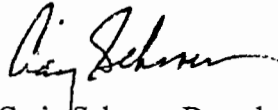
Indiana Brownfields Program
100 North Senate Avenue, Room 1275
Indianapolis, Indiana, 46204
ATTN: John Morris

² Non-debtor Gary New Century, LLC (GNC) retained approximately six acres of land that was formerly part of the Lehigh Facility, identified as parcels 2 & 3 on the table. MSC and its debtor affiliates are owners of various easements and other rights in the GNC property that permit them to perpetually operate their business at the Buffington Harbor location, subject to certain reservations, restrictions, and limitations contained in various recorded and unrecorded instruments.

Former Lehigh Facility – NFA Correction Letter
Brownfield Site # 40300005
November 15, 2013
Page 4 of 4

IDEM and the Indiana Brownfields Program are pleased to assist with the necessary corrections to the previously issued NFA Letter for the Former Lehigh Facility. Should you have any questions, please contact John Morris of the Indiana Brownfields Program at 317-234-8099 or toll-free at 1(800) 451-6027, extension 4-8099 or by e-mail at JoMorris1@ifa.IN.gov.

Sincerely,



Craig Schroer, Branch Chief
Underground Storage Tank Branch
Office of Land Quality

cc: Jan Pels, U.S. Environmental Protection Agency, Region V (*electronic copy*)
Pete Julovich, City of Gary (*electronic copy*)
Lake County Health Department - 2900 West 93rd Avenue, Crown Point, IN 46307
Meredith Gramelspacher, Indiana Brownfields Program (*electronic copy*)
John Morris, Indiana Brownfields Program (*electronic copy*)
Tim Veatch, IDEM DUST Section (*electronic copy*)
Kim Vedder, IDEM (*electronic copy*)
Rob Walker, ATC (*electronic copy*)



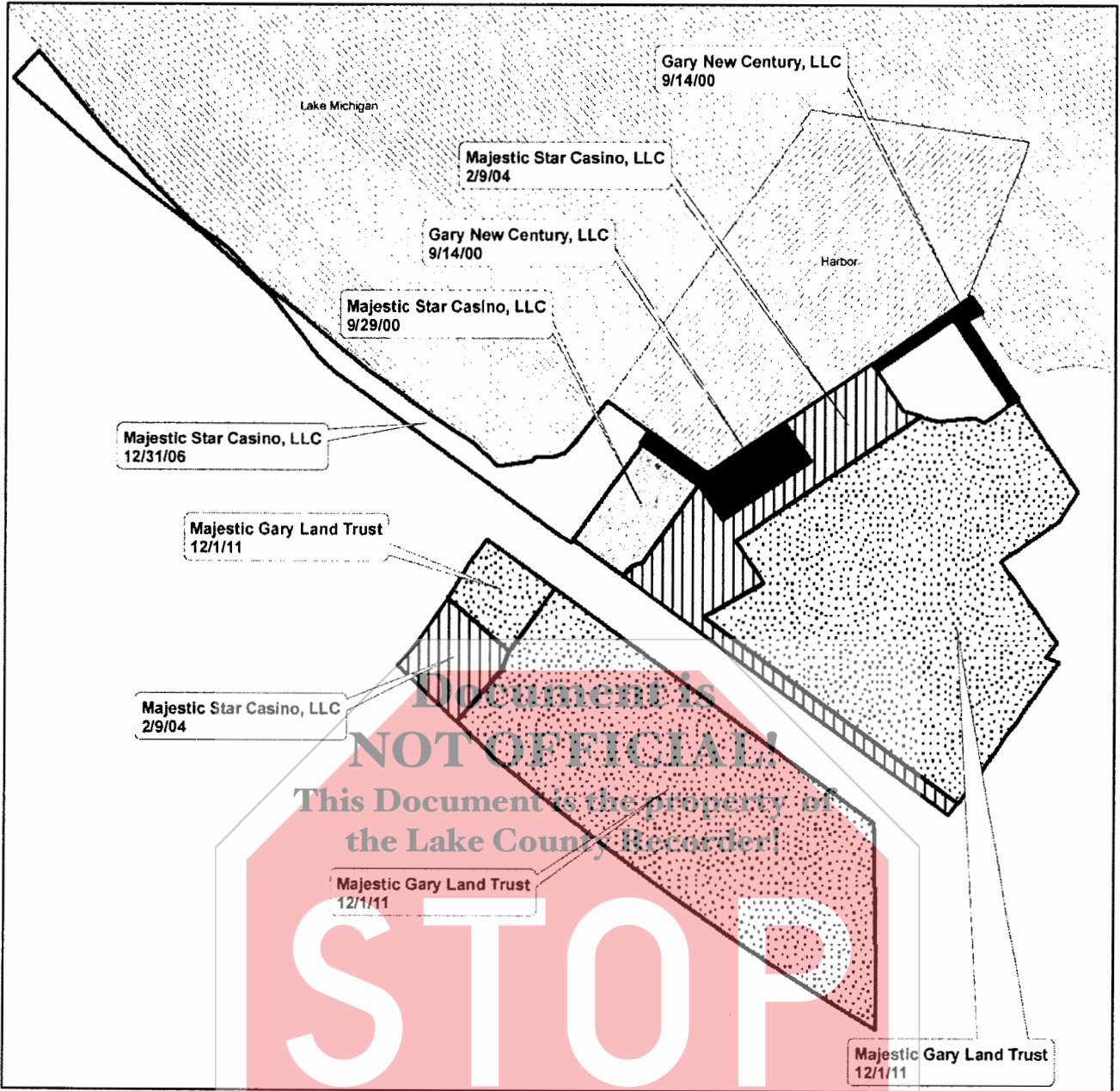
EXHIBIT D

Site Map Depicting the Former Lehigh Facility ("Site")



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.

Former Lehigh Facility



Mapped By: Mike Hill, IDEM, Office of Land Quality, Science Services Branch, Engineering & GIS Services, September 19, 2013

Parcel Identification Source: Refer to "Parcel Identification for the Former Lehigh Facility" table in the Fiduciary Liability Comfort Letter for Former Lehigh Portland Cement / Gary Lakefront Development, Brownfield Site #4030005

Location Info: City of Gary
Calumet Township
Lake County, IN

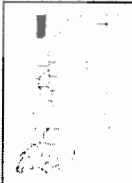
Disclaimer: This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.



	MGLT 12/1/11
	MSC 12/31/06
	MSC 2/9/04
	MSC 9/29/00
	GNC 9/14/00
	Lake Michigan
	Harbor



Lake County



Project Area

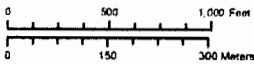
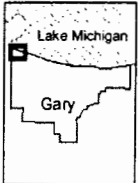


EXHIBIT E

TABLE 1

**Former LeHigh Portland Cement/Buffington Harbor
Majestic Star Casino, LLC**

Surface Soil Sample Results Exceeding Direct Contact Residential Screening Levels



TABLE 1

Former LeHigh Portland Cement/Buffington Harbor
Majestic Star Casino, LLC

Surface Soil Sample Results Exceeding Direct Contact Residential Screening Levels

Sample			Contaminant (parts per million)				
Location	Date	Depth (feet bgs)	Benzo(a) pyrene	Benzo(b) fluoranthene	Dibenz(a,h)- anthracene	Arsenic	Thallium
BB-1	5/2011	0.5-1	0.22	-	-	10	-
C-1/P-2	9/1/05	2-4	-	-	-	6.36	6.4
C-2/P-7	9/14/05	0-2	0.86	-	-	6.7	4.03
	9/14/05	4-6	1.7	2.2	-	-	3.4
C-2/P-7A	11/21/05	0-2	0.63	-	-	-	-
	11/21/05	2-4	0.22	-	-	-	-
C-3/P-9	9/1/05	0-2	-	-	-	6.91	3.45
C-4/P-15	9/1/05	0-2	-	-	-	-	4.25
	9/1/05	2-4	-	-	-	-	3.07
C-5/P-20	9/14/05	0-2	-	-	-	8.25	4.83
	9/14/05	4-6	-	-	-	-	3.63
C-7/P-25	9/1/05	0-2	-	-	-	5.99	3.36
C-10/P-39	1/1/05	4-6	-	-	-	6.1	-
SB-7	10/1/99	2-4	1.07	-	0.541	-	-
RCG Soil DCSLs		Residential	0.21	2.1	0.21	5.5	1.1
		Commercial/Industrial	2.1	21	2.1	16	10
		Excavation	130	1,300	130	430	17

Notes: “-” = below Direct Contact Residential Screening Level
Italics = >Direct Contact Residential Screening Level
Bold = >Direct Contact Commercial/Industrial Screening Level
 bgs = below grade surface