

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SHREE KUBER INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 21-03
	)	PCB 21-05
ILLINOIS ENVIRONMENTAL	)	(UST Appeal)
PROTECTION AGENCY,	)	(Consolidated)
	)	
Respondent.	)	

**NOTICE OF FILING**

TO: Don Brown	Carol Webb
Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
James R. Thompson Center	1021 North Grand Avenue East
100 West Randolph, Suite 11-500	Post Office Box 19274
Chicago, Illinois 60601	Springfield, Illinois 62794-9274
<b>(VIA ELECTRONIC MAIL)</b>	<b>(VIA ELECTRONIC MAIL)</b>

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a **PETITIONER’S MOTION FOR PARTIAL SUMMARY JUDGMENT**, a copy of which is herewith served upon you.

Respectfully submitted,

Shree Kuber, Inc.  
Petitioner,

DATE: July 15, 2021

By:     /s/ Melissa S. Brown      
One of Its Attorneys

Jennifer M. Martin  
Melissa S. Brown  
HEPLERBROOM, LLC  
4340 Acer Grove Drive  
Springfield, IL 62711  
[Jennifer.Martin@heplerbroom.com](mailto:Jennifer.Martin@heplerbroom.com)  
[Melissa.Brown@heplerbroom.com](mailto:Melissa.Brown@heplerbroom.com)  
(217) 528-3674

**CERTIFICATE OF SERVICE**

I, Melissa S. Brown, the undersigned, hereby certify that I have served the attached

**PETITIONER'S MOTION FOR PARTIAL SUMMARY JUDGMENT** on:

Don Brown  
Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

Carol Web  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
Post Office Box 19274  
Springfield, Illinois 62794-9274

Melanie Jarvis  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794

That my email address is [Melissa.Brown@heplerbroom.com](mailto:Melissa.Brown@heplerbroom.com).

That the number of pages in the email transmittal is 34 pages.

That the email transmission took place before 5:00 p.m. on the date of July 15, 2021.

/s/ Melissa S. Brown  
Melissa S. Brown

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SHREE KUBER INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 21-03
	)	PCB 21-05
ILLINOIS ENVIRONMENTAL	)	(UST Appeal)
PROTECTION AGENCY,	)	(Consolidated)
	)	
Respondent.	)	

**PETITIONER’S MOTION FOR PARTIAL SUMMARY JUDGMENT**

Petitioner, Shree Kuber, Inc., by its attorneys, pursuant to Section 101.516 of the Illinois Pollution Control Board’s (“Board”) procedural regulations, 35 Ill. Adm. Code 101.516, hereby moves for partial summary judgment, stating as follows:

**I. STATEMENT OF UNDISPUTED FACTS**

The facts are not in dispute in this matter. Petitioner, Shree Kuber, Inc., is the owner or operator of the underground storage tanks (“USTs”) located at 1406 North Prospect Avenue, Champaign, Champaign County, Illinois (“Site”) assigned LPC #0190105433. 2008 Corrective Action Plan, PCB 21-03 R0183. In 2008, Freedom Oil Company was the owner or operator of USTs located at the Site. 2008 45-Day Report, PCB 21-03 R0009.

**A. The 2008 Incident**

In 2008, there were a total of eight USTs present at the Site. 2008 45-Day Report, PCB 21-03 R0016. Tank 1 was a 6,000-gallon diesel fuel UST located in the center of the Site, Tanks 2 through 5 were gasoline USTs varying in size located in the southwest portion of the Site, and Tank 6 was a 10,000-gallon diesel fuel UST located in the northeast portion of the Site. *Id.* at R0029. Additionally, Tank 7 and Tank 8, a 8,000-gallon gasoline tank and 12,000-gallon gasoline tank, respectively, were located at the site. *Id.* On February 25, 2008, a suspected

release of diesel fuel from the Site was reported to the Illinois Emergency Management Agency (“IEMA”) and was assigned Incident No. 20080255 (“2008 Incident”). *Id.* at R0011. On June 3, 2008, Freedom Oil submitted its 45-Day Report/Report of Early Action to the Agency (hereinafter “2008 45-Day Report”). *Id.* at R0001-0064.

As set forth in the 45-Day Report for the 2008 Incident, a preliminary inspection of the site revealed the presence of contamination near the vicinity of the UST system. *Id.* at R0012. In April 2008, personnel and equipment were mobilized to the Site for UST removal activities. *Id.* at R0016. On April 1, 2008, Tank 1, a 6,000-gallon diesel fuel UST, was removed, and four gasoline USTs (Tanks 2, 3, 4, and 5) were emptied and abandoned in place. *Id.* at R0012, 0016, 0029, 0054-60. The USTs were decommissioned under the supervision of an Office of the State Fire Marshal (“OSFM”) representative. *Id.* at R0016. The Permit for Removal of UST issued by OSFM indicated that Tank 1 was the diesel tank that was leaking. *Id.* at R0053.

Upon removal of Tank 1, soil samples were collected from the UST excavation and sent to a laboratory for analysis. 2008 45-Day Report, PCB 21-03 R0012, 00016-17. The 45-Day Report for the 2008 Incident indicated that contamination in the UST system pit was likely due to UST and piping leaks and spills or overfills. *Id.* The soil discoloration and odor of the backfill in the UST excavation indicated contamination and field screening of the samples indicated volatile organics present in the soil. *Id.* at R0016. Petroleum impact of the UST excavation soil samples was confirmed by screening samples using a portable photoionization detector (“PID”). *Id.*

On August 7, 2008, OSFM made its Reimbursement Eligibility and Deductible determination concerning the 2008 Incident. 2008 CAP, PCB 21-03 R0178-179. OSFM

determined that Freedom Oil was eligible to seek payment and that costs must be in response to the 2008 Incident and associated with Tanks 1 – 5. *Id.*

On July 1, 2013, a Corrective Action Work Plan (“CAP”) and Budget for the 2008 Incident (hereinafter “2008 CAP”) was submitted to the Agency by Freedom Oil. 2008 CAP, PCB 21-03 R0065-0180. A Site Investigation and Tiered Approach to Cleanup Objectives (“TACO”) evaluation was conducted. 2008 CAP, PCB 21-03 R0075. It was determined from the high levels of benzene, toluene, ethylbenzene, and xylenes (“BTEX”) and polynuclear aromatics (“PNA”) in the vicinity of the fueling islands that the gasoline tanks (Tanks 2-5) and Tank 1 had a release. *Id.*

The soil samples taken in the vicinity of Tanks 1 and 6 on August 19, 2008 were located at MW-2, MW-4, MW-5, and MW-9. Exhibit 1, 2008 CAP, Figure 3 - Soil Boring Location Map, PCB 21-03 R0095-96. The sample location at MW-2 was closest to Tank 1, and the sample location at MW-9 was closest to Tank 6. Analysis of the August 2008 sample results indicated no detections of pyrene in the soil samples taken in the area around both Tank 1 and Tank 6. Exhibit 2, 2008 CAP, Table 1 - Site Investigation Soil Analytical Data, PCB 21-03 R0082-88.<sup>1</sup> The soil sample results around Tank 1 (MW-2) showed concentrations of benzene, toluene, ethylbenzene, total xylenes, and MTBE at levels exceeding applicable detection limits, and no detections of PNA compounds. *Id.* By contrast, the soil sample results from MW-9, the sample location closest to Tank 6, were below applicable detection limits for benzene, ethylbenzene, total xylenes and MTBE and all of the PNA compounds. *Id.* The results of the sampling for the 2008 Incident confirmed that there had been a release from Tank 1 but no release from Tank 6 prior to the 2008 Incident sampling events.

---

<sup>1</sup> No soil samples were taken around Tank 6 during the removal of Tank 1 in April 2008. 2008 45-Day Report, PCB 21-03 R0024-25.

Per Figures 4 and 6 of the 2008 CAP, the extent of the soil contamination, i.e., plume of contamination, encompassed Tanks 1-5 but not Tank 6. Exhibit 3, 2008 CAP, Figure 4 - Estimated Extent of Soil Contamination and Figure 6 - TACO Plume Measurements, PCB 21-03 R0098, 0102. The July 1, 2013 CAP and Budget for the 2008 Incident (referenced above and hereinafter as "2008 CAP") was approved by the Agency in a letter dated August 22, 2013. 2008 CAP Approval Letter, PCB 21-05 R0327-330. The approved CAP indicated that the soil contaminant plume width was approximately 267 feet and approximately 8 feet thick. 2008 CAP, PCB 21-03 R0077.

**B. The 2020 Incident**

During a limited subsurface investigation at the Site in January 2020, hydrocarbon impacted soil was found surrounding the 10,000-gallon diesel tank system (Tank 6). 2020 45-Day Report, PCB 21-03 R0184. The investigation indicated a petroleum release around the Tank 6 UST system through soil sampling. *Id.* On January 3, 2020, a release from Tank 6 was reported by Shree Kuber and assigned Incident No. 20200005 ("2020 Incident"). *Id.*

On January 21-22, 2020, Tank 6 was removed, cleaned, and disposed of under supervision of an OSFM representative. *Id.* at R0189. During the removal activities, the OSFM representative confirmed indications of a release with visual and olfactory indications of contaminated soils in the excavation for Tank 6. *Id.* The 2020 45-Day Report stated that the OSFM representative observed obvious signs of hydrocarbon contaminated soils in the Tank 6 excavation associated with the 2020 Incident. *Id.*

After removal of the impacted backfill materials, soil samples were taken from the sidewalls, floor and piping trench of the Tank 6 soil excavation area. *Id.* at R0186. The 2020 45-Day Report, referenced below, indicated that the soil collected from the Tank 6 excavation

had areas of obvious odor and staining and the samples had screening results on the PID above 1 ppm. *Id.* The soil samples were sent to a laboratory and analyzed for BTEX and PNAs. *Id.*

Soil samples around Tank 6 were taken at CS-5 through CS-12. Exhibit 4, 2020 45-Day Report, Site Area Features Map, PCB 21-03, R0193. Five of the soil samples collected from the piping running the extent of excavation for the Tank 6 UST system indicated levels of pyrene at the following locations: CS-1: 219 ppb, CS-2: 551 ppb, CS-3: 1,360 ppb, CS-7: 265 ppb, and CS-11: 195 ppb. Exhibit 5, 2020 45-Day Report, Early Action Soil Analytical Results, PCB 21-03 R0198-199. (As noted above, there were no pyrene detections in the vicinity of Tanks 1 or 6 during the sampling for the 2008 Incident.) Soil samples collected from the location of the piping for the Tank 6 UST system also indicated levels of ethylbenzene at the following: CS-1: 66 ppb, CS-2: 21 ppb, and CS-3: 194 ppb. *Id.*

On March 4, 2020, OSFM issued an eligibility determination for Tank 6 and determined that the release from Tank 6 was eligible for reimbursement from the UST Fund. OSFM Determination Letter, PCB 21-05 R0001-0002. On March 16, 2020, Petitioner submitted a 45-Day/Corrective Action Completion Report to the Agency for the 2020 Incident (referenced above and hereinafter as “2020 45-Day Report”). 2020 45-Day Report, PCB 21-03 R0181-0278. Also on March 16, 2020, Petitioner submitted an application for reimbursement of early action costs to the Agency for the 2020 Incident, requesting \$46,809.00. 2020 Application for Reimbursement, PCB 21-05 R0007-0044.

On June 30, 2020, the Agency issued two final decision letters. One letter concerned Petitioner’s application for reimbursement of early action costs. The Agency stated that the costs were ineligible for payments from the UST Fund. PCB 21-05 R0045-0048. Per the letter, the Agency stated that “[b]ased on the information currently in the Illinois EPA’s possession,

incident 20200005 is a re-reporting of incident 20080255.” PCB 21-05 R0047. The other reasons for the Agency’s denial include that the early action costs were inconsistent with the associated technical plan, the costs lacked supporting documentation, and the costs were not reasonable as submitted. *Id.* This Motion for Partial Summary Judgment only concerns the re-reporting portion of the Agency’s denial of reimbursement of the early action costs. Petitioner is not moving for summary judgment on the Agency’s two other reasons for denying reimbursement, but reserves the right to do so at a later date.

The other letter concerned Petitioner’s 45-Day/Corrective Action Completion Report. The Agency stated that “it has been determined that the above-referenced incident is a re-reporting of Leaking UST Incident 20080255” and that the “concentrations of contaminants in the soil after removal of the [USTs] do not indicate that a new release occurred.” PCB 21-03 R0313-314.

## **II. STANDARD OF REVIEW**

“Summary judgment is appropriate in Board adjudications when the record shows there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” *City of Benton Fire Dep’t v. IEPA*, PCB 17-01, at 1 (Ill.Pol.Control.Bd. 2017); 35 Ill. Adm. Code 101.516. “[T]he burden of proof is on the petitioner to prove that the Agency’s denial reason was insufficient to warrant affirmation.” *Rosman v. IEPA*, PCB 91-80, (Ill.Pol.Control.Bd. 1991).

In LUST appeals, the Agency’s final decision denial letter frames the issues on appeal and the burden of proof is on the tank owner or operator to prove whether its submittal to the Agency demonstrated compliance with the Act and Board regulations. 35 Ill. Adm. Code 105.112; *see Karlock v. IEPA*, PCB 05-127, slip op. at 7 (July 21, 2005); *Illinois Ayers Oil Co. v.*

*IEPA*, PCB 03-214, slip op. at 8 (April 1, 2004). “The Board’s review is generally limited to the record before the Agency at the time of its determination.” *Weeke Oil Company v. IEPA*, PCB 10-1, at 10 (Ill.Pol.Control.Bd. May 20, 2010). The applicable standard of proof is preponderance of the evidence. *Freedom Oil Co. v. IEPA*, PCB 03-54, at 59 (Ill.Pol.Control.Bd. Feb. 2, 2006); *see e.g., McHenry County Landfill, Inc. v. County Bd. of McHenry County*, PCB 85-61 (consol.), slip op. at 3 (Sept. 20, 1985) (“A proposition is proved by a preponderance of the evidence when it is more probably true than not.”).

The issue here is whether Incident No. 20200005 is a new release or whether it is a re-reporting of Incident No. 20080255.

### **III. RELEVANT LAW**

Under Illinois law, both the Agency and OSFM have regulatory authority for USTs. Under the Illinois Environmental Protection Act (“Act”), 415 ILCS 5, OSFM determines whether USTs may be registered and the registration is a prerequisite for LUST Fund eligibility. 415 ILCS 5/57.9. OSFM also determines whether an UST owner or operator is eligible for reimbursement from the LUST Fund in connection with a reported release and, if so, what deductible applies. *Id.* OSFM also oversees the removal and abandonment of USTs. *See* 41 Ill. Adm. Code 170. Under Title XVI of the Act, the Agency determines whether to approve proposed cleanup plans and budgets for LUST sites and determines requests for cleanup cost reimbursement from the LUST Fund. 415 ILCS 5/57.7, 57.8.

The Act and Board regulations define a “release” as follows:

“Release” means any spilling, leaking, emitting, discharging, escaping, leaching or disposing of petroleum from an underground storage tank into groundwater, surface water or subsurface soils.

415 ILCS 5/57.2; 35 Ill. Adm. Code 734.115. The Board's regulations also include the following definitions concerning confirming releases:

"Confirmation of a release" means the confirmation of a release of petroleum in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

"Confirmed Release" means a release of petroleum that has been confirmed in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

35 Ill. Adm. Code 734.115.

Section 57.6 of the Act provides requirements for early action at a LUST site, stating in part:

Notwithstanding any other corrective action taken, an owner or operator may, at a minimum, and prior to submission of any plans to the Agency, remove the tank system or abandon the underground storage tank in place, in accordance with the regulations promulgated by the Office of the State Fire Marshal. The owner or operator may also remove visibly contaminated fill material and any groundwater in the excavation which exhibits a sheen . . . .

415 ILCS 5/57.6(b).

Section 734.210 of the Board's regulations sets forth the requirements for early action, providing:

Upon confirmation of a release of petroleum from an UST system in accordance with regulations promulgated by the OSFM, the owner or operator, or both, must perform the following initial response actions within 24 hours after the release: 1) Report the release to IEMA (e.g., by telephone or electronic mail); 2) Take immediate action to prevent any further release of the regulated substance to the environment; and 3) Identify and mitigate fire, explosion and vapor hazards.

35 Ill. Adm. Code 734.210(a).

Section 57.9(a) of the Act sets forth the eligibility requirements for an owner to receive reimbursement for a leaking UST, which include:

1) Neither the owner nor the operator is the United States Government.

- 2) The tank does not contain fuel which is exempt from the Motor Fuel Tax Law.
- 3) The costs were incurred as a result of a confirmed release of fuel.
- 4) The owner or operator registered the tank and paid all fees in accordance with the statutory and regulatory requirements of the Gasoline Storage Act.
- 5) The owner or operator notified the IEMA of a confirmed release, the costs were incurred after the notification and the costs were a result of a release of a substance listed in this Section.
- 6) The costs have not already been paid to the owner or operator under a private insurance policy, other written agreement, or court order.
- 7) The costs were associated with corrective action.

415 ILCS 5/57.9(a)(1)-(7).

The Act requires that the Agency's denial letter provide an explanation of the regulations which may be violated if the plan were approved and the reasons why the regulations might not be met if the plan were approved. 415 ILCS 5/57.7(c)(4). Here, the Agency rejected Petitioner's 45-Day Report and denied reimbursement for early action costs in part because the Agency states that Incident No. 20200005 is a re-reporting of Incident No. 20080255. In denying reimbursement, the Agency stated:

Based on the information currently in the Illinois EPA's possession, incident 2020005 is a re-reporting of incident 20080255. Corrective Action Plans for incident 20080255 have been approved by the Illinois EPA in letters dated August 22, 2013 and August 28, 2013. In addition, a Corrective Action Plan and associated budget were modified by the Illinois EPA in a letter dated June 6, 2018. Moreover, an additional Corrective Action Plan dated May 7, 2020 was received by the Illinois EPA on May 15, 2020.

PCB 21-05 R0047. In rejecting the 45-Day Report, the Agency stated:

Based on the information currently in the Illinois EPA's possession, it has been determined that the above-referenced incident is a re-reporting of Leaking UST Incident 20080255. Therefore, this incident is not subject to the reporting requirements of Title XVI of the Act or 35 Ill. Adm. Code 731 or 734. The

concentrations of contaminants in the soil after removal of the underground storage tanks do not indicate a new release occurred.

PCB 21-03 R0313-314.

**IV. ARGUMENT**

**A. Petitioner Complied with All Statutory and Regulatory Requirements Concerning Submittal of the 45-Day Report and Reimbursement from the UST Fund.**

Per Section 734.210 of the Board's regulations, upon confirmation of a release from a UST, the owner or operator must perform the following within 24 hours after the release: (1) report the release to IEMA, (2) take immediate action to prevent any further release, and (3) identify and mitigate fire, explosion, or vapor hazards. 35 Ill. Adm. Code 734.210. Here, hydrocarbon impacted soil was found surrounding Tank 6 during a limited subsurface investigation at the Site. 2020 45-Day Report, PCB 21-03 R0184. The hydrocarbon impacted soil constitute a "release" under the Act and Board regulations as it was "any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum from an underground storage tank into groundwater, surface water or subsurface soils." 415 ILCS 5/57.2; 35 Ill. Adm. Code 734.115. Once a release has been confirmed under the OSFM procedures, the reporting procedures in 41 Ill. Adm. Code 176.320 apply. 41 Ill. Adm. Code 176.300. Petitioner confirmed the release pursuant to OSFM regulations. *See* 35 Ill. Adm. Code 734.115 (definition of "confirmation of a release" and "confirmed release"); *see* 41 Ill. Adm. Code 176.310 (OSFM requirements concerning release investigation).

In accordance with 35 Ill. Adm. Code 734.210 and 41 Ill. Adm. Code 176.320, Petitioner was required to report the release to IEMA. Petitioner reported the release to IEMA on January 3, 2021 and it was assigned a new incident number (i.e., Incident No. 20200005). 2020 45-Day Report, PCB 21-03 R0184. Per Section 57.6 of the Act, an owner or operator may, at minimum,

before the submission of any plans to the Agency, remove the tank system or abandon in place. 415 ILCS 5/57.6(b); 35 Ill. Adm. Code 734.210(f). On January 21-22, 2020, Petitioner removed Tank 6. 2020 45-Day Report, PCB 21-03 R0184. During the removal activities, an OSFM representative confirmed indications of a release. *Id.* Samples were taken and analyzed. *Id.* at R0186. These early action activities were performed within 45 days after initial notification of IEMA for purposes of being eligible for reimbursement by the UST Fund pursuant to 35 Ill. Adm. Code 734.210(g); 2020 45-Day Report, PCB 21-03 R0184.

Petitioner subsequently requested an eligibility and deductible determination from OSFM, and on March 4, 2020, OSFM determined that Tank 6 was eligible for reimbursement from the UST Fund. PCB 21-05, R0001-0002. Pursuant to 35 Ill. Adm. Code 734.210, within 45-days after initial notification to IEMA of a release plus 14 days, the owner or operator must assemble information about the site and nature of the release, and then submit that information to the Agency. 35 Ill. Adm. Code 734.210(d) and (e). Thus, because a release occurred (i.e., any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum from an UST), Petitioner was required by the regulations to submit a 45-Day Report to the Agency. Petitioner submitted its 45-Day Report to the Agency on March 16, 2020. 2020 45-Day Report, PCB 21-03 R0181-278. Also on March 16, 2020, pursuant to 35 Ill. Adm. Code 743.605, Petitioner submitted an application for reimbursement of the early action costs. 2020 Application for Reimbursement, PCB 21-05 R0007-0044.

As set forth above, Petitioner followed all applicable requirements as to the submission of the 45-Day Report and performing early action activities. The regulations outlined above strictly require a 45-Day Report to be submitted in the event of a release. The 2020 Incident was a

“release” as defined by the Act and Board regulations and, therefore, Petitioner complied with the requirement to submit a 45-Day Report.

Additionally, as to reimbursement of early action costs, an owner may receive reimbursement from the UST Fund if the eligibility requirements in Section 57.9(a)(1)-(7) are met. 415 ILCS 5/57.9(a). The eligibility requirements were met, as the early action costs were incurred as a result of a confirmed release of fuel, Petitioner notified IEMA of the confirmed release and the costs were incurred after the notification, and the costs were associated with corrective action. 2020 45-Day Report, PCB 21-03 R0181-278. Early action costs are eligible for reimbursement from the UST Fund. 35 Ill. Adm. Code 734.625. Therefore, Petitioner followed all applicable requirements as to eligibility for reimbursement from the UST Fund.

**B. Incident No. 20200005 is a New Release and Not a Re-Reporting of Incident No. 20080255.**

OSFM determined that the tanks eligible for reimbursement for the 2008 Incident were Tanks 1-5. 2008 CAP, PCB 21-03 R0178-179. The reports submitted for the 2008 Incident indicated that no release had been observed from Tank 6. 2008 45-Day Report, PCB 21-03 R0053; 2008 CAP, PCB 21-03 R0075. OSFM later determined that the tank eligible for reimbursement for the 2020 Incident was Tank 6. 2020 OSFM Letter, PCB 21-05 R0001-2.

Analysis of soil sample results taken in the vicinity of Tank 1 and Tank 6 for the 2008 Incident (MW-2, MW-4, MW-5, MW-9) indicated no detection of pyrene. Exhibit 2, 2008 CAP, Table 1 - Site Investigation Soil Analytical Data, PCB 21-03 R0082-88. In contrast, early action soil samples taken around Tank 6 during the investigation of the 2020 Incident indicated levels of pyrene contamination, whereas no pyrene was detected in sampling for the 2008 Incident around Tank 1. For example, during sampling for the 2020 Incident, soil sample results indicated the following concentrations at the samples taken around Tank 6: CS-1: 219 ppb, CS-

2: 551 ppb, CS-3: 1,360 ppb, CS-7: 265 ppb, and CS-11: 195 ppb. Exhibit 5, 2020 45-Day Report, Early Action Soil Analytical Results, PCB21-03 R0198-0199. Thus, the Agency incorrectly indicated in its management decision document related to the 2020 Incident that “[d]ata concentrations of 2020 incident are lower than 2008 incident.” Management Decision, PCB 21-03 R0312.

Further evidence shows that the borings in that area used to draw the soil plume in 2008 (MW-4, MW-2, MW-5 and MW-9) had a maximum concentration of ethylbenzene of 61.5 ppb. Exhibit 2, 2008 CAP, Table 1 - Site Investigation Soil Analytical Data, PCB 21-03 R0082-88. In 2020, the level of ethylbenzene in the canopy area had a maximum concentration of 194 ppb at CS-3, triple the amount in any of the 2008 samples. Exhibit 5, 2020 45-Day Report, Early Action Soil Analytical Results, PCB 21-03 R0198-199.

The detection of pyrene in 2020 and the higher concentrations of ethylbenzene in 2020, when compared to the 2008 data, demonstrate that a new release occurred in 2020. Therefore, the Agency was incorrect in concluding that the 2020 Incident is a re-reporting of a 2008 Incident.

Furthermore, the contamination plume is further evidence that the 2020 Incident is a new release. The plume of soil contamination for the 2008 Incident, as submitted in the 2008 CAP, which was approved by the Agency, did not include Tank 6. Exhibit 3, 2008 CAP, Figure 4 - Estimated Extent of Soil Contamination and Figure 6 - TACO Plume Measurements, PCB 21-03 R0098, 0102. The Agency’s finding that Tank 6 was within the plume of the 2008 Incident is directly contradicted by its approval of the plume map prescribed in the 2008 CAP. Management Decision, PCB 21-03 R0312. While Tank 6 was included in the groundwater plume (see PCB 21-03 R0100), the plume maps submitted with the 2008 CAP does not show

Tank 6 within the soil plume. Exhibit 3, 2008 CAP, Figure 4 - Estimated Extent of Soil Contamination and Figure 6 - TACO Plume Measurements, PCB 21-03 R0098, 0102. The Agency approved the reports for the 2008 Incident indicating that the soil contaminant plume did not include the area occupied by Tank 6. 2008 CAP Approval Letter, PCB 21-05 R0327-330.

Thus, both statements made by the Agency in their justification of this being a re-reporting are inaccurate. Per the information provided, the 2020 Incident is not a re-reporting of the 2008 Incident, but is a new release. The soil indicator contaminant concentrations present at Tank 6 indicate a new release – higher levels of both pyrene (which had not been detected in 2008) and higher levels of ethylbenzene were detected. Tank 6 is now within the plume of pyrene, which was not detected in 2008 borings in that area.

Lastly, the facts of this proceeding can be distinguished for prior Board cases involved re-reporting. In *Prime Location Properties, LLC v. IEPA*, PCB 09-67, the Board found that a 2006 release was not a new release triggering new document submission requirements. Interim Opinion and Order, *Prime Location Properties, LLC v. IEPA*, PCB 09-67, at 31(III.Poll.Control.Bd. Aug. 20, 2009); *see also* Opinion and Order, *Prime Location Properties, LLC*, PCB 09-67 (III.Poll.Control.Bd. Nov. 5, 2009). The Board clarified that the definition of “release” is not limited to exceedances of remediation objections. *Id.* Additionally, the Board found that the limited prior investigation on the east side, which was limited due to restrictions of site structures, did not rule out a release from USTs 3-7. *Id.*

Here, as explained in *Prime Location*, the definition of “release” is not limited to exceedances of remediation objections. “Release” is defined in the Act and regulation as “any spilling, leaking, emitting, discharging, escaping, leaching or disposing of petroleum from an underground storage tank into groundwater, surface water or subsurface soils.” 415 ILCS

5/57.2; 35 Ill. Adm. Code 734.115. As explained above, soil samples indicate that two separate and distinct releases occurred. Pyrene was detected as to the 2020 Incident, whereas pyrene was not detected around Tank 1 or Tank 6 for the 2008 Incident. Exhibit 2, 2008 CAP, Table 1 - Site Investigation Soil Analytical Data, PCB 21-03 R0082-88; Exhibit 5, 2020 45-Day Report, Early Action Soil Analytical Results, PCB21-03 R0198-0199. Additionally, the sampling data shows greater concentrations of ethylbenzene in connection with the 2020 Incident as opposed to 2008 Incident. Exhibit 2, 2008 CAP, Table 1 - Site Investigation Soil Analytical Data, PCB 21-03 R0082-88; Exhibit 5, 2020 45-Day Report, Early Action Soil Analytical Results, PCB 21-03 R0198-199. The detection of pyrene in 2020 and the higher concentrations of ethylbenzene in 2020, when compared to the 2008 data, indicate that a new release occurred in 2020.

Further, in *Weeke Oil Company v. IEPA*, the Board found that a 2008 release was not a new release, but was a re-reporting of a 1998 release. *Weeke Oil Company v. IEPA*, PCB 10-1 (Ill.Pol.Control.Bd. May 20, 2010). The Board pointed to the fact that the Tier 1 objectives had not been exceeded at the site and that any evidence of contamination was consistent with the conditions of the No Further Remediation (“NFR”) Letter for the 1998 release. *Id.* at 24. Here, however, the 2008 Incident is ongoing and has not been resolved by a NFR letter like in *Weeke Oil*. Additionally, as explained in *Prime Location*, the definition of “release” is not limited to exceedances of remediation objections. As explained above, soil samples indicate that two separate releases occurred. The detection of pyrene in 2020 and the higher concentrations of ethylbenzene in 2020, when compared to the 2008 data, indicate that a new release occurred in 2020. *See* Exhibit 2, 2008 CAP, Table 1 - Site Investigation Soil Analytical Data, PCB 21-03 R0082-88; Exhibit 5, 2020 45-Day Report, Early Action Soil Analytical Results, PCB21-03 R0198-0199.

**V. CONCLUSION**

The Agency's June 30, 2020 final decisions were based on the Agency's erroneous conclusion that that the 2020 Incident is a re-reporting of the 2008 Incident. The Board should find that the Agency's June 30, 2020 final decisions were arbitrary, capricious, and not supported by statutory or regulatory authority. Petitioner's 45-Day Report and reimbursement application submittals to the Agency were in compliance with the Act and Board regulations. For the reasons stated above, Shree Kuber, Inc. prays for an order from the Board granting summary judgment in its favor, enter an order reversing the Agency's June 30, 2020 final decisions concerning re-reporting, and awarding Petitioner reasonable attorneys' fees and expenses, and for such other and further relief as the Board deems just.

Respectfully submitted,

SHREE KUBER, INC.,  
Petitioner,

DATE: July 15, 2021

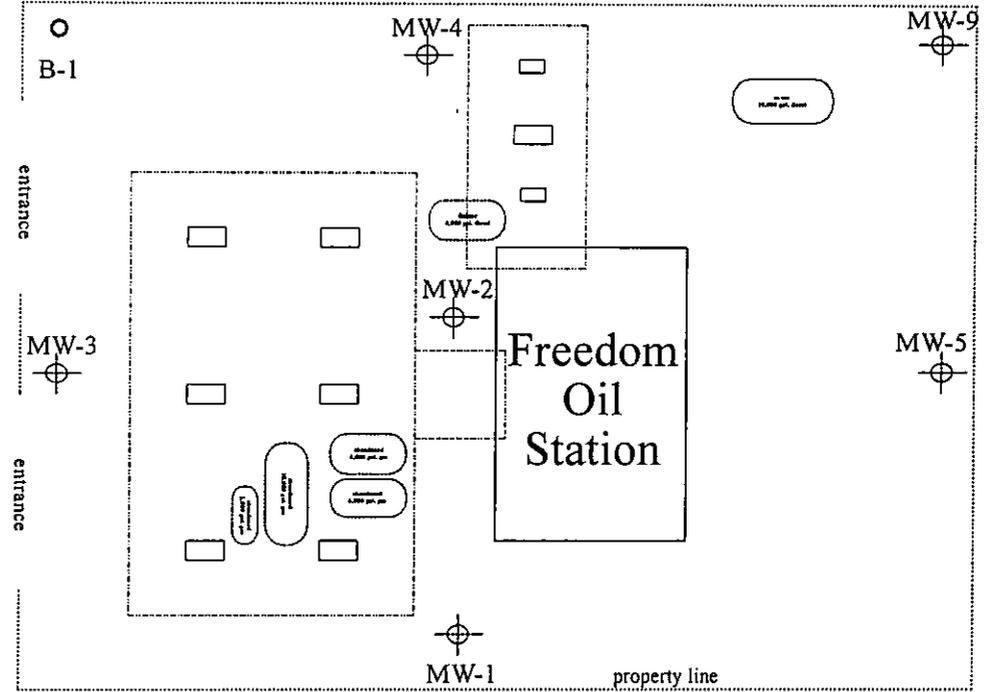
By: /s/ Melissa S. Brown  
One of Its Attorneys

Jennifer M. Martin  
Melissa S. Brown  
HEPLERBROOM, LLC  
4340 Acer Grove Drive  
Springfield, Illinois 62711  
[Jennifer.Martin@heplerbroom.com](mailto:Jennifer.Martin@heplerbroom.com)  
[Melissa.Brown@heplerbroom.com](mailto:Melissa.Brown@heplerbroom.com)  
(217) 528-3674

**Figure 3**  
**Soil Boring Location Map**

**EXHIBIT 1**

commercial  
properties



commercial  
properties

North Prospect Avenue

Prospect  
Autos

B-2

commercial  
properties

vacant lot

commercial properties

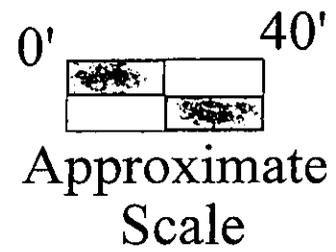


FIGURE 3  
Boring and  
Monitoring Well Locations  
Freedom Oil Company  
Champaign, IL 61820

Date: 3/24/11	Drawn by: AJF
PRJN: 08-24	Approved by: AMG

M.E.C.R.S., Inc.

**Table 1**

**Site Investigation Soil Analytical Data**

**SOIL ANALYTICAL RESULTS**

**Freedom Oil Company  
Champaign, IL**

Analytes/ Sample ID: SAMPLE DATE	Tier I Soil Remediation Obj.	MW-1 3' 08/19/08	MW-1 7' 08/19/08	MW-1 13' 08/19/08	MW-1 17' 08/19/08	MW-2 3' 08/19/08	MW-2 9' 08/19/08	MW-2 15' 08/19/08
MTBE	320	<MDL	<MDL	73.9	21.3	<MDL	<MDL	13.6
Benzene	30	<MDL	140	2.2	1.9	4.3	13.1	3.0
Toluene	12,000	<MDL	<MDL	2.9	2.3	2.7	<MDL	5.4
Ethylbenzene	13,000	5.0	5,460	2.2	<MDL	2.8	61.5	3.1
Total Xylenes	5,600	7.1	519	<MDL	<MDL	7.3	124	7.4
PNAs								
Acenaphthene	570,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Acenaphthylene	XX	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Anthracene	12,000,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (a) Anthracene	2,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (a) Pyrene	800	127	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (b) Fluoranthene	5,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (g,h,i) Perylene	XX	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (k) Fluoranthene	49,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Chrysene	160,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Dibenzo (a,h) Anthracene	800	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Fluoranthene	4,300,000	84.6	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Fluorene	560,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Ideno (1,2,3-cd) Pyrene	8,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Naphthalene	1,800	<MDL	190	<MDL	<MDL	<MDL	<MDL	<MDL
Phenanthrene	XX	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Pyrene	4,200,000	570	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL

**SOIL ANALYTICAL RESULTS**

**Freedom Oil Company  
Champaign, IL**

Analytes/ Sample ID: SAMPLE DATE	Tier I Soil Remediation Obj.	MW-3 5' 08/19/08	MW-3 7' 08/19/08	MW-3 13' 08/19/08	MW-4 3' 08/19/08	MW-4 7' 08/19/08	MW-4 13' 08/19/08	MW-5 3' 08/19/08
MTBE	320	<MDL	<MDL	26.0	<MDL	<MDL	6.3	<MDL
Benzene	30	6,350	3,120	2.9	<MDL	3.1	3.1	<MDL
Toluene	12,000	514	619	2.4	<MDL	4.5	5.5	1.6
Ethylbenzene	13,000	11,500	106,000	3.7	<MDL	9.5	4.0	<MDL
Total Xylenes	5,600	27,400	428,000	10.9	<MDL	14.0	9.1	<MDL
<b>PNAs</b>								
Acenaphthene	570,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Acenaphthylene	XX	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Anthracene	12,000,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (a) Anthracene	2,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (a) Pyrene	800	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (b) Fluoranthene	5,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (g,h,i) Perylene	XX	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (k) Fluoranthene	49,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Chrysene	160,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Dibenzo (a,h) Anthracene	800	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Fluoranthene	4,300,000	205	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Fluorene	560,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Ideno (1,2,3-cd) Pyrene	8,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Naphthalene	1,800	367	2,830	<MDL	<MDL	<MDL	<MDL	<MDL
Phenanthrene	XX	106	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Pyrene	4,200,000	209	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL

**SOIL ANALYTICAL RESULTS**

**Freedom Oil Company  
Champaign, IL**

Analytes/ Sample ID: SAMPLE DATE	Tier I Soil Remediation Obj.	MW-5 7' 08/19/08	MW-5 13' 08/19/08	B-1 3' 01/25/11	B-1 7' 01/25/11	B-1 12' 01/25/11	B-2 3' 01/25/11	B-2 7' 01/25/11
MTBE	320	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzene	30	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Toluene	12,000	<MDL	<MDL	<MDL	7.36	<MDL	<MDL	<MDL
Ethylbenzene	13,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Total Xylenes	5,600	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
PNAs								
Acenaphthene	570,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Acenaphthylene	XX	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Anthracene	12,000,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (a) Anthracene	2,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (a) Pyrene	800	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (b) Fluoranthene	5,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (g,h,i) Perylene	XX	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Benzo (k) Fluoranthene	49,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Chrysene	160,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Dibenzo (a,h) Anthracene	800	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Fluoranthene	4,300,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Fluorene	560,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Indeno (1,2,3-cd) Pyrene	8,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Naphthalene	1,800	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Phenanthrene	XX	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL
Pyrene	4,200,000	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL	<MDL

**SOIL ANALYTICAL RESULTS**

**Freedom Oil Company**

**Champaign, IL**

Analytes/ Sample ID: SAMPLE DATE	Tier I Soil Remediation Obj.	B-2 12' 01/25/11	MW-6 3' 03/24/11	MW-6 7' 03/24/11	MW-7 3' 03/24/11	MW-7 7' 03/24/11	MW-8 3' 03/24/11	MW-8 7' 03/24/11
MTBE	320	<MDL						
Benzene	30	<MDL						
Toluene	12,000	<MDL	<MDL	<MDL	<MDL	4.65	<MDL	<MDL
Ethylbenzene	13,000	<MDL						
Total Xylenes	5,600	<MDL						
PNAs								
Acenaphthene	570,000	<MDL						
Acenaphthylene	XX	<MDL						
Anthracene	12,000,000	<MDL						
Benzo (a) Anthracene	2,000	<MDL						
Benzo (a) Pyrene	800	<MDL						
Benzo (b) Fluoranthene	5,000	<MDL						
Benzo (g,h,i) Perylene	XX	<MDL						
Benzo (k) Fluoranthene	49,000	<MDL						
Chrysene	160,000	<MDL						
Dibenzo (a,h) Anthracene	800	<MDL						
Fluoranthene	4,300,000	<MDL						
Fluorene	560,000	<MDL						
Indeno (1,2,3-cd) Pyrene	8,000	<MDL						
Naphthalene	1,800	<MDL						
Phenanthrene	XX	<MDL						
Pyrene	4,200,000	<MDL						

**SOIL ANALYTICAL RESULTS**

**Freedom Oil Company  
Champaign, IL**

Analytes/ Sample ID: SAMPLE DATE	Tier I Soil Remediation Obj.	MW-9 3' 03/24/11	MW-9 7' 03/24/11				
MTBE	320	<MDL	<MDL				
Benzene	30	<MDL	<MDL				
Toluene	12,000	<MDL	9.06				
Ethylbenzene	13,000	<MDL	<MDL				
Total Xylenes	5,600	<MDL	<MDL				
PNAs							
Acenaphthene	570,000	<MDL	<MDL				
Acenaphthylene	XX	<MDL	<MDL				
Anthracene	12,000,000	<MDL	<MDL				
Benzo (a) Anthracene	2,000	<MDL	<MDL				
Benzo (a) Pyrene	800	<MDL	<MDL				
Benzo (b) Fluoranthene	5,000	<MDL	<MDL				
Benzo (g,h,i) Perylene	XX	<MDL	<MDL				
Benzo (k) Fluoranthene	49,000	<MDL	<MDL				
Chrysene	160,000	<MDL	<MDL				
Dibenzo (a,h) Anthracene	800	<MDL	<MDL				
Fluoranthene	4,300,000	<MDL	<MDL				
Fluorene	560,000	<MDL	<MDL				
Ideno (1,2,3-cd) Pyrene	8,000	<MDL	<MDL				
Naphthalene	1,800	<MDL	<MDL				
Phenanthrene	XX	<MDL	<MDL				
Pyrene	4,200,000	<MDL	<MDL				

ALL RESULTS REPORTED IN PARTS PER BILLION (ug/kg, ug/L)

XX = Tier 1 soil remediation objective not listed in TACO tables.

NA = not analyzed

M = Matrix interferences identified

TACO Parameters

Sample #	foc	pH	Bulk Density	Particle Density	% Moisture	Porosity
Surface	2.90%	7.40	1.26	2.52	42.8%	0.50
Subsurface	0.87%	7.77	1.50	2.64	27.8%	0.43

TABLE I.  
SOIL ANALYTICAL RESULTS  
Freedom Oil Company  
Champaign, IL

Analytes/ Sample ID: SAMPLE DATE	Tier I Soil Remediation Obj.	Landfill 1 (LF-1) 04/01/08	Landfill 2 (LF-2) 04/01/08	Landfill 3 (LF-3) 04/01/08
Benzene	30	<2.5	280	923
Toluene	12,000	5.6	<164	<311
Ethylbenzene	13,000	<2.5	201	2,150
Total Xylenes	5,600	<6.2	1,140	2,960
MTBE	320	NA	NA	NA
PNAs				
Acenaphthene	570,000	<84.0	<89.9	<83.8
Acenaphthylene	XX	<84.0	<89.9	<83.8
Anthracene	12,000,000	<251	<268	<250
Benzo (a) Anthracene	2,000	<251	<268	<250
Benzo (a) Pyrene	800	<84.0	<89.9	<83.8
Benzo (b) Fluoranthene	5,000	<417	<447	<416
Benzo (g,h,i) Perylene	XX	<251	<268	<250
Benzo (k) Fluoranthene	49,000	<251	<268	<250
Chrysene	160,000	<84.0	<89.9	<83.8
Dibenzo (a,h) Anthracene	800	<84.0	<89.9	<83.8
Fluoranthene	4,300,000	<84.0	<89.9	<83.8
Fluorene	560,000	<84.0	<89.9	<83.8
Ideno (1,2,3-cd) Pyrene	8,000	<84.0	<89.9	<83.8
Naphthalene	1,800	<84.0	<89.9	514
Phenanthrene	XX	<84.0	<89.9	<83.8
Pyrene	4,200,000	<84.0	<89.9	<83.8

ALL RESULTS REPORTED IN PARTS PER BILLION (ug/kg, ug/L)

XX = Tier 1 soil remediation objective not listed in TACO tables.

NA = not analyzed

M = Matrix interferences identified

**Figure 4**

**Estimated Extent of Soil Contamination**

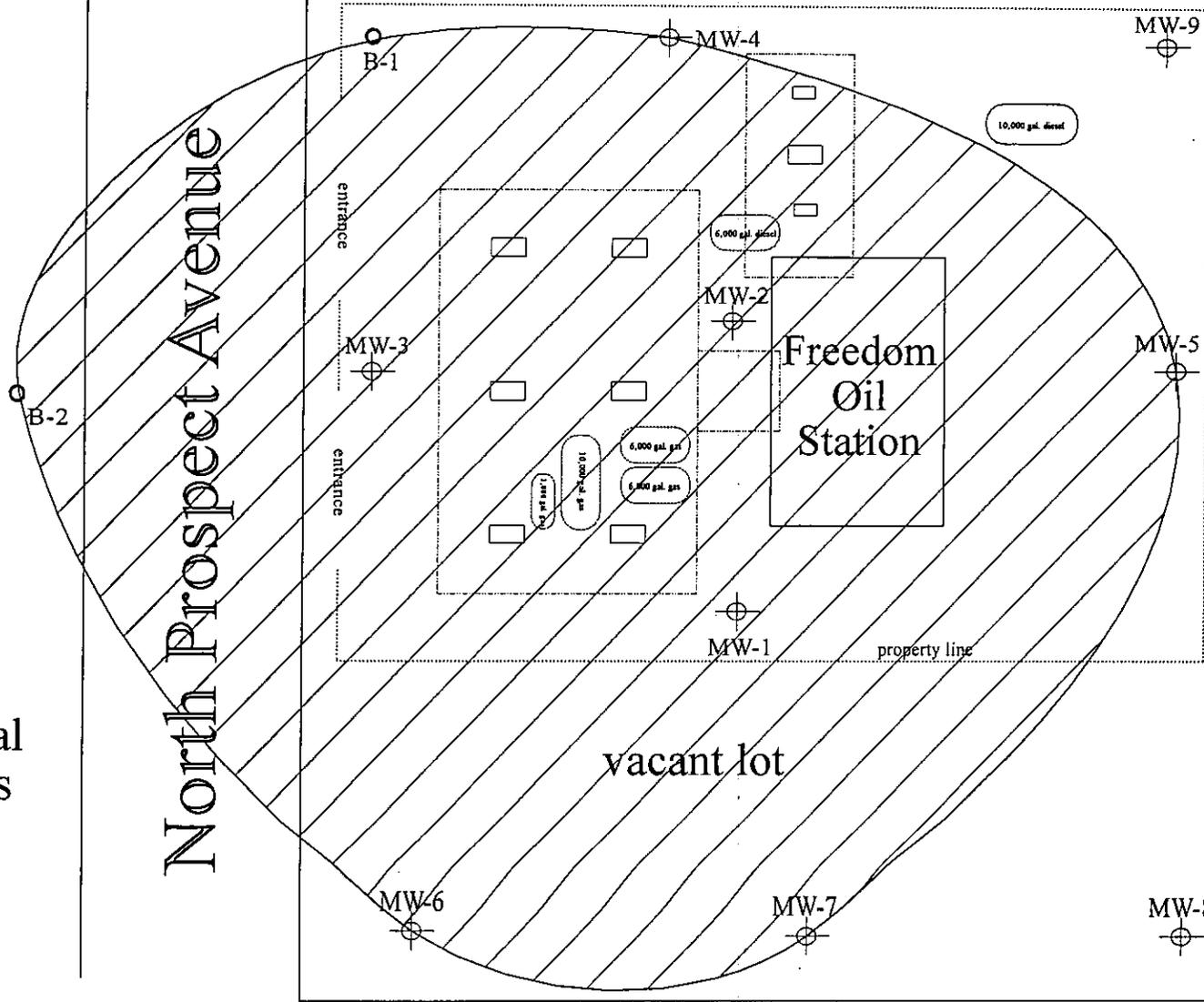
**EXHIBIT 3**

Prospect  
Autos

North Prospect Avenue

commercial  
properties

commercial  
properties



commercial properties

0' 40'

Approximate  
Scale



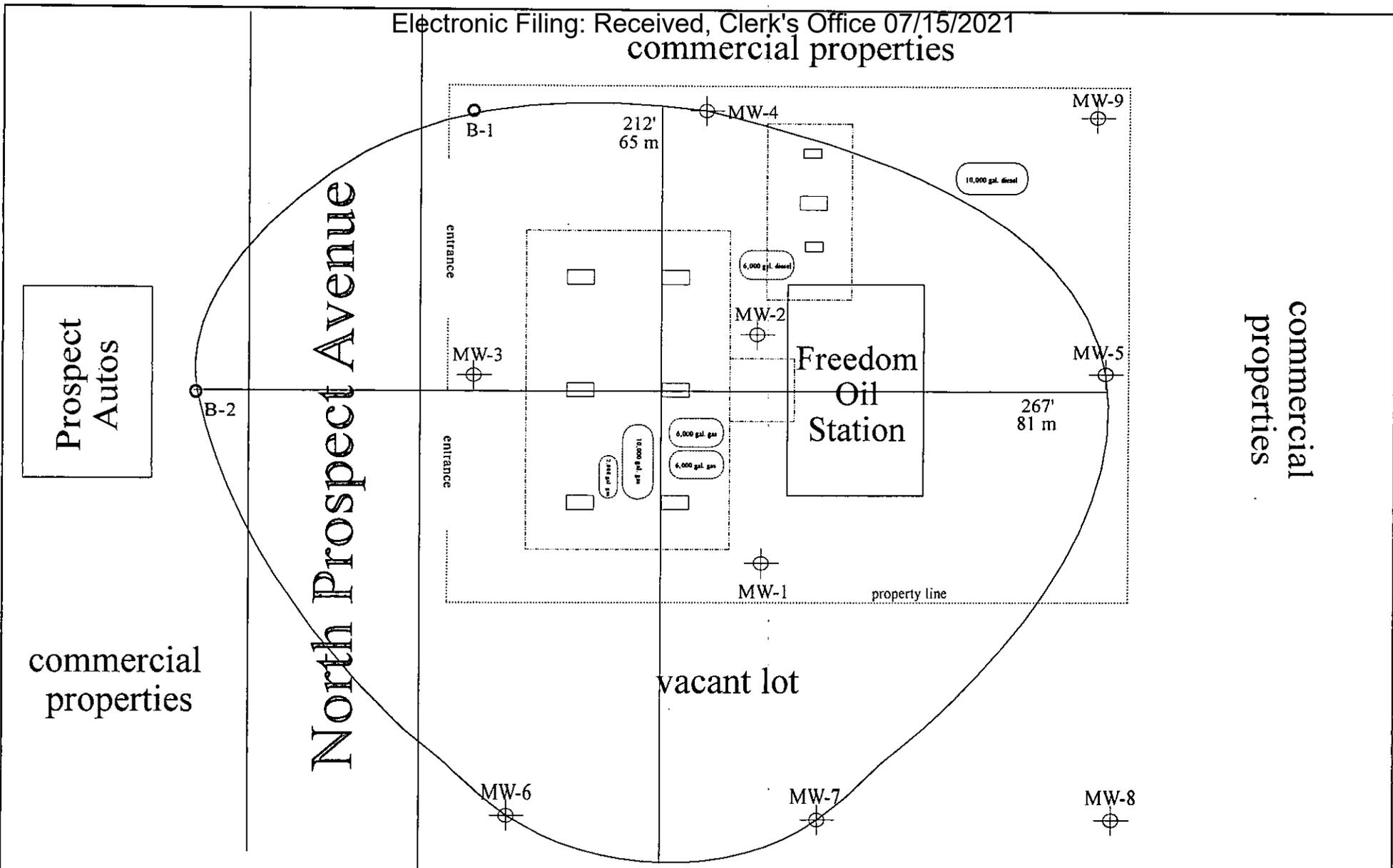
**Figure 4**  
Extent of Soil Contamination  
clean boring to clean boring  
Freedom Oil Company  
Champaign, IL 61820

Date: 3/24/11	Drawn by: AJF
PRJN: 08-24	Approved by: AMG

**M.E.C.R.S., Inc.**

**Figure 6**

**TACO Plume Measurements**



commercial properties

commercial properties

commercial properties

0' 40'  
Approximate Scale



Figure 6  
TACO Plume  
clean boring to clean boring  
Freedom Oil Company  
Champaign, IL 61820

Date: 5/31/13	Drawn by: AJF
PRJN: 08-24	Approved by: AMG

**M.E.C.R.S., Inc.**

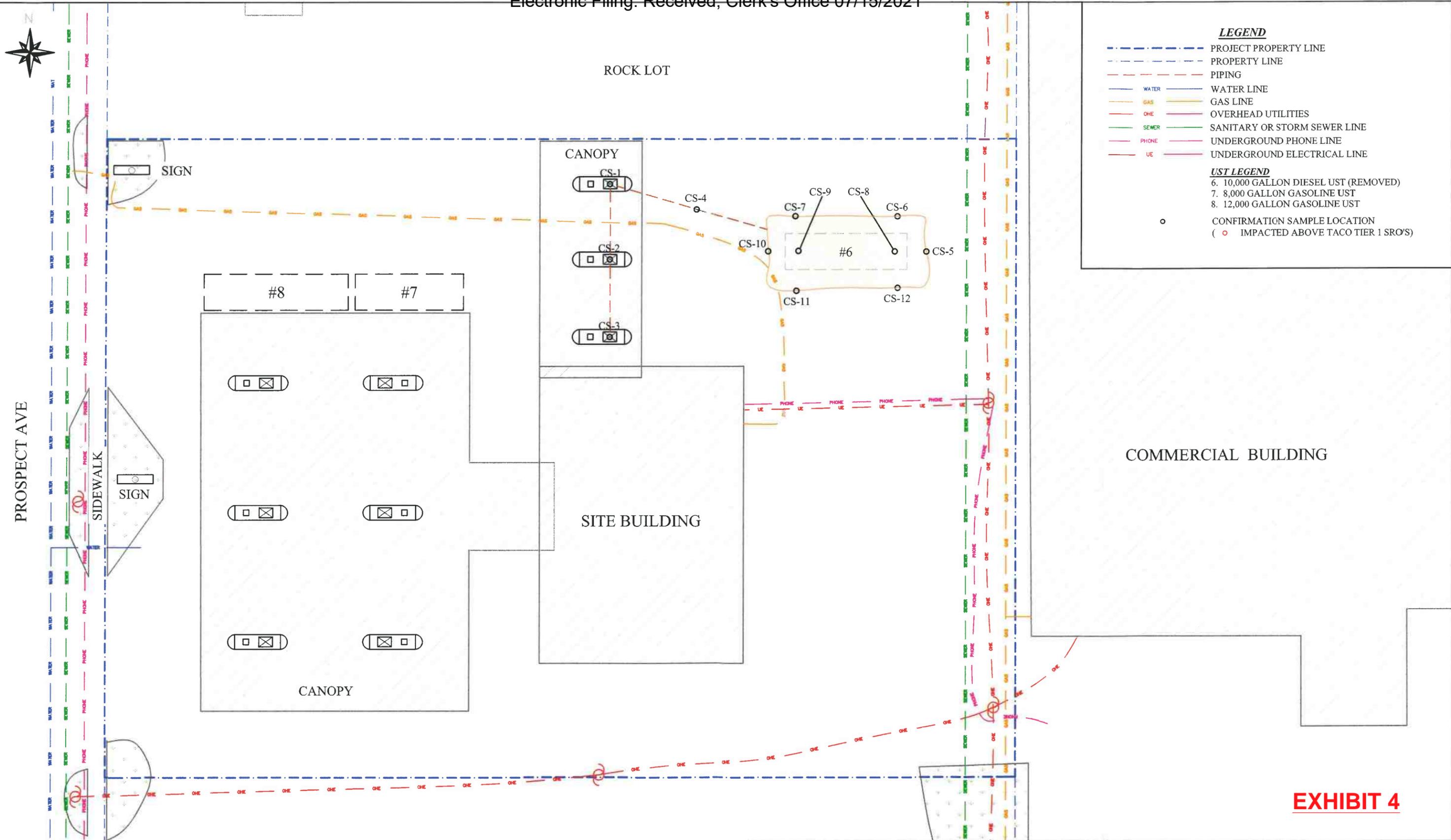


**LEGEND**

- PROJECT PROPERTY LINE
- PROPERTY LINE
- PIPING
- WATER
- GAS
- OHE
- SEWER
- PHONE
- UE
- WATER LINE
- GAS LINE
- OVERHEAD UTILITIES
- SANITARY OR STORM SEWER LINE
- UNDERGROUND PHONE LINE
- UNDERGROUND ELECTRICAL LINE

**UST LEGEND**

- 6. 10,000 GALLON DIESEL UST (REMOVED)
- 7. 8,000 GALLON GASOLINE UST
- 8. 12,000 GALLON GASOLINE UST
- CONFIRMATION SAMPLE LOCATION
- ( ○ ) IMPACTED ABOVE TACO TIER 1 SRO'S



**EXHIBIT 4**

 <b>GREEN WAVE CONSULTING, LLC</b> 4440 Ash Grove Drive, Suite A Springfield, IL 62711 (217-726-7569)	<b>SITE AREA FEATURES MAP</b> 1406 N PROSPECT AVE CHAMPAIGN, IL 61820		PREPARED BUHLIG	DATE 02/20
	<b>PROSPECT MINI MART</b>		DRAWN BETTENHAUSEN	DATE 02/20
INCIDENT NO. 2020-0005	FILE NAME PROSPECT MINI MART - SAF	APPROVED WIENHOFF	DATE 02/20	PROJECT NO. 281
			FIGURE 2	

Shree Kuber, Inc.  
 Champaign, Illinois  
 Incident #20200005

Sample Name	TIER 1	CS-1	CS-2	CS-3	CS-4	CS-5	CS-6	CS-7
Depth	Remediation	3.0	3.0	3.0	3.0	9.0	9.0	9.0
Sample Date	Objectives	1/22/20	1/22/20	1/22/20	1/22/20	1/22/20	1/22/20	1/22/20
<b>BTEX / MTBE</b>								
Benzene	<b>0.03</b>	ND						
Ethylbenzene	<b>13</b>	0.066	0.021	0.194	ND	ND	ND	ND
MTBE	<b>0.32</b>	ND						
Toluene	<b>12</b>	ND						
Total Xylenes	<b>5.6</b>	ND						
<b>PNA</b>								
Acenaphthene	<b>570</b>	ND						
Acenaphthylene	<b>15</b>	ND						
Anthracene	<b>12000</b>	ND						
Benzo(a)Anthracene	<b>0.9</b>	ND						
Benzo(b)Fluoranthene	<b>0.9</b>	ND						
Benzo(k)Fluoranthene	<b>9</b>	ND						
Benzo(g,h,l)Perylene	<b>2300</b>	ND						
Benzo(a)Pyrene	<b>0.09</b>	ND						
Chrysene	<b>88</b>	ND						
Dibenzo(a,h)Anthracene	<b>0.09</b>	ND						
Fluoranthene	<b>3100</b>	ND						
Fluorene	<b>560</b>	ND						
Indeno(1,2,3-c,d)Pyrene	<b>0.9</b>	ND						
Napthalene	<b>1.8</b>	ND						
Phenanthrene	<b>140</b>	ND						
Pyrene	<b>2300</b>	0.219	0.551	1.360	ND	ND	ND	0.265

Notes: All results are presented in mg/kg  
 Bold /Underlined values indicate exceedance  
 ND: Below Acceptable Detection Limits  
 NA: Not Analyzed

0198

**EXHIBIT 5**

Shree Kuber, Inc.  
 Champaign, Illinois  
 Incident #20200005

Sample Name	TIER 1	CS-8	CS-9	CS-10	CS-11	CS-12
Depth	Remediation	13.0	13.0	9.0	9.0	9.0
Sample Date	Objectives	1/22/20	1/22/20	1/23/20	1/23/20	1/23/20
<b>BTEX / MTBE</b>						
Benzene	<b>0.03</b>	ND	ND	ND	ND	ND
Ethylbenzene	<b>13</b>	ND	ND	ND	ND	ND
MTBE	<b>0.32</b>	ND	ND	ND	ND	ND
Toluene	<b>12</b>	ND	ND	ND	ND	ND
Total Xylenes	<b>5.6</b>	ND	ND	ND	ND	ND
<b>PNA</b>						
Acenaphthene	<b>570</b>	ND	ND	ND	ND	ND
Acenaphthylene	<b>15</b>	ND	ND	ND	ND	ND
Anthracene	<b>12000</b>	ND	ND	ND	ND	ND
Benzo(a)Anthracene	<b>0.9</b>	ND	ND	ND	ND	ND
Benzo(b)Fluoranthene	<b>0.9</b>	ND	ND	ND	ND	ND
Benzo(k)Fluoranthene	<b>9</b>	ND	ND	ND	ND	ND
Benzo(g,h,l)Perylene	<b>2300</b>	ND	ND	ND	ND	ND
Benzo(a)Pyrene	<b>0.09</b>	ND	ND	ND	ND	ND
Chrysene	<b>88</b>	ND	ND	ND	ND	ND
Dibenzo(a,h)Anthracene	<b>0.09</b>	ND	ND	ND	ND	ND
Fluoranthene	<b>3100</b>	ND	ND	ND	ND	ND
Fluorene	<b>560</b>	ND	ND	ND	ND	ND
Indeno(1,2,3-c,d)Pyrene	<b>0.9</b>	ND	ND	ND	ND	ND
Napthalene	<b>1.8</b>	ND	ND	ND	ND	ND
Phenanthrene	<b>140</b>	ND	ND	ND	ND	ND
Pyrene	<b>2300</b>	ND	ND	ND	0.195	ND

Notes: All results are presented in mg/kg  
 Bold /Underlined values indicate exceedance  
 ND: Below Acceptable Detection Limits  
 NA: Not Analyzed