

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter Of:)	
)	
JOHNS MANVILLE, a Delaware corporation,)	
)	
Complainant,)	PCB No. 14-3
)	
v.)	
)	
ILLINOIS DEPARTMENT OF TRANSPORTATION,)	
)	
Respondent.)	

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on November 20, 2018, I caused to be filed with the Clerk of the Pollution Control Board of the State of Illinois, *Complainant's Motion for Sanctions*, a copy of which is attached hereto and herewith served upon you via e-mail. Paper hardcopies of this filing will be made available upon request.

Dated: November 20, 2018

Respectfully submitted,

BRYAN CAVE LEIGHTON PAISNER LLP

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COMPLAINANT JOHNS MANVILLE’S MOTION FOR SANCTIONS

Complainant JOHNS MANVILLE (“JM”), through undersigned counsel, moves the Board, pursuant to 35 Ill. Admin. Code 101.800(b) and the Board’s inherent powers, to bar Respondent ILLINOIS DEPARTMENT OF TRANSPORTATION (“IDOT”) from using as evidence, in a motion or at hearing, the unauthorized Expert Rebuttal Supplemental Report of Steven Gobelman on Damages Attributable to IDOT Based on IPCB Order of December 15, 2016 (“Supplemental Report”) served by IDOT on November 7, 2018. JM also seeks an order specifically providing that IDOT and its expert be precluded from further offering new or substantively changed opinions (to the extent not based on entirely new information to the parties), and any further relief deemed appropriate. In support of its Motion, JM states:

INTRODUCTION

Almost *eighty days* after IDOT’s deadline to serve an expert report and just three business days before the close of discovery, IDOT served its Supplemental Report on JM without prior notice to JM, without leave from the Hearing Officer, and in violation of the Hearing Officer’s April 19, 2018 scheduling Order. Yet, despite its title, IDOT’s Supplemental Report is not a “supplement,” but rather a new expert report masquerading as a Supplemental Report that raises wholly new and distinct opinions that were not addressed in IDOT’s initial

“Expert Rebuttal Report of Steven Gobelman on Damages Attributable to IDOT Based on IPCB Order of December 15, 2016” served on August 22, 2018 (the “Initial Report”).¹ In fact, as explained below, the Supplemental Report tries to conceal this fact from the Board and JM by claiming that it is just correcting one error made on a figure attached to the Initial Report. This is far from the case. Rather, IDOT is attempting to entirely re-write Mr. Gobelman’s opinions. This charade should not be allowed.

The Board has already held IDOT liable for causing and allowing open dumping of ACM waste on property in Waukegan, Illinois that has been referred to in this action as Sites 3 and 6. (December 15, 2016 Interim Opinion and Order (“Interim Opinion”).) The Board directed that a second hearing be held on three narrow issues, including: “[t]he share of JM’s costs [to perform cleanup work in the portions of Site 3 and Site 6 where the Board found IDOT liable] attributable to IDOT.” (*Id.*, p. 22.) Since the Board issued its Interim Opinion, this issue has been the subject of extensive and expensive expert discovery.

In the opening salvo, JM’s expert, Mr. Dorgan, answered this question of cost attribution by identifying the geographic extent of IDOT’s liability based on the map *relied upon by the Board* in its Interim Opinion (“Hearing Map”; *see* Hearing Exhibit 16-18 (first hearing))² and by analyzing which costs JM incurred because of the presence of ACM in those areas. IDOT’s Initial Report responding to Mr. Dorgan’s Rebuttal Report generally adopted Mr. Dorgan’s approach, but started from the premise that the Hearing Map was somehow wrong, even though Mr. Gobelman had relied upon it at hearing.³ Because of his erroneous belief that the Hearing

¹ IDOT’s Initial Report is attached hereto as **Exhibit A**. The Supplemental Report is attached hereto as **Exhibit B**.

² *See* October 25, 2018 Expert Report of Douglas G. Dorgan Jr. on Damages Attributable to IDOT (attached hereto as **Exhibit C**) (explaining that his Figure 1 was created “by obtaining the CAD drawing from AECOM,” which was the drawing AECOM used in its submissions to USEPA).

³ JM reserves its right to file a motion *in limine* with respect to Mr. Gobelman’s Initial Report, and, if allowed to stand, the Supplemental Report, at the appropriate time under the applicable rules of evidence and Illinois law.

Map was somehow wrong, Mr. Gobelman created an entirely new “base map” upon which all of his opinions on costs attributable to IDOT are based. Among other things, in his Initial Report, Mr. Gobelman opined that the northern boundary of Site 3 was located along a fence that he visually observed on a Google Image, not at the location on the Hearing Map. (*See* Exhibit A, Initial Report, § 5.1.) Based upon this new Site 3 northern boundary, Mr. Gobelman plotted other features on his “base map” by calculating the distance between the feature and the new Site 3 northern boundary. (*Id.*) He then used the locations of these features on his “base map” (*e.g.*, the area of the Northeast Excavation, the borings attributable to IDOT and Parcel No. 0393) to reach his cost opinions. (*Id.*, §§ 5.2, 5.3, 6.1-6.13.)

Mr. Gobelman was deposed on his opinions on October 2, 2018, including his opinion that the Hearing Map was wrong and all aspects of his new “base map.” In his October 25, 2018 expert reply report, JM’s expert pointed out numerous flaws in Mr. Gobelman’s opinions and his new “base map,” including the location of the northern boundary of Site 3, the location of certain borings, and the location of Parcel No. 0393. (*See* Dorgan Rebuttal Report, §§ 2.2, 2.4.1.) Necessarily recognizing that Mr. Dorgan was correct, Mr. Gobelman apparently worked to come up with new opinions.

Without leave or prior notice, on November 7, 2018, IDOT provided a copy of its unauthorized Supplemental Report to JM, which was mischaracterized as *only* written to “correct the location of the Parcel 0393 as shown on the base map created” in IDOT’s Initial Report. (Exhibit B, Supplemental Report, § 1.) What IDOT left out is the fact that Mr. Gobelman made a number of other changes on the “base map” for reasons that are unrelated to the location of Parcel No. 0393 and are not attributable to new, previously unknown or other information.

These unidentified changes to the “base map” are an attempt to offer new material opinions that were not contained in the Initial Report.

As described below, this is not the first time IDOT’s expert has tried to change his opinion or offer new opinions not disclosed in accordance with the Board’s Rules and Illinois law. During the first hearing in this matter, Mr. Gobelman changed his opinions, offered *new opinions*, or contradicted himself at least 20 times. (*See infra* Background, p. 6.) JM wants to prevent this from happening yet again as it runs counter to the Board Rules, has unduly complicated and prolonged these proceedings, and has led to serious inefficiencies.

Allowing the introduction of this new expert report based on information that has been available to Mr. Gobelman since the last hearing, would significantly prejudice JM. JM has spent significant time and money deposing Mr. Gobelman and rebutting his Initial Report. Now IDOT wants a second bite at the apple, but wants *JM to pay for it*, offering to allow JM to take Mr. Gobelman’s deposition again and to submit another expert rebuttal report, all at JM’s own cost. But re-opening discovery does not sanction IDOT’s unlawful conduct and only hurts JM.

For the reasons stated below, IDOT should be barred from using as evidence, in a motion or at hearing, the Supplemental Report or eliciting testimony from an IDOT witness concerning the Supplemental Report. In the alternative to the above, IDOT JM should be given leave to re-depose Mr. Gobelman and the person who prepared the Figures in his reports and to serve a Supplemental Expert Rebuttal Report. Moreover, the Board should also enter an Order precluding IDOT and its expert from further offering new or substantively changed opinions from now through the end of this case through a new report or through testimony, except to the extent completely new facts become known to the parties.

BACKGROUND

It was never contemplated that IDOT would be permitted to file what is essentially an expert report containing wholly new opinions, which is basically a “sur-reply” to Mr. Dorgan’s expert report. Both IDOT and JM submitted proposed discovery schedules, none of which provided for IDOT to file any sort of expert sur-reply. (See IDOT’s Proposed Revised Discovery and Hearing Schedule filed May 31, 2017; JM’s Proposed Amended Discovery Schedule filed May 31, 2017; IDOT’s Proposed Discovery and Hearing Schedule filed February 8, 2018; JM’s Proposed Revised Discovery Schedule filed February 8, 2018.)

On April 4, 2018, the Hearing Officer entered his Order for the current action, setting a deadline for the disclosure and depositions of expert witnesses. (**Exhibit D.**) These deadlines were later extended per the Hearing Officer’s Order dated April 19, 2018. (**Exhibit E.**) The April 19, 2018 Hearing Officer Order provided that “no further extensions will be granted without *good cause.*” (*Id.* (emphasis added).) Under the April 19, 2018 Hearing Officer Order, IDOT’s deadline to submit its expert report was August 22, 2018. (*Id.*) JM was given a deadline to submit a rebuttal report and IDOT’s deadline to depose JM’s rebuttal expert was November 12, 2018. (*Id.*) No provision was made for the disclosure of other or additional reports. (*Id.*)

As discovery progressed, IDOT repeatedly represented that it was following the Hearing Officer’s discovery timelines. (See June 18, 2018 Hearing Officer Order; August 23, 2018 Hearing Officer Order; September 27, 2018 Hearing Officer Order.) IDOT served its Initial Report on August 22, 2018. (See Certificate of Service filed August 22, 2018.) JM deposed Mr. Gobelman on October 2, 2018. (See Notice of Deposition filed September 11, 2018.) JM then served the Expert Rebuttal Report of Douglas G. Dorgan Jr. on Damages on October 25, 2018. (See Certificate of Service filed October 25, 2018.)

During a telephonic status conference with the Hearing Officer on October 30, 2018, IDOT again represented that it was following the Hearing Officer's discovery timelines. (**Exhibit F.**) IDOT made no mention that it was planning to serve a Supplemental Report. Indeed, IDOT never informed JM or the Hearing Officer that Mr. Gobelman was in the process of preparing an additional report. Nor did IDOT ever move the Hearing Officer for leave to serve a supplemental report or to extend any deadlines, which would obviously need to be moved with the service of any Supplemental Report.

Nevertheless, merely a week later and just days before the expiration of IDOT's deadline to depose JM's rebuttal expert on his rebuttal report and the close of discovery, IDOT served its Supplemental Report.⁴ A day later and two business days before the Hearing Officer's deadline for a deposition of JM's rebuttal expert expired, IDOT first informed JM that it wanted to depose JM's rebuttal expert, Mr. Dorgan. Prior to that time, IDOT neither served any Notice of Deposition nor asked the Hearing Officer to extend the long-set deposition deadline (a deadline which has now passed).

Throughout this case, IDOT repeatedly has attempted to improperly offer new or completely change its expert's opinions that created unfair surprise and prejudiced JM. (*See* JM's Brief in Support of its Objections to IDOT's Use of Undisclosed Opinion Testimony filed June 9, 2016⁵ (discussing "opinions" IDOT's purported expert offered at trial that had never been disclosed); JM's Response to IDOT's Brief Regarding JM's Objections filed June 14, 2016, § I (same); JM's Post-Hearing Brief filed August 12, 2016, pp. 29-32 (discussing Mr. Gobelman's constantly-changing opinions) and Exhibit A (Chart of Gobelman Inconsistencies)⁶;

⁴ (*Compare* April 19, 2018 Hearing Officer Order setting IDOT's deadline to depose rebuttal expert as November 12, 2018 *with* IDOT Certificate of Service filed November 7, 2018.)

⁵ That filing is re-attached hereto as **Exhibit G.**

⁶ Exhibit A to JM's Post-Hearing Brief is re-attached hereto as **Exhibit H.**

JM Post-Hearing Brief Reply filed November 14, 2016, § V.) The service of IDOT's Supplemental Report is but one more way in which IDOT has upended and complicated the proceedings in this matter and disregarded the Board's procedures. (*See also, e.g.*, JM's Status Report filed November 30, 2016, ¶¶ 5-6; Motion to Quash Subpoenas filed June 17, 2016; Motion to Quash Subpoena filed May 1, 2018.) IDOT should not be permitted to use these improper tactics.

LEGAL STANDARD

The Board and Illinois Rules (which the Board has looked to) provide for broad discretion to sanction parties who violate orders or discovery rules. *See* 35 Ill. Admin. Code 101.800(a); *Grigoleit Co. v. IPCB*, 245 Ill. App. 3d 337, 346-348 (4th Dist. 1993); *Citizens Against Regional Landfill v. The Cnty. Bd. of Whiteside Cnty. & Waste Mgmt of Ill., Inc.*, PCB 92-156, 1993 WL 45384, *6 (Jan. 21, 1993) (granting sanctions for failure to follow hearing officer's order); *Dorothy v. Flex-N-Gate Corp.*, PCB 05-40, 2006 WL 3265962, *4 (Nov. 2, 2006) (granting motion for sanctions). The Board has not hesitated to impose serious sanctions in the past. *Dorothy*, 2006 WL 3265962, at *7. "[H]earing officer orders are entitled to the same deference as Board orders, and the Board may impose sanctions for a violation of those orders." *Id.*; *Patterman v. Boughton Trucking & Materials, Inc.*, PCB 99-187, 2003 WL 21995870, *3 (Aug. 7, 2003) (barring testimony at hearing as sanction for failure to following hearing officer order to complete all depositions by a time certain); *IEPA v. The Celotex Corp.*, PCB 79-145, 1986 WL 27186, *2 (Dec. 5, 1986) (discussing ruling granting sanctions for violations of hearing officer orders and pattern of disregard of hearing officer deadlines); *see also* ILL. S. CT. R. 219(c).

The Board Rules, Illinois Supreme Court Rules, and “discovery procedures are meaningless unless a violation entails a penalty appropriate to the gravity of the violation. Discovery for all parties will not be effective unless trial courts do not countenance violations, and unhesitatingly impose sanctions proportionate to the circumstances.” *Buehler v. Whalen*, 70 Ill. 2d 51, 68 (Ill. 1977); *see also Citizens Utilities Co. of Ill. v. IEPA*, PCB 88-151, 1989 WL 85796, *4 (June 22, 1989) (citing and quoting *Buehler*). As such, the Board has held that “it is appropriate to consider using sanctions as a general deterrent to provide a strong incentive for litigants to fully and accurately comply with procedural rules.” *Dorothy*, 2006 WL 3265962, at *7 (looking to decisions of Illinois courts) (quotations and citation omitted).

The Board Rules authorize a wide range of possible sanctions for a party’s failure to comply with the Board’s rules or any Hearing Officer order, including barring further pleadings or testimony about the issue involved in the violation; striking the offending party’s document or any portion thereof; and barring a witness from testifying concerning the issue involved in the violation. 35 Ill. Admin. Code 101.800(b); 35 Ill. Admin. Code 101.802; *see also* ILL. S. CT. R. 219(c) (providing for similar sanctions).

It is well within the Board’s discretion to bar a party from introducing evidence where the offending party has failed to comply with discovery orders. *See e.g., Citizens Utilities*, 1989 WL 85796, at *8 (barring party from introducing evidence concerning costs where party filed a tardy discovery response that failed to satisfactorily answer the questions propounded); *Logsdon v. S. Fork Gun Club*, PCB 00-177, 2002 WL 31930107, *3 (Dec. 19, 2002) (striking brief as sanction for failure to comply with hearing officer orders); *see also Santorini Cab Corp. v. Banco Popular N. America*, 2013 IL App (1st) 122070, ¶¶ 20-23 (affirming ruling barring witnesses from testifying about damages where party failed to comply with discovery order).

ARGUMENT

1. Sanctions Are Warranted Because IDOT's New Report Is Untimely, Creates New Opinions, And Is Highly Prejudicial To JM.

IDOT's untimely disclosure of the Supplemental Report is not justified. IDOT's deadline to submit expert reports and opinions was August 22, 2018. (April 19, 2018 Hearing Officer Order.) Under the Board Rules, "[t]he Board or hearing officer, for good cause shown on a motion after notice to the opposite party, may extend the time for filing any document or doing any act which is required by these rules to be done within a limited period, either before or after the expiration of time." 35 Ill. Admin. Code 101.522. Here, IDOT did not even comply with the mandatory prerequisites—notice to the opposite party and filing of a motion—and has provided no "good cause" rationale. Indeed, a Supplemental Report was never contemplated by the Hearing Officer's April 19, 2018 Order. As such, it should not be allowed. *See Brickyard Disposal & Recycling, Inc. v IEPA*, PCB 16-66, 2017 WL 1368241, *5 (Apr. 7, 2017) (finding that failure to provide notice was "in contravention of the Board's rules.").

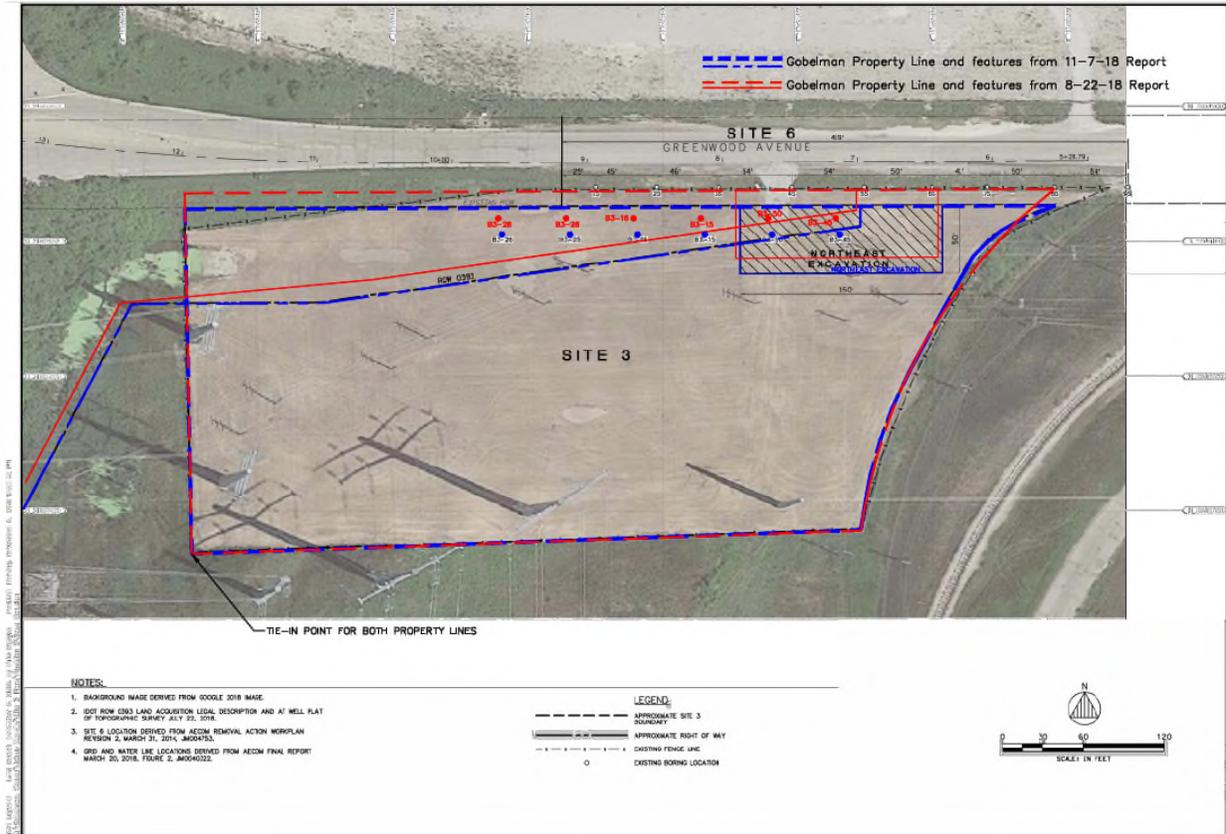
In fact, during an October 30 status hearing, IDOT informed the Hearing Officer and JM that IDOT intended to meet all deadlines. (October 30, 2018 Hearing Officer Order.) Just days after, however, IDOT unexpectedly and untimely served its Supplemental Report. *See, e.g., Mudron v. Brown & Brown, Inc.*, No. 03-cv-8708, 2005 WL 3019414, *7 (N.D. Ill. Nov. 8, 2005) (striking supplemental expert report filed two months after expert report deadline in response to legitimate criticisms regarding flaws and deficiencies in initial report).

In communications with JM, IDOT has maintained that it is merely complying with Illinois Supreme Court Rule 213(i), which provides that "[a] party has a duty to seasonably supplement or amend any prior answer or response whenever new or additional information subsequently becomes known to that party." But this is not what IDOT has done. The

Supplemental Report states that it “was written to correct the location of Parcel 0393 as shown on the bas map created in the [Initial Report].” (Exhibit B, Supplemental Report, § 1.) Assuming this to be true, the correction is not based upon “*new or additional information*” as required by the rule, but is admittedly based upon documents used in the first hearing, namely Hearing Exhibit 41-1 and Hearing Exhibit 21A-23 & 24. (Exhibit B, Supplemental Report, §§ 1, 2.1.) The duty to supplement an expert report does not “permit an expert to correct mistakes based on information that was available to the expert well in advance of the issuance of his report,” as here. *Sloan Valve Co. v. Zurn Indus., Inc.*, No. 10-cv-204, 2013 WL 3147349, *4 (N.D. Ill. June 19, 2013) (denying motion for leave to supplement/amend expert report).

But perhaps most alarming is the fact that the Supplemental Report misleads the Board and JM when it states that it was “written to correct” the location of Parcel 0393. Instead, the 38-page Supplemental Report departs from the Initial Report’s “base map” (upon which all of Mr. Gobelman’s opinions were based) in many fundamental ways that are not readily apparent from looking at the Figures. For example, it inexplicably uses a different Google image as the foundation. (*Compare* Initial Report, Figure 1 *with* Supplemental Report, Figure 1.) You can see from comparing the two figures that the Google image is different as the telephone poles are in different places on each image. It also changes the northern boundary of Site 3, one of the fundamental opinions in Mr. Gobelman’s Initial Report that formed the basis for many of his cost opinions. The new “base map” places the northern boundary of Site 3 south of the fence line in an apparent attempt to change Mr. Gobelman’s key opinion on the boundaries of Site 3. Finally, the Supplemental Report moves to the south the northeast excavation and boring locations attributable to IDOT. Apparently, without saying so, IDOT is attempting to re-write

the opinions in Mr. Gobelman's Initial Report. Below is a comparison⁷ of the location of key features as plotted in the Initial Report (red) and the Supplemental Report (blue):



To make matters worse, in a telephone conference between counsel for JM and counsel for IDOT conducted pursuant to Illinois Supreme Court Rule 201(k), IDOT's counsel *admitted that she knew these other features were being changed by Mr. Gobelman*, but did not require him to identify them or say that he was trying to offer new opinions. As such, Mr. Gobelman should be prevented from offering any opinions that are based upon these unidentified changes (namely, the northern boundary of Site 3, the location of the northeast excavation and the location of the soil borings) or any other changes JM has yet to discover.

⁷ The figure does not attempt to correct any flaws associated with either map.

Changing an expert report or offering a new expert report to address criticisms of an initial report under “the guise of the ‘supplement’ label” is prejudicial as it “sandbag[s] one’s opponent with claims and issues which should have been included in the expert witness’ report” from the outset and requires the opposing party “to re-tool its expert to address [the] new opinion after he has already addressed and analyzed her initial opinion because he pointed out what he said was a flaw in her original analysis.” *Berkheimer v. Hewlett-Packard Co.*, No. 12-cv-9023, 2016 WL 3030170, *5 (N.D. Ill. May 25, 2016); *Noffsinger v. Valspar Corp.*, No. 09-cv-916, 2011 WL 2457944, *2 (N.D. Ill. June 17, 2011). *Paris v. Amoco Oil Co.*, No. 00-cv-8206, 2002 WL 252821, *3 (N.D. Ill. Feb. 21, 2002) (holding that an “attempt to correct a material omission” from an expert witness disclosure “cannot be considered harmless when it was made *after* the deadline” for expert disclosures and after the expert disclosures had been made); *see also Carter v. The Finely Hosp.*, No. 01-cv-50468, 2003 WL 22232844, *2 (N.D. Ill. Sept. 22, 2003) (noting that it is disingenuous to argue that the duty to supplement can be used as a vehicle to make untimely expert disclosures).

In short, it is wholly inappropriate for IDOT to claim it is “supplementing” Mr. Gobelman’s report as to the location of one feature, when it admittedly knew, but did not tell JM, that it was altering boundaries or changing excavation and borings locations, all of which tie into Mr. Gobelman’s damages opinions. In other words, the Supplemental Report hides the fact that Mr. Gobelman is attempting to offer new opinions based upon information that has been in the record since the last hearing. This should not be allowed.

JM has been plainly prejudiced by IDOT’s belated Supplemental Report and the changed opinions therein. JM took Mr. Mr. Gobelman’s deposition almost two months before the Supplemental Report was served and was preparing for motions *in limine* (due November 26,

2018) when the Supplemental Report was served. The opinions embedded in the “base map,” but not identified in the Supplemental Report, contradict the opinions in Mr. Gobelman’s Initial Report (*e.g.*, that the northern boundary of Site 3 is the fence line). If Mr. Gobelman is allowed to identify these opinions and discuss them at hearing, much of JM’s prior work is rendered futile and it will have to begin expert discovery anew.⁸ This should not be permitted and contravenes the entire point of including deadlines in the Hearing Officer’s discovery schedule—to permit orderly discovery and procure full disclosure of relevant information necessary to evaluate the case and prepare for hearing, while avoiding unfair surprise. *See Quapaw Tribe of Okla. v. Blue Tee Corp.*, No. 03-cv-846, 2010 WL 3909204, *5 (N.D. Okla. Sept. 29, 2010) (finding prejudice where opposing party received new report following expert deposition); *GRI Grp., Inc. v. Sukup Mfg. Co.*, No. 05-cv-3011, 2007 WL 757818, *3 (C.D. Ill. Mar. 8, 2007) (“If the Court allows these new opinions to be considered, then [plaintiff] will be required to have its experts review these opinions and submit supplemental rebuttal opinions. This only extends discovery and delays the resolution of this matter. This is not harmless.”); *Bone Care Int’l, LLC v. Pentech Pharm., Inc.*, No. 08-cv-1083, 2010 WL 440655, *1 (N.D. Ill. Feb. 4, 2010) (granting motion to preclude use of supplemental expert report and holding that if supplementing expert report was allowed, “[t]hus is created another round of expert reports-with no assurances that new supplemental expert reports would not again be required.”); *Hayes v. Smithkline Beecham Corp.*, No. 07-cv-682, 2009 WL 3415210, *2 (N.D. Okla. Oct. 26, 2009) (“Allowing the use of new materials even to support existing opinions could trigger an endless wave of supplemental reports and the need for additional depositions, all of which would be costly for [the other

⁸ This is particularly prejudicial to JM given that the Board does not have the authority to award attorneys’ fees as a sanction for IDOT’s conduct and the resultant expense it will cause JM.

party].”). In the words of the United States District Court for the Northern District of Illinois, “[e]nough is enough.” *Bone Care*, 2010 WL 440655, at *1.

Moreover, it has been recognized that there is an “appearance” of bad faith when a party makes untimely expert disclosures “when it knew well in advance that [the experts] would be providing new reports and failed to notify [the other party] or seek leave of court to submit expert reports out of time.” *Quapaw Tribe*, 2010 WL 3909204, at *5. Here, IDOT failed to seek leave from the Hearing Officer or Board and never notified JM of its intention.

2. The Scope Of The Sanctions Sought Is Appropriate.

In determining the appropriate sanction to impose for failing to comply with procedural rules and Hearing Officer Orders, the Board can consider many factors, including “the degree to which the proceeding has been delayed or prejudice” and the “past history of the proceeding.” 35 Ill. Admin. Code 101.800(c). IDOT ignored the Hearing Officer’s Order and then compounded the noncompliance by violating 35 Ill. Admin. Code 101.533 by simply serving a Supplemental Report, which was not anticipated by the Hearing Officer’s Order, without notice to JM or without filing a motion. Furthermore, IDOT attempted to conceal the numerous changes encompassed by Mr. Gobelman’s Supplement Report by failing to identify them or the opinions that could flow from them. Indeed, IDOT’s attorney admitted that she knew there were more changes to the Supplemental Report than just the specific location of Parcel No. 0393, but IDOT elected not to identify them. IDOT, once again, is trying to sandbag JM.

The Board should not condone a party’s disregard for court orders or discovery rules, particularly when it causes unwarranted delay, frustration and expense, or where the record “reveals a pronounced pattern” of noncompliance or disregard of governing rules. *Harris v. Harris*, 196 Ill. App. 3d 815, 824 (1st Dist. 2005). It is without question that IDOT’s conduct, if

allowed, will not only further delay these proceedings in this case filed in 2014, but will also prejudice JM; JM will be forced to spend more time and money addressing the Supplemental Report that does not just correct a “mistake,” but also offers new opinions about the location of critical features that then lead to new opinions about costs. *See, e.g., Akeva LLC v. Mizuno Corp.*, 212 F.R.D. 306, 309-11 (M.D.N.C. 2002) (precluding plaintiff from using expert’s “supplemental” report where plaintiff delayed in providing the report and the defendants were prejudiced).

IDOT’s conduct is part of a “pronounced pattern” of noncompliance. *Harris*, 196 Ill. App. 3d at 824. At the last hearing, IDOT’s expert constantly changed and/or added new opinions to his testimony, which JM maintains amounted to “unfair surprise” and prejudice to JM. JM is requesting that the Board mandate that IDOT follow the rules this time around and not pontificate on wholly new matters or substantively change fundamental facts and corresponding opinions, such as the actual location of the critical features on Site 3, and thus the costs attributable to IDOT.

Therefore, as a sanction, IDOT should be barred from using the Supplemental Report as evidence in a motion or at hearing and from eliciting testimony about it. 35 Ill. Admin. Code 101.800.

CONCLUSION

IDOT’s conduct constitutes an abuse of discovery. Accordingly, Complainant Johns Manville respectfully requests that the Board enter an order: (1) granting JM’s Motion for Sanctions; (2) barring IDOT from using the Supplemental Report as evidence in a motion or at hearing in this matter; (3) barring IDOT from eliciting any testimony regarding the Supplemental Report or any of the content contained therein; (4) barring IDOT from offering any opinions

related to changes made in the Supplement Report that were not identified in the text of the Supplemental Report as changes made to the Initial Report; (5) in the alternative to requests (2)-(4), giving JM the opportunity to re-depose Mr. Gobelman and the person who prepared the figures and to serve a Supplemental Expert Rebuttal Report; (6) precluding IDOT and its expert from offering new or substantively changed opinions in a report or at hearing in this matter, except to the extent completely new facts become known to the parties; and (7) awarding any other relief the Board deems just and proper.

Dated: November 20, 2018

Respectfully submitted,

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EXHIBIT A

**EXPERT REBUTTAL REPORT OF STEVEN GOBELMAN
ON DAMAGES ATTRIBUTABLE TO IDOT
BASED ON IPCB ORDER OF DECEMBER 15, 2016**

Johns Manville
vs
Illinois Department of Transportation

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1. Purpose and Summary

I have been asked by counsel for the Respondent to review and comment on the Expert Report of Douglas G. Dorgan Jr (Report) concerning the former Johns Manville Facility Sites 3 and 6 damages attributable to IDOT dated June 13, 2018. (1) In addition to reviewing the Report, I reviewed some of the footnoted documents cited in the Report, and other historical records available regarding sites 3 and 6. My comments to the Report can be found in Section 3 through 8. Attached to this report are five Appendixes:

- Appendix A is a copy of bibliography of documents cited in this report;
- Appendix B is a copy of my resume;
- Appendix C is a composite of the different survey regarding Site 3;
- Appendix D contains the source reference material used to develop the base map; and
- Appendix E is a copy of the legal description for Parcel 0393.

2. Qualifications

My resume is presented Appendix B.

I obtained a B.S. in Geological Engineering from the University of Missouri-Rolla in 1983 and a M.S. in Geological Engineering from the University of Alaska-Fairbanks in 1985.

I have over 30 years of environmental engineering experience. I began my professional career with the Illinois Environment Protection Agency (Illinois EPA). I have over 7 years of experience with Illinois EPA. My responsibilities at Illinois EPA included: processing and managing underground injection control (UIC) permits; Site Remediation Program (SRP) projects as they related to public and private remediations, including brownfield sites; project manager on Comprehensive Environmental Resource, Compensation, and Liability Act (CERCLA) related cleanups under Illinois EPA's State Funded remediations; project management under Resource Recovery and Conservation Act (RCRA), including RCRA corrective actions, RCRA closures, leaking underground storage tank (LUST) program, and solid waste permits and closures.

I have over 22 years' experience with the Illinois Department of Transportation (IDOT). My responsibilities with IDOT included: waste assessments and investigations; overseeing soil and/or groundwater remediation; assisting construction with waste minimization and management; overseeing IDOT's environmental compliance audit (ECA) process; and the implementation of an environmental management information system (EMIS) for IDOT's maintenance yards and laboratory facilities.

I was also IDOT's technical expert reviewer on Highway Authority Agreements (HAAs). I have reviewed over a thousand HAAs which included determining IDOT's acceptable extent of impacts on our right of way. As part of the HAAs review process and for executed HAAs, I reviewed completed IDOT construction projects that have an existing

HAA or as part of a new HAA review and determined IDOT's environmental cost associated with the HAA area, and the allocation of cost involved proportioning costs to a single property from pay items that could involve multiple properties. Some of these HAA reviews required reviewing old construction projects to figure out what was constructed, how it was constructed, what the pay items and quantities were used on the construction project, and change orders associated with the project.

Since August 2015, I have been employed as a Project Director with Andrews Engineering, Inc. (Andrews) in Springfield, Illinois. My responsibilities with Andrews focus on providing technical expertise to industrial and government clients in various environmental issues including CERCLA, RCRA, TSCA, remediation technologies, and transportation. I have reviewed and prepared various cost estimates for potential new work, prepared detailed task driven work plans and cost estimates, and reports on risk assessments, remedial investigation, and feasibility studies. In addition to my role as a Project Director with Andrews, I am also utilized by industrial clients as a review and evaluation licensed professional engineer (RELPE) within the Illinois EPA's Site Remediation Program (SRP).

While at the Illinois EPA, I attended continuing education seminars, one of which was Skill Development in Negotiations of RCRA/CERCLA Disputes. This course provided basic information on negotiations, negotiating for the government, and dispute resolution techniques. While at IDOT, I also attended continued education seminars including Earthwork and Quantities Calculations, Land Acquisition and Survey, Managing Consultant Projects, and IDOT Highway Program Finance.

I am a registered Professional Engineer in Illinois and Indiana and a Licensed Professional Geologist in Illinois. I am a member of the Transportation Research Board (TRB) – ADC60 Committee for Resource Conservation and Recovery in Transportation. My qualifications were also set out in my Rebuttal Report, dated May 29, 2015, and in my testimony from the first hearing in this case.

3. Background Information

In preparation of this rebuttal report, I have review various documents from the previous hearing, documents presented regarding the cost allocation phase, the Illinois Pollution Control Boards (IPCB) opinion and order dated December 15, 2016 (2), and Mr. Dorgan's, Dr. Ebihara's, and Mr. Peterson's depositions.

According to Mr. Dorgan's Report (1), various tasks required by USEPA and performed with respect to Site 3 and Site 6 fell in what was called "Task Buckets". I have utilized the same "Task Buckets" in this report to determine the costs attributed to IDOT based on the IPCB opinion and order.

- Nicor Gas
- City of Waukegan Water Line
- AT&T

- ComEd
- Utility/Asbestos Containing Material (ACM) Excavation
- North Shore Gas
- Dewatering
- Northeast Excavation
- Filling and Capping
- Ramp
- General Site/Site Preparation
- Health and Safety
- EPA Oversight
- Legal Support Services

4. Project Management and Reasonableness of Implementation Cost

Mr. Dorgan opined that the implementation costs Johns Manville (JM) incurred were reasonable. Based on my review of the information, I have no reason to dispute the accuracy of the costs paid by JM.

5. Cost Attributed to IDOT's Responsibility as Defined by IPCB

5.1. Base Map Creation (Gobelman: Figure 1)

As stated in the IPCB opinion and order (2), "...IDOT caused open dumping of ACM waste along the south side of Greenwood Avenue within Site 6 (1S – 4S) and adjacent areas along the north edge of Site 3 (B3-25, B3-16, and B3-15). Additionally, IDOT allowed open dumping on Parcel 0393 (B3-25, B3-15, B3-16, B3-50, and B3-45 (to the extent sample B3-45 falls on Parcel 0393)."

In order to assess the costs attributed to IDOT based on the above order, I had to create a base map (Gobelman: Figure 1) locating Sites 3 and 6, as well as the location of the IPCB referenced soil sampling locations and areas remediated. My review of the various figures showing the location of Sites 3 and 6 revealed the location of Sites 3 and 6 were not consistently located on the various figures. For example, the Plat of Topographic Survey (Atwell Survey Exhibit G of Mr. Dorgan's Report) (1) does not match up with surveyed corners of Site 3 as presented on Figure 2 in the AECOM Final Report (3) or Mr. Dorgan's Figure 1 (1), as shown in Appendix C, Ex 1.

To evaluate the existing figures of Site 3, I started with the assumption that Mr. Dorgan's Exhibit G Atwell Survey was a correct survey of Site 3. To confirm that assumption, I used Figure 2 in the Final Report that contained grid coordinates of the four corners of Site 3. The corner grid coordinates did not match the corners located by the Atwell Survey. I then used Mr. Dorgan's Report Figure 1 and overlaid that figure over the Atwell

Survey and Final Report Figure 2. As shown in Appendix C, Ex 1 provides the results of the overlay.

Based on the inconsistent location of Site 3, I created a site map utilizing current existing conditions. The site map utilized a background Google 2018 image of Site 3 showing the fencing around Site 3, as shown in Figure 1 of this report (Gobelman: Figure 1). I assumed that Site 3 was contained within the shown fencing except in the northwest and northeast corner of Site 3. In the northwest corner of Site 3 the fenceline appears to drop along the embankment slope. Site 3 was extended to the north in the northwest corner across the embankment to connect to the western boundary of Site 3. The northeast corner of the fence extends beyond the location of Site 3. The fenceline in the northeast corner extends further east than the boundary of Site 3, as shown in Final Report Figure 1 (JM004034). I compared the base map created (Gobelman: Figure 1) with the overlay prepared in Ex-1 and presented the results in Appendix C, Ex-2.

The location of Parcel 0393 was located on Gobelman: Figure 1 based on the legal description from the Grant for Public Highway dated August 3, 1971 (Hearing Exhibit 41 - 1) (4) and IDOT as-build plans pages 23 and 24 (JM001153 and JM001154, Hearing Exh. 21A-23 & 24) (5). Parcel 0393 begins at the intersection of the easterly line of Pershing Road (former Sand Street) and the south line of Greenwood Avenue. The 1971 plan sheets (5) show that IDOT Stationing 7+00 on Greenwood Avenue is at the eastern edge of Parcel 0393.

Soil sampling locations were placed on the base map based on Site 3 ELM Figure 15 (6) (JM000565, Hearing Exh. 57-536). The lengths of the western and southern boundary were marked on Figure 15. The western boundary stated the length to be 267.5 feet and the southern boundary length to be 493 feet. The Gobelman: Figure 1 indicates that the western boundary length is 267 feet and the southern boundary length is 497 feet. The difference in the southern boundary lengths could be based on fence line being used as the southern boundary of Gobelman: Figure 1.

The scale on Figure 15 indicates that the soil sampling location of B3-26 is 23.1 feet from the western boundary of Site 3 and soil sample locations B3-25, B3-1, B3-50, and B3-45 are approximately 19.7 feet south of the line drawn representing the northern extent of Site 3. This distance disagrees with the scaled distance of 15 feet used in the Mr. Dorgan's Figure 1. Mr. Dorgan does not explain in his report how he developed Figure 1. The 4.7 feet difference between Gobelman's: Figure 1 of 19.7 feet and Mr. Dorgan's Figure 1 of 15 feet is important to the location of soil sample location B3-45.

Mr. Dorgan's Report places the location of soil sample location B3-45 slightly in or on the boundary of Parcel 0393, whereas Gobelman: Figure 1 places the location approximately 3 feet outside of Parcel 0393.

Soil sampling locations (1S – 9S) along the south side of site 6 were marked on Gobelman: Figure 1 based on AECOM's Work Plan rev 2, March 13, 2014, Sheet C-0022 (7) JM004753 (Hearing Exh. 66-99). Based on Sheet C-0022 the distance from

the western edge of Site 6 to soil sampling location 9S is 419 feet. All figures developed included Mr. Dorgan's Figure 1 (1) showed that soil sampling location 8S is at the northeast corner of Site 3 and is also shown on Sheet C-0022. Based on the scale of Sheet C-0022 the remaining sampling locations on Site 6 were placed on the Gobelman: Figure 1 base map.

The location of the Northeast Excavation was also based on Sheet C-0022 (7) JM004753. Sheet C-0022 shows the length of the Northeast Excavation to be 150 feet and the western edge of the Northeast Excavation to be located east of soil sampling 3S and the eastern edge to be located slightly east of sampling 6S. Based on the scaling of Sheet C-0022 the distance from soil sampling location 9S to the eastern edge of the Northeast Excavation is approximately 140 feet.

The location of the Nicor line, North Shore Gas line, and City of Waukegan Water line were located based on the AECOM's Final Report: Southwestern Site Area – Site 3, 4/5, and 6, dated March 20, 2018 (3) JM 0040322. The locations of the AT&T lines were located based on Mr. Dorgan's Report (1) Figure 1.

5.2. Site 3 Area within IDOT's Responsibility as Defined by IPCB

IDOT's responsibility as defined by IPCB within Parcel 0393 includes the soil boring locations B3-25, B3-15, B3-16, B3-50, and B3-45 (to the extent sample B3-45 falls on Parcel 0393). Therefore, the extent to the west within Parcel 0393 to soil sample location B3-26 (first soil sample location that did not detect ACM at any depth). As previously discussed, I located soil sample locations B3-45 outside of Parcel 0393 and, therefore, the extent within Parcel 0393 to the east would be the mid-point between soil sample location B3-50 and B3-45. However, for allocation costs in Site 3 within IDOT's responsibility as defined by IPCB, I will utilize the eastern edge of Parcel 0393. Making the extent of the eastern edge of Parcel 0393 removes arguments of the location of B3-45 given the difference between my location and Mr. Dorgan's location is 4.7 feet and the location of B3-45 is scaled off a map and the exact location was not identified.

In Mr. Dorgan Report, he incorrectly interprets the IPCB defined area of IDOT's responsibility to include all costs within Parcel 0393 with no consideration to the IPCB's defined area based on soil sample locations within Parcel 0393.

5.3. Site 6 Area within IDOT's Responsibility as Defined by IPCB

Mr. Dorgan is correct that the IPCB found IDOT liable for only soil sampling locations 1S through 4S along the south side of Site 6. However, the IPCB did not define IDOT liable for any impacts along the south side of Site 6 associated with soil sample locations 5S through 8S.

Soil sampling logs in the Engineering Evaluation/Cost Analysis, Revision 4 (8) (JM001945, JM001947, JM001949, and JM001951, Hearing Exh. 63-294, 269, 298, and 300) showed that the test pits went down to a depth of 3 feet in soil sampling location 5S

through 7S and 8S was stopped at 1 foot due to a buried dead electric line. The boring log for 5S showed transite and roofing material in each of the three sampling locations. Boring log for 6S showed transite in each of the three sampling locations and roofing material in the top two sampling locations. Boring log for 7S indicated that there was roofing material in the first foot, transite in the second foot, and brake shoes in the third foot. Boring log for 8S showed transite in the only sample in the first foot.

From the final report's (3) Table 8 (JM0039106), the depth of the excavation confirmation samples on the south side of Site 6 between 1S and 4S was at least 7 feet below ground surface (bgs). The depth of the excavation samples between 5S and 9S was at least 5.9 feet bgs.

IDOT's construction plans (5) from 1971 showed that roadway construction on Greenwood Avenue started at Station 7+60 and extended east to Station 7+00 for resurfacing. Station 7+00 is also the eastern edge of Parcel 0393. The construction of Detour Road A ends at approximately Station 15+40 along Detour Road A which is near Station 5+07 along Greenwood Avenue. The cross-section of Detour Road A (JM001154) (Exh. 21A-24) indicates that fill material depth tapered from 0 feet near Station 5+07 to an approximate depth of 2.5 feet of fill along Detour Road A which relates to Greenwood Avenue Stationing 7+00. The Site 6 area that relates to IDOT's construction Stationing 7+00 to 5+07 is soil sampling location 5S through 9S.

The IPCB ruled that the eastern edge of the reconstruction of Greenwood Avenue was near soil sampling location 4S which is near IDOT's Station 7+60 the beginning of the Greenwood Avenue roadway construction. The IPCB further ruled that IDOT did not open dump ACM waste in the construction of Detour Road A which is associated with borings 5S through 8S. Based on the amount of fill material used to create Detour Road A (2.5 feet or less), the depth of ACM found in the site investigation (3 feet or more), and JM's remedial excavation depth of 6 to 7.5 feet, I do not see any new information that would be considered new evidence to increase the area defined by the IPCB.

6. Attribution Approach

Mr. Dorgan created a Cost Allocation and IDOT Attribution Table that was presented in Exhibit F of Dorgan's Report. In order to simplify the process for the IPCB I will also utilize the same format to determine IDOT's costs allocation as defined by IPCB ruling (Gobelman: Table 1). The next subsections will discuss how the costs allocation will be assigned to IDOT based on IDOT's responsibility as defined by IPCB. Based on the allocation evaluation presented in this report, IDOT's responsibility as defined by IPCB is **\$489,891** of JM's **\$5,579,794** total Implementation Cost.

6.1. Nicor Gas

I concur with Mr. Dorgan's opinion that the costs incurred in creating a clean corridor around the Nicor Gas line is not within Site 3 as defined by IPCB, as shown on Gobelman: Figure 2.

6.2. City of Waukegan Water Line

The water line is located approximately 100 feet west of soil sampling location B3-26, near soil sample location B3-36 which did not detect ACM within any sampling depth (6). The water line is located west of soil sampling location B3-25, the farthest western location identified as IDOT's responsibility as defined by IPCB. I disagree with Mr. Dorgan's assessment that the water line cost within Site 3 is attributable to IDOT's responsibility as defined by IPCB. The water line is outside of the area within Site 3 that IDOT's responsibility as defined by IPCB, as shown on Gobelman: Figure 3.

6.3. AT&T

Mr. Dorgan stated that three AT&T telephone lines were located in Site 3. Two of the lines travelled within Parcel 0393 and the third line is located southwestern boundary of Parcel 0393 and runs southeasterly across site 3 outside of IDOT's defined responsibility. In addition, one line runs on the north side of Site 6 and another line runs on the south side of Site 6, as shown on Gobelman: Figure 4. I agree with Mr. Dorgan's assessment of the location of the AT&T telephone lines within Sites 3 and 6, as shown on Mr. Dorgan's report Figure 1. However, I disagree with Mr. Dorgan's cost attribution.

Service	Site 3	Site 6	Sites 3 and 6
Professional – Engineering Related to AT&T	\$26,524	\$31,105	
Professional – Completion Related to AT&T		\$15,000	
Construction – T&M Related to AT&T			\$53,548
Construction – Management Related to AT&T			\$45,350
Utility Payment to AT&T	\$82,127	\$238,161	
Total	\$108,651	\$284,266	\$98,898
IDOT Attribution	\$17,601	\$5,117	\$5,736

6.3.1. Site 3

Within Site 3 the three AT&T telephone lines equal to approximately 1,150 linear feet. The three AT&T telephone lines equal to approximately 187 linear feet within the area

attributed to IDOT's responsibility as defined by IPCB or approximate 16.3 percent of the total costs within Site 3. The proportionate cost attributed to IDOT's responsibility as defined by IPCB is \$17,601.

6.3.2. Site 6

The length of the northern corridor is approximately 2,820 linear feet and southern corridor on Site 6 is approximately 2,650 linear feet each, for a total length of approximately 5,470 linear feet (3) JM0040329. The length attributed to IDOT's responsibility as defined by IPCB is 47 linear feet, from where the AT&T telephone line enters Site 6 to the east of soil sampling location 3S and ends halfway between 4S and 5S. The percent of the cost attributed to IDOT's responsibility as defined by IPCB is 1.8 percent and the proportionate cost for Site 6 is \$5,117.

6.3.3. Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the costs that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the costs attributed to IDOT's responsibility as defined by IPCB (\$22,718) by the total Sites 3 and 6 costs (\$392,917). The percentage attributed to the combined Sites 3 and 6 costs is 5.8 percent (22,718/392,917). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$5,736.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for AT&T work performed attributable to IDOT is \$28,454, as shown in Gobelman: Table 1.

6.4. Utility/ACM Soils Excavation

As stated in Mr. Dorgan's report, excavation of ACM impacted soils occurred on both sides of Site 6. As calculated above in Section 6.3.2 AT&T Site 6, the total length of Site 6 is approximately 5,470 linear feet. The length attributed to IDOT's responsibility as defined by IPCB is 197 linear feet, from the western edge of Site 6 to halfway between 4S and 5S. The percent of the costs attributed to IDOT is 3.6 percent and the proportionate cost for Site 6 is \$5,591.

Service	Site 3	Site 6	Sites 3 and 6
Construction – Base Bid Soils for Site 6		\$155,318	
Total		\$155,318	
IDOT Attribution		\$5,591	

6.5. North Shore Gas

A clean corridor for the entire North Shore Gas line was created on Sites 3 and 6, as shown on Gobelman: Figure 5. The clean corridor within Site 3 was created with the North Shore Gas line left in-place. In Site 6, the North Shore Gas line was capped near soil sampling location 4S and remainder of the line to the east was removed from the south side of Site 6.

Service	Site 3	Site 6	Sites 3 and 6
Professional – Engineering for North Shore Gas	\$135,159	\$81,028	
Construction – T&M for North Shore Gas	\$162,678		\$22,327
Construction – Management for North Shore Gas			\$35,830
Utility Payment to North Shore Gas	\$34,687	\$153,833	
Total	\$332,524	\$234,861	\$58,157
IDOT Attribution	\$90,779	\$3,993	\$9,712

6.5.1. Site 3

The North Shore Gas line crosses Site 3 and a portion of Parcel 0393 near soil sampling location B3-15 and B3-50 (defined by the IPCB as being within IDOT liability). The distance the North Shore Gas line traverses diagonally across Site 3 with a corridor area is 12,016 square feet (25 foot corridor width). The area of the North Shore Gas line that impacts Parcel 0393 within IDOT's responsibility as defined by IPCB is approximately 3,278 square feet or about 27.3 percent of the total cost within Site 3. The proportionate cost attributed to IDOT is \$90,779.

6.5.2. Site 6

As Mr. Dorgan stated, the capping of the clean corridor occurred within Site 6 near soil sampling location 4S. All capping of the North Shore Gas line on Site 6 was limited to the area around soil sampling location 4S is attributable to IDOT's responsibility as defined by IPCB.

Mr. Dorgan states that the length along the south side of Site 6 is approximately 2,005 linear feet. The length attributed to IDOT's responsibility as defined by IPCB is approximately 35 linear feet, from where the North Shore Gas line enters Site 6 to the west of soil sampling location 4S and ends just east of soil sampling location 4S. The percent of the cost attributed to IDOT's responsibility as defined by IPCB is 1.7 percent and the proportionate cost for Site 6 is \$3,993.

6.5.3. Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the costs that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the costs attributed to IDOT's responsibility as defined by IPCB (\$94,772) by the total Sites 3 and 6 costs (\$567,385). The percentage attributed to the combined Sites 3 and 6 costs is 15.1 percent (94,772/567,385). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$9,712.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for North Shore Gas line work performed within IDOT's responsibility as defined by IPCB is \$104,484, as shown in Gobelman: Table 1.

6.6. Northeast Excavation

The Northeast Excavation is shown on the work plan (7) to be 150 feet by 50 feet or 7,500 square feet. Part of the Northeast Excavation area is incorporated within Parcel 0393 as it relates to the area IDOT's responsibility as defined by IPCB, as shown on Gobelman: Figure 6. Even though, my assessment of soil sample location B3-45 fall outside of Parcel 0393, I have elected to include the full eastern extent of Parcel 0393 within the Northeast Excavation.

As discussed earlier, the difference between Mr. Dorgan and my location of B3-45 is approximately 4 feet. The location of B3-45 is subjective based on its location on previous figures and reports. The additional cost allocated to the Northeast Excavation area that would be attributed to this increased area is approximately 5 percent.

The area of Parcel 0393 contained within the Northeast Excavation is approximately 1,905 square feet or 25.4 percent of the Northeast Excavation. As a result, the portion of JM's costs for Northeast Excavation work performed attributable to IDOT's responsibility as defined by IPCB is \$12,683, as shown in Gobelman: Table 1.

Service	Site 3	Site 6	Sites 3 and 6
Professional – Engineering for Northeast Excavation	\$3,977		
Professional – Completion Costs for Northeast Excavation	\$10,000		
Construction – Base Bid for Northeast Excavation	\$35,957		
Total	\$49,934		
IDOT Attribution	\$12,683		

6.7. Dewatering

Dewatering was required to remove the high water within both Sites 3 and 6 in order for work related to the clean corridor construction for the Nicor line, North Shore Gas line, City of Waukegan Water line, and the Northeast Excavation.

Service	Site 3	Site 6	Sites 3 and 6
Construction – Base Bid for Dewatering	\$140,800	\$159,250	
Construction – T&M for Dewatering	\$24,325		\$17,675
Construction – Management for Dewatering	\$74,530		\$21,500
Construction Services – Payments to Utilities	\$19,429	\$1,337	
Total	\$259,084	\$160,587	\$39,175
IDOT Attribution	\$40,417	\$37,738	\$7,287

6.7.1. Site 3

For Site 3, dewatering was required during the construction of the clean corridor associated with the Nicor line, North Shore Gas line, the City of Waukegan Water Line, and Northeast Excavation. As previously discussed IDOT was not liable for the Nicor line and the City of Waukegan Water Line. IDOT's responsibility as defined by IPCB was proportionate liable for 27.3 percent or \$90,779 of the North Shore Gas line cost within Site 3 and 25.4 percent or \$12,683 of the Northeast Excavation cost.

Service	Site 3	IDOT's Allocation
Nicor Line	\$218,090	\$0
North Shore Gas Line	\$332,524	\$90,779
City of Waukegan Water Line	\$61,037	\$0
Northeast Excavation	\$49,934	\$12,683
Total	\$661,585	\$103,462

To determine the percentage of the work associated with IDOT's responsibility as defined by IPCB liability, I divided the total cost attributed to IDOT's responsibility as defined by IPCB in Site 3 (\$103,462) by the total cost to complete the work for the Nicor line, North Shore Gas line, the City of Waukegan Water Line, and Northeast Excavation (\$661,585). This percentage, 15.6 percent (103,462/661,585), is the percent of the dewatering cost allocated to IDOT's responsibility as defined by IPCB liability. Therefore, JM's total costs for dewatering activities on Site 3 that are attributable to IDOT's responsibility as defined by IPCB totals \$40,417.

6.7.2. Site 6

For Site 6, dewatering was required during the construction of the clean corridor for the north and south side of Site 6. As stated in Mr. Dorgan's report he attributed 50 percent of the dewatering costs to IDOT's responsibility as defined by IPCB. In addition, Mr. Dorgan used soil sampling locations 1S to approximately 9S to define the Site 6 area. The final work plan indicates that the length of the south side of Site 6 is 419 linear feet (from the western end of Site 6 to soil sampling location 9S), as shown on Gobelman: Figure 1. Therefore the total length of dewatering in Site 6 is 838 linear feet (making the length of the north side and south side equal).

The length attributed to IDOT's responsibility as defined by IPCB is 197 linear feet, from where the western edge of Site 6 to halfway between 4S and 5S. The percent of the cost attributed to IDOT's responsibility as defined by IPCB is 23.5 percent and the proportionate cost for Site 6 is \$37,738.

6.7.3. Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the cost that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the cost attributed to IDOT's responsibility as defined by IPCB (\$78,155) by the total cost from Sites 3 and 6 (\$419,671). The percentage attributed to the combined Sites 3 and 6 costs is 18.6 percent ($78,155/419,671$). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB cost is \$7,287.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for dewatering work performed and attributable to IDOT is \$85,442, as shown in Gobelman: Table 1.

6.8. Ramp

Due to site conditions it was not practical to install the required vegetative cap in an area on the northwest corner of Site 3. Instead of a vegetative cap a three inch stone aggregate layer was placed over the compacted clay in lieu of topsoil, adjacent to a low off-site wet area (3). Since this work occurred within Parcel 0393 and is located to the west of soil sampling location B3-25 it is located outside of IDOT's responsibility as defined by IPCB liability area, as shown on Gobelman: Figure 7. The associated cost of \$20,880 is not attributable to IDOT's responsibility as defined by IPCB.

6.9. Filling/Capping

A vegetative soil cap (cap) was installed across Site 3. As stated in the Final Report (3), Site 3 is comprised of 3.1 acres. Filling/Capping costs include the removal of soils from both north and south sides of Site 6 (1). Mr. Dorgan's cost breakdowns include:

Service	Site 3	Site 6	Sites 3 and 6
Construction – Base Bid for Filling/Capping	\$328,983		
Construction – T&M for Filling/Capping	\$41,721	\$188,183	\$231,862
Construction – Management for Filling/Capping	\$55,550	\$122,170	\$120,150
Total	\$426,254	\$310,353	\$352,012
IDOT Attribution	\$27,707	\$11,173	\$18,657

6.9.1. Site 3

For Site 3, the area defined by the IPCB includes the area associated with soil sampling locations B3-25, B3-16, B3-15, and B3-50. This area extends to the west within Parcel 0393 to between B3-26 (first clean soil sampling location west of B325). As stated above, the eastern extent extends to the eastern boundary of Parcel 0393. This area equates to 0.2 acres or 6.5 percent of Site 3, as shown on Gobelman: Figure 8.

Therefore, JM's costs for dewatering activities on Site 3 that are attributable to IDOT's responsibility as defined by IPCB total \$27,707.

6.9.2. Site 6

The length of the northern and southern corridor on Site 6 is approximately 5,470 linear feet. The length attributable to IDOT's responsibility as defined by IPCB from the western boundary of Site 6 to the mid-point between 4S and 5S is 197 linear feet. The percent of the cost attributed to IDOT's responsibility as defined by IPCB is 3.6 percent and the proportionate cost for Site 6 is \$11,173.

6.9.3. Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the cost that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the cost attributed to IDOT's responsibility as defined by IPCB (\$38,879) by the total Sites 3 and 6 costs (\$736,607). The percentage attributed to the combined Sites 3 and 6 costs is 5.3 percent (38,879/736,607). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$18,657.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for dewatering work performed and attributable to IDOT is \$57,536, as shown in Gobelman: Table 1.

6.10. General Site/Site Preparation

The General Site/Site Preparation Task Bucket, according to Mr. Dorgan, includes but is not limited to general project management, support to and interface with regulatory authorities, professional services oversight of construction activities, installation and maintenance of stormwater controls, traffic control, and clearing and grubbing the sites in preparation for construction. (1)

Service	Site 3	Site 6	Sites 3 and 6
Professional – Engineering	\$335,534	\$519,027	
Professional – Completion Cost	\$70,621	\$53,250	
Professional – O&M	\$310,903		
Construction – Base Bid	\$138,310	\$95,560	
Construction – T&M		\$37,410	
Construction – Management			\$74,300
Construction – Misc.	\$57,362	\$102,082	
Total	\$932,730	\$807,328	\$74,300
IDOT Attribution	\$99,803	\$41,981	\$5,573

6.10.1. Site 3

Using the same process as Mr. Dorgan did in his report (1); I divided the portion of Site 3 cost for Construction Services that were attributable to IDOT's responsibility as defined by IPCB (\$189,187), by the Site 3 costs for Construction Services (\$1,476,454). The Professional Engineering Services - Engineering percentage is 12.8 percent (189,187/1,476,454). The Professional Engineering Services - Engineering cost attributed to IDOT's responsibility as defined by IPCB on Site 3 is \$45,508.

The same percentage (12.8 percent) utilized for the Professional Engineering Services – Completion Cost on Site 3 equated to \$9,039 to IDOT's responsibility as defined by IPCB.

Using the same percentage (6.5 percent) that is used in the Site 3 vegetative cap installation, the Site Preparation Professional Engineering Services O&M on Site 3 equates to \$20,209 to IDOT's responsibility as defined by IPCB.

The percentage (12.8 percent) utilized for the Construction Services Base Bid on Site 3 equated to \$17,704 to IDOT's responsibility as defined by IPCB.

The percentage (12.8 percent) utilized for the Construction Miscellaneous costs on Site 3 equated to \$7,342 to IDOT's responsibility as defined by IPCB.

Therefore, JM's costs for site preparation on Site 3 that are attributable to IDOT's responsibility as defined by IPCB total \$99,803.

6.10.2. Site 6

Using the same process as Mr. Dorgan did in his report (1); I divided the portion of Site 6 costs for Construction Services that were attributable to IDOT's responsibility as defined by IPCB (\$63,612), by the Site 3 costs for Construction Services (\$1,232,059). The Professional Engineering Services - Engineering percentage is 5.2 percent ($63,612/1,232,059$). The Professional Engineering Services - Engineering cost attributed to IDOT's responsibility as defined by IPCB on Site 6 is \$26,989.

The same percentage (5.2 percent) is utilized for the Professional Engineering Services – Completion Cost on Site 6 equated to \$2,769 to IDOT's responsibility as defined by IPCB.

The percentage (5.2 percent) utilized for the Construction Services Base Bid on Site 6 equated to \$4,969 to IDOT's responsibility as defined by IPCB.

The percentage (5.2 percent) utilized for the Construction T&M costs on Site 6 equated to \$1,945 to IDOT's responsibility as defined by IPCB.

The percentage (5.2 percent) utilized for the Construction Miscellaneous costs on Site 6 equated to \$5,308 to IDOT's responsibility as defined by IPCB.

Therefore, JM's costs for site preparation on Site 6 that are attributable to IDOT's responsibility as defined by IPCB total \$41,981.

6.10.3. Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the costs that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the costs attributed to IDOT's responsibility as defined by IPCB (\$41,391) by the total Sites 3 and 6 costs (\$548,602). The percentage attributed to the combined Sites 3 and 6 costs is 7.5 percent ($41,391/548,602$). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$5,573.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for dewatering work performed and attributable to IDOT is \$147,357, as shown in Gobelman: Table 1.

6.11. Health and Safety

6.11.1. Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the cost that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the Construction Services cost attributed to IDOT's responsibility as defined by IPCB (\$41,391) by the total Sites 3 and 6 costs (\$548,602). The

percentage attributed to the combined Sites 3 and 6 costs is 7.5 percent (41,391/548,602). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$5,775, as shown in Gobelman: Table 1.

6.12. EPA Oversight Costs

Reimbursement cost for USEPA oversight costs.

Service	Site 3	Site 6
EPA Oversight	\$233,805	\$125,675
Total	\$233,805	\$125,675
IDOT Attribution	\$29,927	\$6,535

6.12.1. Site 3

Using the same process as Mr. Dorgan did in his report (1), the portion of Site 3 costs for Construction Services that were attributable to IDOT's responsibility as defined by IPCB (\$189,187), by the Site 3 costs for Construction Services (\$1,476,454). Then applying this percentage (12.8 percent) to the cost for USEPA Oversight on Site 3 is \$29,927, as shown in Gobelman: Table 1.

6.12.2. Site 6

Using the same process as Mr. Dorgan did in his report (1), the portion of Site 6 cost for Construction Services that were attributable to IDOT's responsibility as defined by IPCB (\$63,612), by the Site 3 costs for Construction Services (\$1,232,059). Then applying this percentage (5.2 percent) to the cost for USEPA Oversight on Site 6 is \$6,535, as shown in Gobelman: Table 1.

6.13. Cost for Legal/Legal Support Services

Legal support services were related to negotiation of easements and other agreements for Sites 3 and 6 for required utility work. I did not analyze the attribution or reasonableness of these costs to the allocation process. As calculated in Mr. Dorgan's report (1), the allocation percentage was calculated by dividing the cost attributed to IDOT's responsibility as defined by IPCB for utility work (\$138,530) by utility related work for Site 3, Site 6, and Site 3/6 (\$1,638,837). The percentage attributed to the legal support services is 8.5 percent (138,530/1,638,837). As applied to JM's cost for Legal Support Services (\$71,840), IDOT's responsibility as defined by IPCB for Legal Support Services is \$6,106, as shown in Gobelman: Table 1.

7. IDOT's Responsibility as Defined by IPCB Attribution Summary

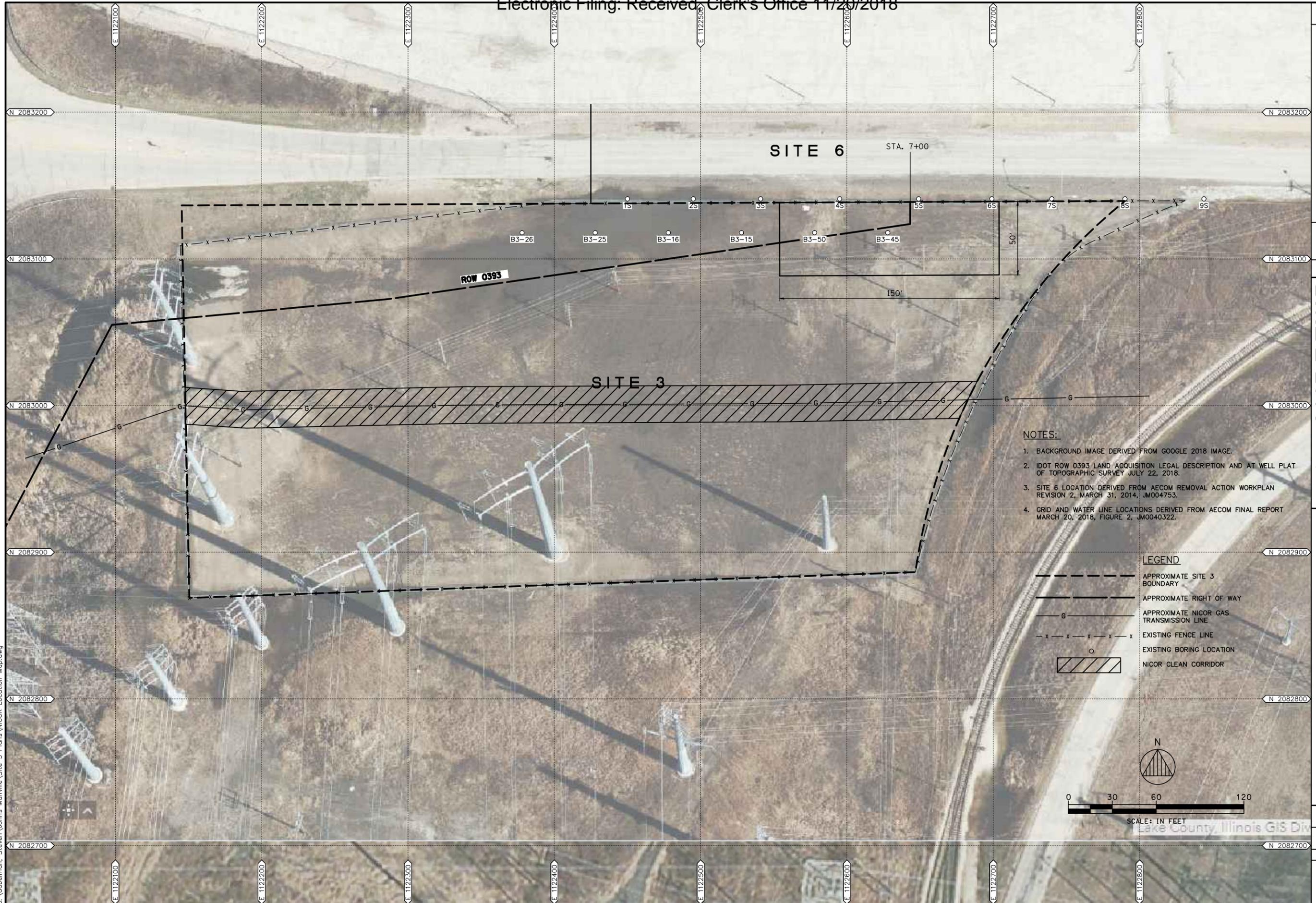
IDOT's responsibility as defined by IPCB cost allocation amounts are presented in the following table:

Task Bucket	Site 3	Site 6	Sites 3 and 6	Total
Nicor Gas	\$0	\$0	\$0	\$0
City of Waukegan Water Line	\$0	\$0	\$0	\$0
AT&T	\$17,601	\$5,117	\$5,736	\$28,454
Utility/ACM Excavation	\$0	\$5,591	\$0	\$5,591
North Shore Gas	\$90,779	\$3,993	\$9,712	\$104,484
Northeast Excavation	\$12,683	\$0	\$0	\$12,683
Dewatering	\$40,417	\$37,738	\$7,287	\$85,442
Ramp	\$0	\$0	\$0	\$0
Filling/Capping	\$27,707	\$11,173	\$18,657	\$57,537
General Site/Site Preparation	\$99,803	\$41,981	\$5,573	\$147,357
Health and Safety	\$0	\$0	\$5,775	\$5,775
USEPA Oversight Cost	\$29,927	\$6,535	\$0	\$36,462
Legal Support	\$0	\$0	\$6,106	\$6,106
Total	\$318,917	\$112,128	\$58,846	\$489,891

8. IDOT's Responsibility as Defined by IPCB Attribution

Based on the above table, it is my opinion that \$489,891 of JM's cost (\$5,579,794) incurred on Site 3 and Site 6 are attributable to IDOT in accordance to the IPCB ruling.

FIGURES

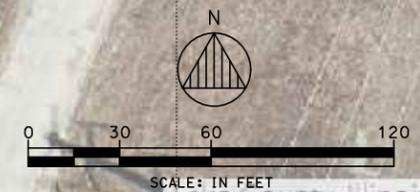


NOTES:

1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
2. IDOT ROW 0393 LAND ACQUISITION LEGAL DESCRIPTION AND AT WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REVISION 2, MARCH 31, 2014, JM004753.
4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, JM0040322.

LEGEND

- APPROXIMATE SITE 3 BOUNDARY
- APPROXIMATE RIGHT OF WAY
- APPROXIMATE NICOR GAS TRANSMISSION LINE
- EXISTING FENCE LINE
- EXISTING BORING LOCATION
- NICOR CLEAN CORRIDOR



<p>ANDREWS ENGINEERING, INC. 3300 GINGER CREEK DRIVE SPRINGFIELD, ILLINOIS 62711-7233 PH (217) 787-2334 FAX (217) 787-9495 PONTIAC, IL • LOMBARD, IL • INDIANAPOLIS, IN • WARRENTON, MO PROFESSIONAL DESIGN ENGINEERING AND LAND SURVEYING FIRM #184-001541</p>							
NICOR LOCATION MAP PREPARED FOR JOHNS MANVILLE VS. IDOT PCB14-3 WAUKEGAN, ILLINOIS		APPROVED BY: SLG DESIGNED BY: SLG DRAWN BY: MPN NO. DATE REVISION DESCRIPTION BY					
DATE: AUGUST 2018 PROJECT ID: 160021/0001 SHEET NUMBER:		GOBELMAN: FIGURE 2					

Tab: Layout1 Last Saved: August 15, 2018, by Mike Nguyen Plotted: Tuesday, August 21, 2018 11:23:44 AM
 S:\Gobelman, Steven\Johns Manville\Site 3 Plans\NICOR Location Map.dwg

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COST ALLOCATION TABLE AS DEFINED BY ICLB ORDER

Work/Cost Type	Task Bucket											
	Nicor Gas			City of Waukegan Water Line			AT&T			ComEd		
	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6
Professional Engineering Services LFR/Arcadis/AECOM	\$ 106,086			\$ 35,867	\$ 48,433		\$ 26,524	\$ 31,105				
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	16.2%	1.8%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,297	\$ 560	\$ -	\$ -	\$ -	\$ -
Professional Engineering Services Completion Costs AECOM Estimate								\$ 15,000				
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.8%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 270	\$ -	\$ -	\$ -	\$ -
Operations and Maintenance AECOM Estimate												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Campanella Base Bid	\$ 106,848			\$ 25,170								
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Campanella T&M Services	\$ 5,156				\$ 38,241				\$ 53,548			
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	5.8%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,106	\$ -	\$ -	\$ -
Construction Services DMP			\$ 360						\$ 45,350			
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	5.8%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,630	\$ -	\$ -	\$ -
Construction Services Miscellaneous												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Payments to Utilities							\$ 82,127	\$ 238,161				
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	16.2%	1.8%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 13,305	\$ 4,287	\$ -	\$ -	\$ -	\$ -
Easement Legal Support Manikas												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
EPA Oversight												
Percent Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Costs	\$ 218,090	\$ -	\$ 360	\$ 61,037	\$ 86,674	\$ -	\$ 108,651	\$ 284,266	\$ 98,898	\$ -	\$ -	\$ -
Total IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 17,601	\$ 5,117	\$ 5,736	\$ -	\$ -	\$ -

AT&T

Total AT&T Site 3 and Site 6	\$	392,917
IDOT Attribution	\$	22,718
Percent IDOT attribution		5.8%
AT&T IDOT Total	\$	28,454

COST ALLOCATION TABLE AS DEFINED BY IPLCB ORDER

Work/Cost Type	Task Bucket											
	Utility/Asbestos Containing Material (ACM) Excavation			North Shore Gas (NSG)			Northeast Excavation			Dewatering		
	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6
Professional Engineering Services LFR/Arcadis/AECOM				\$ 135,159	\$ 81,028		\$ 3,977					
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	27.3%	1.7%	0.0%	25.4%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 36,898	\$ 1,377	\$ -	\$ 1,010	\$ -	\$ -	\$ -	\$ -	\$ -
Professional Engineering Services Completion Costs AECOM Estimate							\$ 10,000					
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	25.4%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,540	\$ -	\$ -	\$ -	\$ -	\$ -
Operations and Maintenance AECOM Estimate												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Campanella Base Bid		\$ 155,318					\$ 35,957			\$ 140,800	\$ 159,250	
Percentage Attribution to IDOT	0.0%	3.6%	0.0%	0.0%	0.0%	0.0%	25.4%	0.0%	0.0%	15.6%	23.5%	0.0%
IDOT Attribution	\$ -	\$ 5,591	\$ -	\$ -	\$ -	\$ -	\$ 9,133	\$ -	\$ -	\$ 21,965	\$ 37,424	\$ -
Construction Services Campanella T&M Services				\$ 162,678		\$ 22,327				\$ 24,325		\$ 17,675
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	27.3%	0.0%	16.7%	0.0%	0.0%	0.0%	15.6%	0.0%	18.6%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 44,411	\$ -	\$ 3,729	\$ -	\$ -	\$ -	\$ 3,795	\$ -	\$ 3,288
Construction Services DMP						\$ 35,830				\$ 74,530		\$ 21,500
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	16.7%	0.0%	0.0%	0.0%	15.6%	0.0%	18.6%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,984	\$ -	\$ -	\$ -	\$ 11,627	\$ -	\$ 3,999
Construction Services Miscellaneous												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Payments to Utilities				\$ 34,687	\$ 153,833					\$ 19,429	\$ 1,337	
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	27.3%	1.7%	0.0%	0.0%	0.0%	0.0%	15.6%	23.5%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 9,470	\$ 2,615	\$ -	\$ -	\$ -	\$ -	\$ 3,031	\$ 314	\$ -
Easement Legal Support Manikas												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
EPA Oversight												
Percent Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Costs	\$ -	\$ 155,318	\$ -	\$ 332,524	\$ 234,861	\$ 58,157	\$ 49,934	\$ -	\$ -	\$ 259,084	\$ 160,587	\$ 39,175
Total IDOT Attribution	\$ -	\$ 5,591	\$ -	\$ 90,779	\$ 3,993	\$ 9,712	\$ 12,683	\$ -	\$ -	\$ 40,417	\$ 37,738	\$ 7,287

North Shore Gas (NSG)

Total NSG Site 3 and Site 6	\$	567,385
IDOT Attribution	\$	94,772
Percent IDOT attribution		16.7%
NSG IDOT Total	\$	104,484

Dewatering

Total dewater Site 3 and Site 6	\$	419,671
IDOT Attribution	\$	78,155
Percent IDOT attribution		18.6%
Dewatering IDOT Total	\$	85,442

COST ALLOCATION TABLE AS DEFINED BY ICLB ORDER

Work/Cost Type	Task Bucket											
	Ramp			Filling and Capping			General Site/Site Preparation			Health and Safety		
	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6
Professional Engineering Services LFR/Arcadis/AECOM Percentage Attribution to IDOT IDOT Attribution	\$ 20,880 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ 355,534 12.8% 45,508	\$ 519,027 5.2% 26,989	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -
Professional Engineering Services Completion Costs AECOM Estimate Percentage Attribution to IDOT IDOT Attribution	\$ - - -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ 70,621 12.8% 9,039	\$ 53,250 5.2% 2,769	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -
Operations and Maintenance AECOM Estimate Percentage Attribution to IDOT IDOT Attribution	\$ - - -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ 310,903 6.5% 20,209	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -
Construction Services Campanella Base Bid Percentage Attribution to IDOT IDOT Attribution	\$ - - -	\$ - 0.0% -	\$ - 0.0% -	\$ 328,983 6.5% 21,384	\$ - 0.0% -	\$ - 0.0% -	\$ 138,310 12.8% 17,704	\$ 95,560 5.2% 4,969	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ 77,000 7.5% 5,775
Construction Services Campanella T&M Services Percentage Attribution to IDOT IDOT Attribution	\$ - - -	\$ - 0.0% -	\$ - 0.0% -	\$ 41,721 6.5% 2,712	\$ 188,183 3.6% 6,775	\$ 231,862 5.3% 12,289	\$ - 0.0% -	\$ 37,410 5.2% 1,945	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -
Construction Services DMP Percentage Attribution to IDOT IDOT Attribution	\$ - - -	\$ - 0.0% -	\$ - 0.0% -	\$ 55,550 6.5% 3,611	\$ 122,170 3.6% 4,398	\$ 120,150 5.3% 6,368	\$ - 0.0% -	\$ - 0.0% -	\$ 74,300 7.5% 5,573	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -
Construction Services Miscellaneous Percentage Attribution to IDOT IDOT Attribution	\$ - - -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ 57,362 12.8% 7,342	\$ 102,082 5.2% 5,308	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -
Construction Services Payments to Utilities Percentage Attribution to IDOT IDOT Attribution	\$ - - -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -
Easement Legal Support Manikas Percentage Attribution to IDOT IDOT Attribution	\$ - - -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -
EPA Oversight Percent Attribution to IDOT IDOT Attribution	\$ - - -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -	\$ - 0.0% -
Total Costs	\$ 20,880	\$ -	\$ -	\$ 426,254	\$ 310,353	\$ 352,012	\$ 932,730	\$ 807,329	\$ 74,300	\$ -	\$ -	\$ 77,000
Total IDOT Attribution	\$ -	\$ -	\$ -	\$ 27,707	\$ 11,173	\$ 18,657	\$ 99,803	\$ 41,981	\$ 5,573	\$ -	\$ -	\$ 5,775

Filling and Capping

Total Fill and Cap Site 3 and Site 6	\$	736,607
IDOT Attribution	\$	38,879
Percent IDOT attribution		5.3%
Fill and Cap IDOT Total	\$	57,536

General Site/Site Preparation

Total Construction Cost	\$	1,476,454	Site 3	\$	1,476,454	Site 6	\$	1,232,059	Site 3/6	\$	548,602
Total IDOT Attribution	\$	189,187		\$	189,187		\$	63,612		\$	41,391
Percent IDOT Attribution		12.8%			12.8%			5.2%			7.5%

COST ALLOCATION TABLE AS DEFINED BY ICLB ORDER

Work/Cost Type	Task Bucket						Total			Total Site 3 and Site 6 Costs
	EPA Oversight			Legal Support Services			Site 3	Site 6	Site 3 and Site 6	
	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	
Professional Engineering Services LFR/Arcadis/AECOM Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	\$ 684,027	\$ 679,593	\$ -	\$ 1,363,620
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 87,714	\$ 28,927	\$ -	\$ 116,641
Professional Engineering Services Completion Costs AECOM Estimate Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	\$ 80,621	\$ 68,250	\$ -	\$ 148,871
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,579	\$ 3,039	\$ -	\$ 14,618
Operations and Maintenance AECOM Estimate Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	\$ 310,903	\$ -	\$ -	\$ 310,903
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,209	\$ -	\$ -	\$ 20,209
Construction Services Campanella Base Bid Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	\$ 776,068	\$ 410,128	\$ 77,000	\$ 1,263,196
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 70,185	\$ 47,984	\$ 5,775	\$ 123,945
Construction Services Campanella T&M Services Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	\$ 233,880	\$ 263,834	\$ 325,412	\$ 823,126
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 50,918	\$ 8,720	\$ 22,411	\$ 82,048
Construction Services DMP Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	\$ 130,080	\$ 122,170	\$ 297,490	\$ 549,740
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,237	\$ 4,398	\$ 24,553	\$ 44,189
Construction Services Miscellaneous Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	\$ 57,362	\$ 102,082	\$ -	\$ 159,444
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,342	\$ 5,308	\$ -	\$ 12,651
Construction Services Payments to Utilities Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	\$ 136,243	\$ 393,331	\$ -	\$ 529,574
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25,805	\$ 7,216	\$ -	\$ 33,021
Easement Legal Support Manikas Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	8.5%	\$ 71,840	\$ -	\$ 71,840	\$ 71,840
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,106	\$ -	\$ -	\$ 6,106	\$ 6,106
EPA Oversight	\$ 233,805	\$ 125,675					\$ 233,805	\$ 125,675	\$ -	\$ 359,480
Percent Attribution to IDOT	12.8%	5.2%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ 29,927	\$ 6,535	\$ -	\$ -	\$ -	\$ -	\$ 29,927	\$ 6,535	\$ -	\$ 36,462
Total Costs	\$ 233,805	\$ 125,675	\$ -	\$ -	\$ -	\$ 71,840	\$ 2,642,989	\$ 2,165,063	\$ 771,742	\$ 5,579,794
Total IDOT Attribution	\$ 29,927	\$ 6,535	\$ -	\$ -	\$ -	\$ 6,106	\$ 318,917	\$ 112,128	\$ 58,845	\$ 489,890

Manikas Support Site 3/6

	Site 3	Site 6	Site 3 and 6	Total
Total costs for utility work	\$ 720,302	\$ 761,119	\$ 157,415	\$ 1,638,836
Total IDOT Attribution	\$ 108,381	\$ 14,701	\$ 15,448	\$ 138,530
Percent IDOT Attribution				8.5%

TABLE

Appendix A

BIBLIOGRAPHY OF DOCUMENTS CITED

1. *Expert Report of Douglas G. Dorgan, Jr On Damages Attributable to IDOT, Johns Manville vs Illinois Department of Transportation, prepared by Weaver Consultants Group, dated June 13, 2018.*
2. **Board, Illinois Pollution Control.** *Interim Opinion and Order of the Board, December 15, 2016.*
3. **AECOM.** *Final Report, Southwestern Site Area, Site 3, Site 4/5, and 6, Waukegan, Illinois, March 20, 2018.*
4. *Grant of Public Highway, August 3, 1971.*
5. *State of Illinois Department of Public Works and Buildings, Division of Highways, Plans for Proposed Federal Aid Highway, F.A. Route 42 – Section 8-HB & 8-VB, Lake County, Contract #28266. 1971.*
6. *Surface and Subsurface Characterization Site 2 and Site 3 Former Johns Manville Manufacturing Facility Waukegan Illinois, Volume 1, Appendix A – Appendix K, prepared for Johns Manville. s.l. : prepared by ELM Consultants, LLC., December 10, 1999.*
7. **AECOM.** *Removal Action Work Plan, Revision 2, Southwestern Site Area - Site 3, 4/5, and 6, Johns Manville Site, Waukegan, Illinois. March 31, 2014.*
8. *Engineering Evaluation/Cost Analysis (EE/CA) Southwestern Site Area Sites 3, 4/5, and 6: Revision 4, prepared for Johns Manville and Commonwealth Edison Company. s.l. : prepared by ARCADIS U.S., Inc., April 4, 2011.*

Appendix B

Years of Experience

Andrews 3
IL Dept. of Transportation 22
IL Environmental Protection Agency 8

Steven L. Gobelman, P.E., L.P.G.

Project Director
Andrews Engineering, Inc.
3300 Ginger Creek Drive
Springfield, Illinois 62711
(217) 787-2334

Education

MS/Geological Engineering
University of Alaska-Fairbanks

BS/Geological Engineering
University of Missouri-Rolla

Undergraduate work/Engineering
Belleville Area College
Belleville, Illinois

Licenses

Professional Engineer – IL, IN
Licensed Professional Geologist – IL

Certification

OSHA Hazardous Waste Site Worker
Certification (40 hr)

OSHA Hazardous Waste Worker
Refresher (8 hr)

MSHA Part 48

Confined Space Certified

Awards

1998 IDOT Central Office Engineer of the
Year

Affiliations

Transportation Research Board Member,
ADC60 – Committee on Resource
Conservation and Recovery

Publications

*"Sublimation of Reconstituted Frozen
Silts", MS Thesis, University of
Alaska-Fairbanks, May 1985.*

Professional Experience

Andrews Engineering, Inc.

Springfield, Illinois

August 2015 to Present

Project Director. Responsible for providing technical expertise to industrial and government clients in various environmental issues including: CERCLA, RCRA, TSCA, remediation technologies, and transportation. Review and prepare various reports on risk assessments, remediation work plans, quality assurance/quality control plans, and remedial investigation and feasibility studies.

Illinois Department of Transportation

Springfield, Illinois

September 2014 to July 2015

Technical Manager. Responsible for providing highly specialized technical expertise department wide, for conducting assessments and investigations of special waste, and when required remediation. Review and prepare risk assessments, work plans, quality assurance/quality control plans, recommend further action, NEPA documents, and coordinate various contract activities with districts, central office bureaus, and regulatory agencies.

Illinois Department of Transportation

Springfield, Illinois

September 2013 to September 2014

Technical Manager. Acting Roadside Maintenance Manager. Responsible for policies for operation and maintenance of highway rest areas statewide and responsible for reviewing all rest area plans and making recommendations regarding their design and construction. Responsible for administrative rest area maintenance contracts. Develop policies for turf and plan management for highway rights-of-way statewide (items included are mowing policy, herbicide, plant varieties and diseases, fertilization, and erosion control measures). Technical expert on hazardous waste related to pesticide/herbicide management.

Illinois Department of Transportation

Springfield, Illinois

September 1993 to September 2013

Technical Manager. Responsible for providing highly specialized technical expertise departmentwide, for conducting assessments and investigations of special waste, and when required remediation. Review and prepare risk assessments, work plans, quality assurance/quality control plans, recommend further action, NEPA documents, and coordinate various contract activities with districts, central office bureaus, and regulatory agencies.

Illinois Environment Protection Agency

Springfield, Illinois

March 1992 to September 1993

Lead Worker. Project Manager in the Bureau of Land, Division of Remediation Management, Remedial Project Management Section, Remediation Engineering Sub-Unit. Section's technical expert on geology, hydrogeology, and engineering. Conduct engineering and technical research on problems associated with cleanups conducted in the Section. Conduct public meetings and provide engineering and technical details to public information personnel for media and citizen inquiries.

Illinois Environment Protection Agency

Springfield, Illinois

May 1988 - March 1992

Environment Protection Engineer. Project Manager in the Bureau of Land, Division of Remediation Management, Remedial Project Management Section, State Sites Unit. Unit's technical expert on geology, hydrogeology, and engineering. Perform duties associated with State site cleanup projects, including voluntary cleanup actions negotiated with industry, which are highly technical in nature and include complex engineering, geology, and hydrogeologic problems as well as sensitive issues concerning toxic environmental contaminants and their public health effects. Manage contracts with engineering and cleanup firms for remedial investigations (RI), feasibility studies (FS), design, and cleanup projects. Perform RI/FS that include sampling of groundwater, soil, and hazardous waste.

Illinois Environment Protection Agency

Springfield, Illinois

November 1985-April 1988

Environmental Protection Engineer. Permit Reviewer in the Bureau of Land, Division of Land Pollution Control, Permit Section. Performed a variety of geology, hydrogeologic, and engineering functions pertaining to permit review of underground injection control (UIC) permits, RCRA closures, and solid waste permit and closure applications. Determine the feasibility of the application based on technical/engineering, geology, hydrogeologic data, and financial assurance. Based on the feasibility made recommendations for approval or denial. Worked with computer modeling of pollutant transport in groundwater to determine the extent of groundwater contamination.

Presentations

"Managing 'Uncontaminated Soil' and Special Waste through General Construction Contracts", Presented Various IDOT Districts, Project Implementation Annual Meeting, and Project Development Annual Meeting, 2012 and 2013.

"Acquiring Liability and Avoiding it at the Same Time", Presented to the Transportation Research Board's ADC60 Summer Meeting, Portland, Oregon, July 27, 2011.

"IDOT Approach to EMIS", Presented to the Transportation Research Board's ADC60 Summer Meeting, Baltimore, Maryland, June 17, 2008.

"Creating and Implementing Programs for Environmental Compliance Audits", Panel Discussion, Presented to the Transportation Research Board's ADC60 Summer Meeting, Ft Worth, Texas, July 9, 2007.

"IDOT's Management of Waste", Presented to Various IDOT Districts, July 2006.

"IDOT's Management of Waste", Presented at the Illinois Environmental Protection Agency RCRA Retreat, September 30, 2004.

"Phase II Process", Presented at IDOT's Annual Program Development Meeting, September 2003.

"Contamination Management Bid Items in Construction Contracts, A Good Idea?" Panel Discussion, Presented to the Transportation Research Board's A1F07 Summer Meeting, Key West, Florida, July 9, 2001.

Electronic Filing: Received, Clerk's Office 11/20/2018

"On-Site Management of Potentially Contaminated Soil as Construction Fill", Presented to the Transportation Research Board's National Meeting, Washington, DC, January 13, 1998.

"On-Site Management of Potentially Contaminated Soil as Construction Fill", Presented at Brownfield '97, Kansas City, Missouri, September 4, 1997.

"On-Site Management of Potentially Contaminated Soil as Construction Fill", Presented to the Transportation Research Board's A1F07 Summer Meeting, Asheville, North Carolina, July 28, 1997.

"EPA's Procedure on Determining How Clean is Clean", Presented to the AEG-North Central Section, March 16, 1993.

"Site Safety Plans - An Agency Viewpoint", Presented at HazMat '92 - Chicago, March 1992.

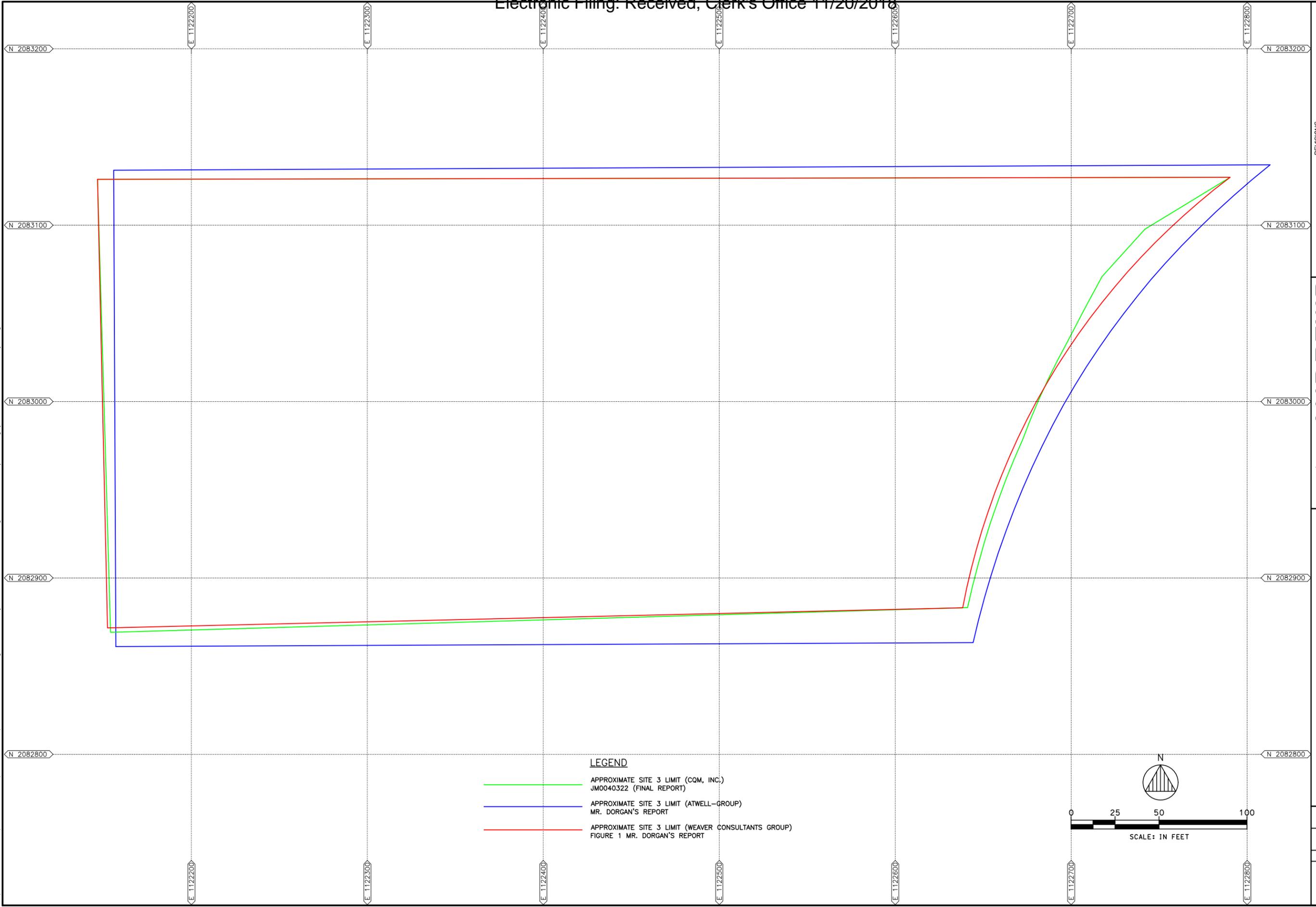
"Illinois EPA Cleanup Program", Presented at Illinois Environmental Regulation Conference, October 1991.

"Implementation of Mobile Incineration at the Paxton Avenue Lagoons Site, Chicago, Illinois", Presented at the Environmental Management Exposition, October 1990.

"Illinois Environmental Protection Agency's Procedure on Setting Cleanup Objectives", Presented at Federation of Environmental Technologist, Illinois Environmental News and Views, May 1990.

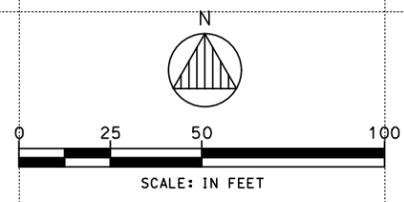
Appendix C

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LEGEND

- APPROXIMATE SITE 3 LIMIT (CQM, INC.)
JM0040322 (FINAL REPORT)
- APPROXIMATE SITE 3 LIMIT (ATWELL-GROUP)
MR. DORGAN'S REPORT
- APPROXIMATE SITE 3 LIMIT (WEAVER CONSULTANTS GROUP)
FIGURE 1 MR. DORGAN'S REPORT



NO.	DATE	DESCRIPTION

ANDREWS ENGINEERING, INC.
 3300 GINGER CREEK DRIVE
 SPRINGFIELD, ILLINOIS 62711-7233
 PH (217) 787-2334 FAX (217) 787-9495
 PONTIAC, IL • LOMBARD, IL • INDIANAPOLIS, IN • WARRENTON, OR
 PROFESSIONAL DESIGN ENGINEERING AND LAND SURVEYING FIRM #184001541

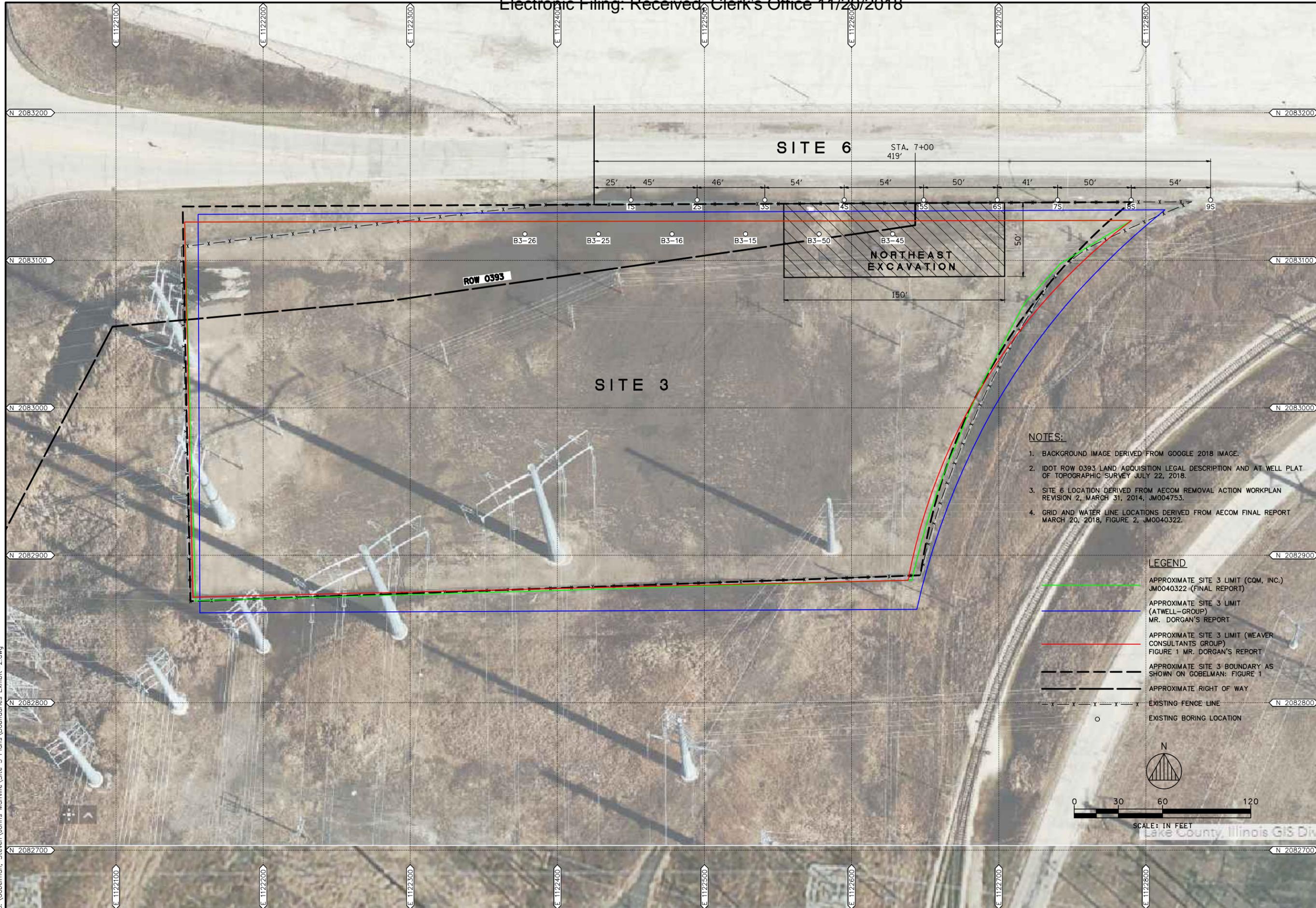
APPROVED BY: SLG DESIGNED BY: SLG DRAWN BY: MPN

SITE 3 LIMITS

PREPARED FOR
 JOHNS MANVILLE VS. IDOT
 PCB14-3
 WAUKEGAN, ILLINOIS

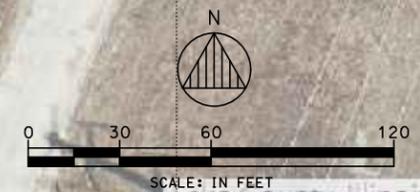
DATE: AUGUST 2018
 PROJECT ID: 160021/0001
 SHEET NUMBER:

EX-1



- NOTES:**
1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
 2. IDOT ROW 0393 LAND ACQUISITION LEGAL DESCRIPTION AND AT WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
 3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REVISION 2, MARCH 31, 2014, JM004753.
 4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, JM0040322.

- LEGEND**
- APPROXIMATE SITE 3 LIMIT (CQM, INC.) JM0040322 (FINAL REPORT)
 - APPROXIMATE SITE 3 LIMIT (ATWELL-GROUP) MR. DORGAN'S REPORT
 - APPROXIMATE SITE 3 LIMIT (WEAVER CONSULTANTS GROUP) FIGURE 1 MR. DORGAN'S REPORT
 - - - APPROXIMATE SITE 3 BOUNDARY AS SHOWN ON GOBELMAN: FIGURE 1
 - APPROXIMATE RIGHT OF WAY
 - x x x x x EXISTING FENCE LINE
 - o EXISTING BORING LOCATION



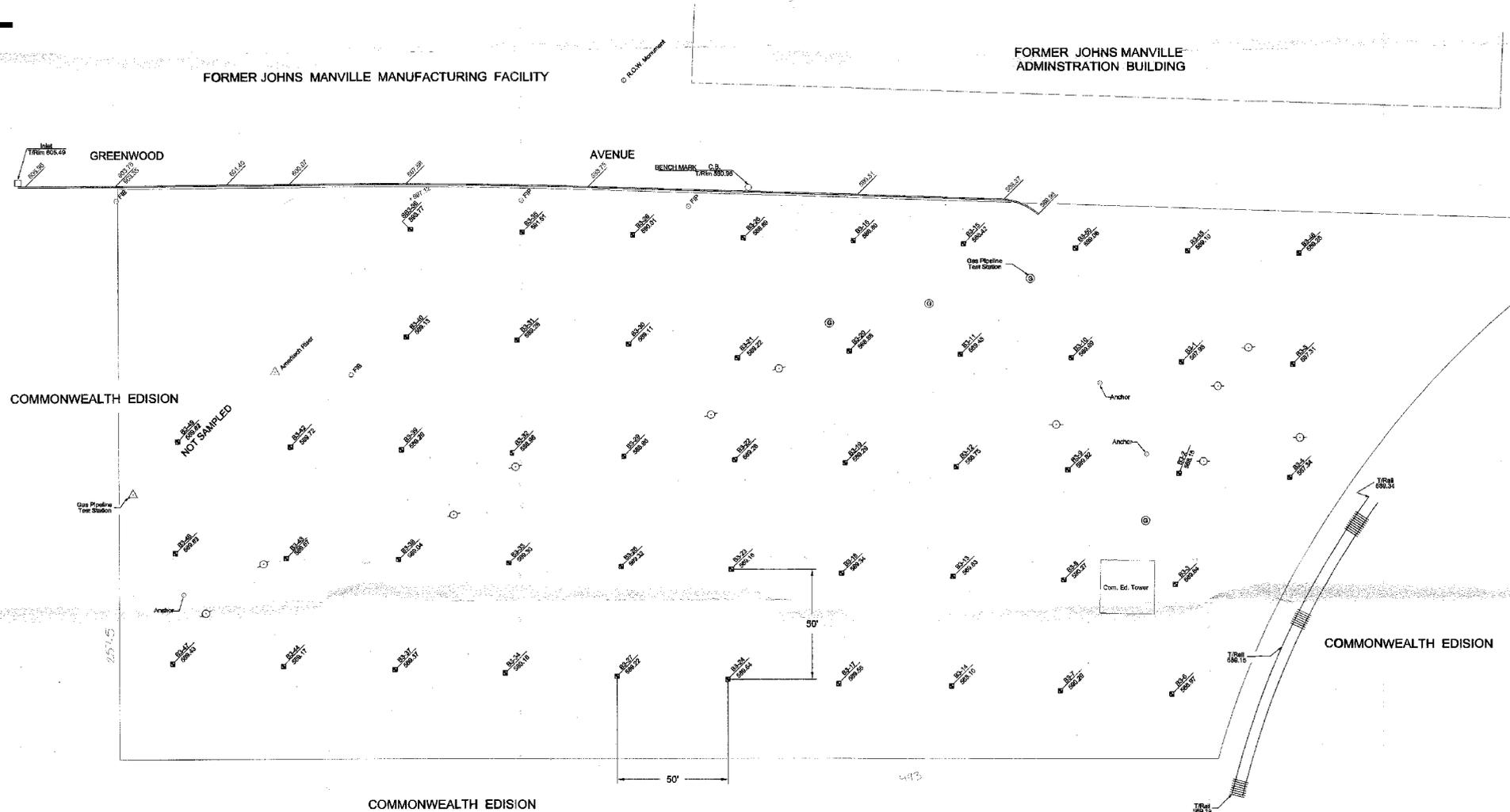
ANDREWS ENGINEERING, INC.							
3300 GINGER CREEK DRIVE SPRINGFIELD, ILLINOIS 62711-7233 PH (217) 787-2334 FAX (217) 787-9495 PONTIAC, IL • LOMBARD, IL • INDIANAPOLIS, IN • WARRENTON, MO PROFESSIONAL DESIGN ENGINEERING AND LAND SURVEYING FIRM #184-001541							
APPROVED BY: SLG	DESIGNED BY: SLG	DRAWN BY: MPN	NO.	DATE	REVISION DESCRIPTION		
SITE 3 LIMITS PREPARED FOR JOHNS MANVILLE VS. IDOT PCB14-3 WAUKEGAN, ILLINOIS							
DATE: AUGUST 2018							
PROJECT ID: 160021/0001							
SHEET NUMBER:							
EX-2							

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Appendix D

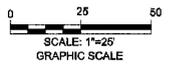
Figure 15
Soil Boring Location Map - Site 3

DRAFT



Legend

- Approximate Location of the Surface & Subsurface Characterization Boundary Line
- FIB - (Found Iron Bar)
- FIP - (Found Iron Pipe)
- ▲ Ameritech Riser
- Utility Poles
- ⊙ Gas Marker
- Anchor (Anchor For Utility Pole)

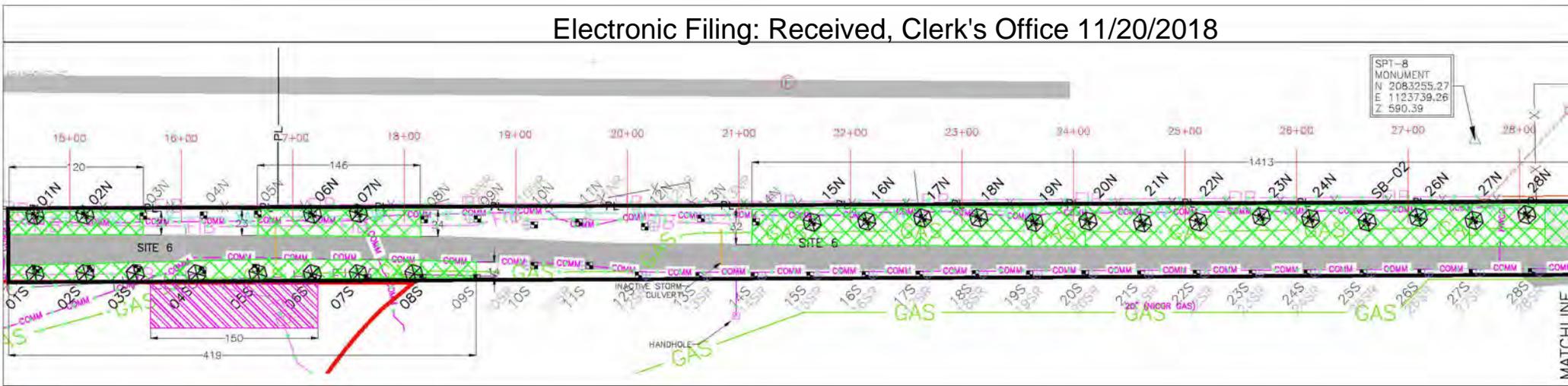


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				CHECKED		
				APPD. BY		
				APPD. BY		
				APPD. BY		
				APPD. BY		
				APPD. BY		
NO.	REVISION	BY	DATE	98 0007 01/SBLM-3.dwg		Scale - 1"=25'

Figure 15
Soil Boring Location Map - Site 3
Former Johns Manville Manufacturing Facility
Waukegan, Illinois

PROJECT No.	DWG. No.	REV.
98 0007 01		A

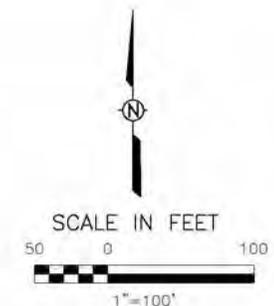
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A	2013-11-04	EPA SUBMITTAL



SITE 6 PLAN VIEW
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LEGEND

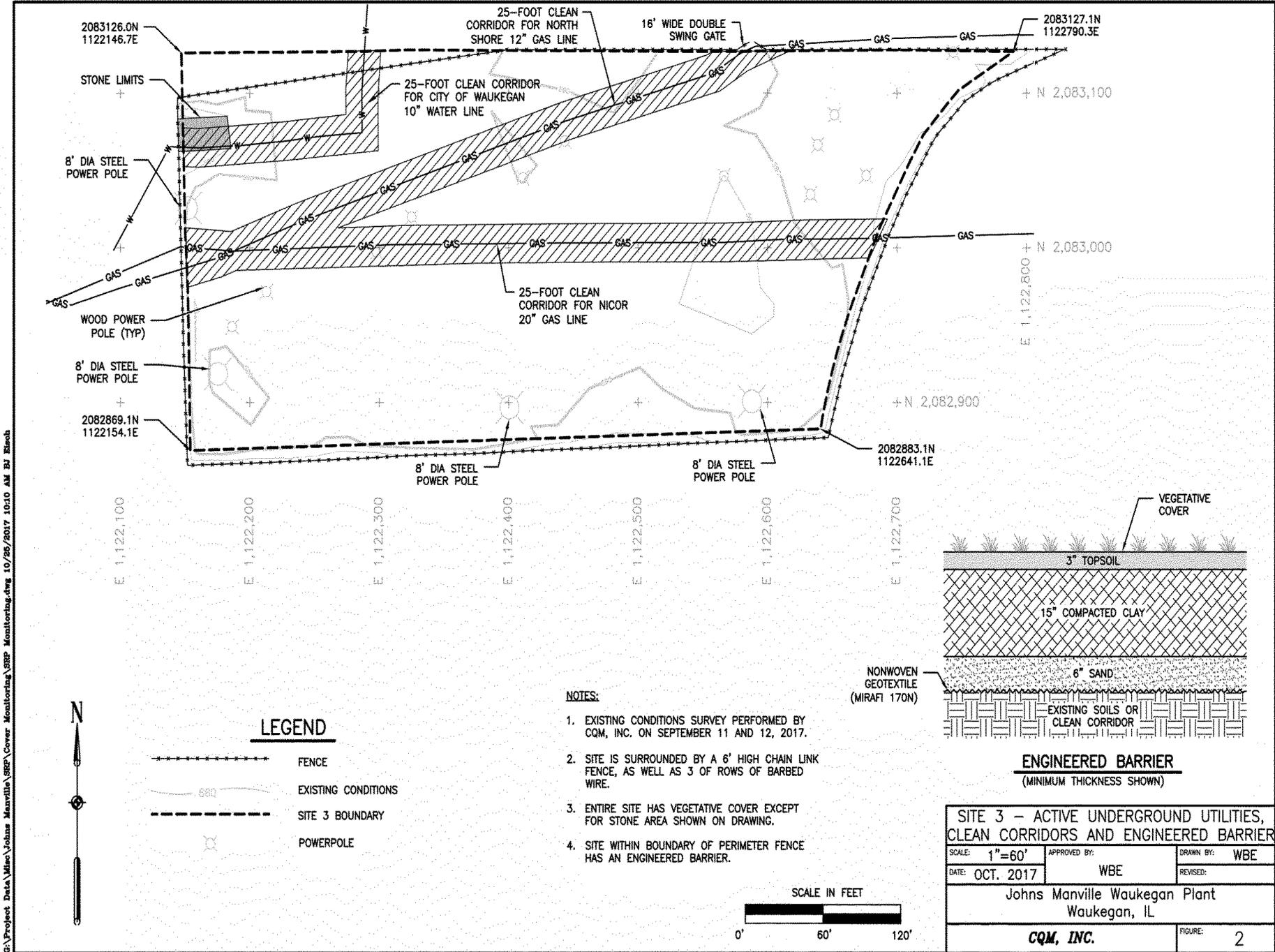
- SPT-8 SURVEY CONTROL POINT
- CITY OF WAUKEGAN STORMWATER CULVERTS (10")
- CITY OF WAUKEGAN WATER LINE (10")
- NORTH SHORE GAS HP GAS LINE (12")
- NICOR HP GAS LINE (20")
- AT&T UNDERGROUND PHONE CABLE (DASHED WHERE ASSUMED)
- AT&T FIBER OPTIC CABLE
- COMED FIBER OPTIC CABLE
- COMED UNDERGROUND 12KV POWER LINES (2X)
- OVERHEAD ELECTRIC LINE AND POWER POLES
- PROPERTY LINE
- SITE 6 BOUNDARY
- 2 TO 3 FEET PROPOSED EXCAVATION AREA
- 4 FEET PROPOSED EXCAVATION AREA
- TEST PIT W/ ASBESTOS DETECTION
- TEST PIT
- PROPOSED SURFACE SOIL (HOLLOW) AND SOIL BORING (FILLED) LOCATION
- GREENWOOD AVENUE PAVED ROAD SURFACE
- PAVING - OTHER



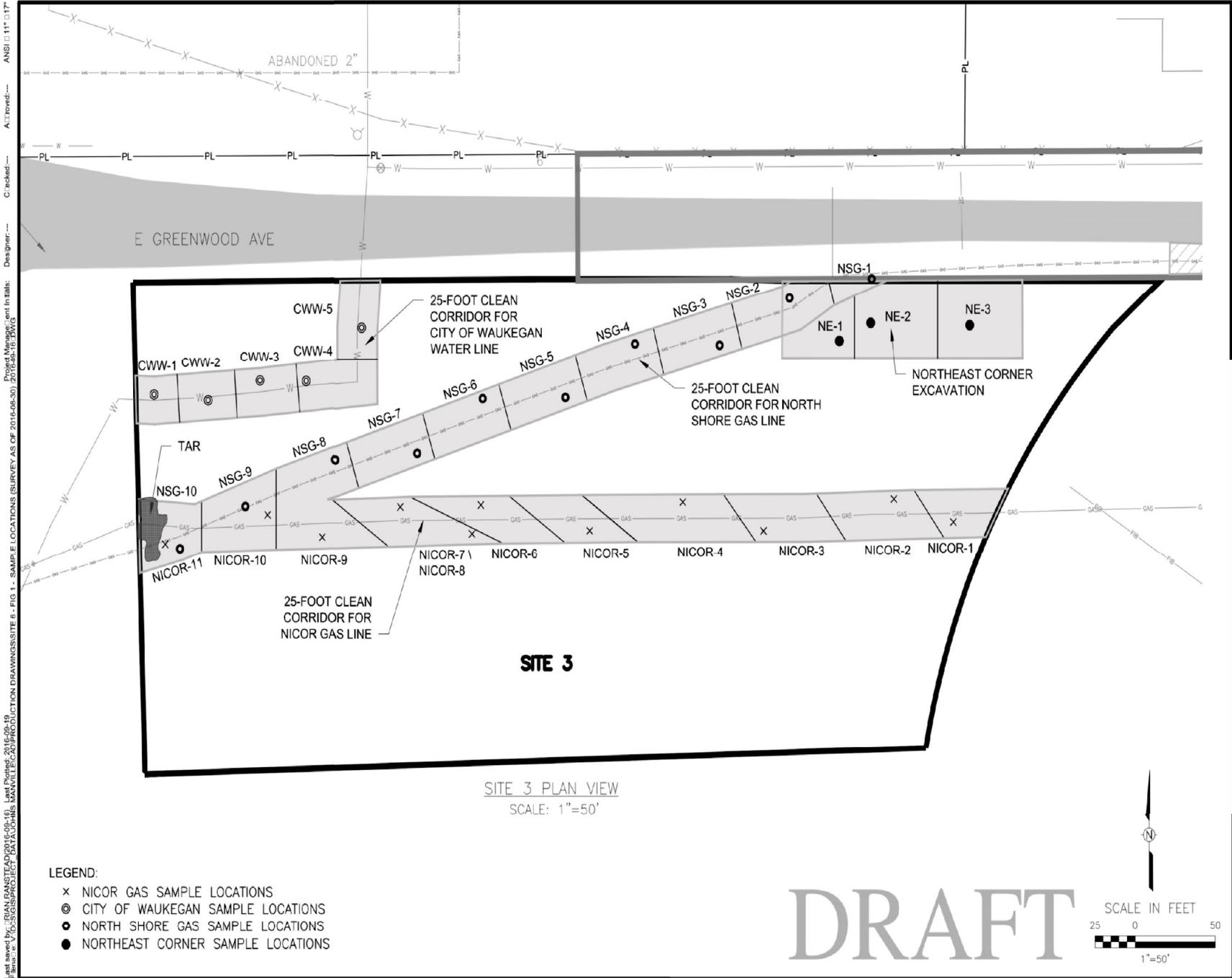
NOTES:

1. EXISTING CONDITIONS GENERATED FROM SURVEYS BETWEEN APRIL 2, 2008 AND JUNE 28, 2011. THE CONCRETE AND ASPHALT AREAS WERE GENERATED FROM A DRAWING PROVIDED BY JOHNS MANVILLE, JANUARY 2003. THE BASE MAP WAS DEVELOPED FROM "MASTER SITE PLAN", DRAWING NO. 1, BY CQM, INC., JULY 2011.
2. UTILITIES IDENTIFIED BY LOCATING SERVICES (JANUARY 2008) AND APPROXIMATE LOCATION RECORDS FROM UTILITY OWNERS.

Approved: _____
 Checked: _____
 Designer: _____
 Project Management Initials: _____
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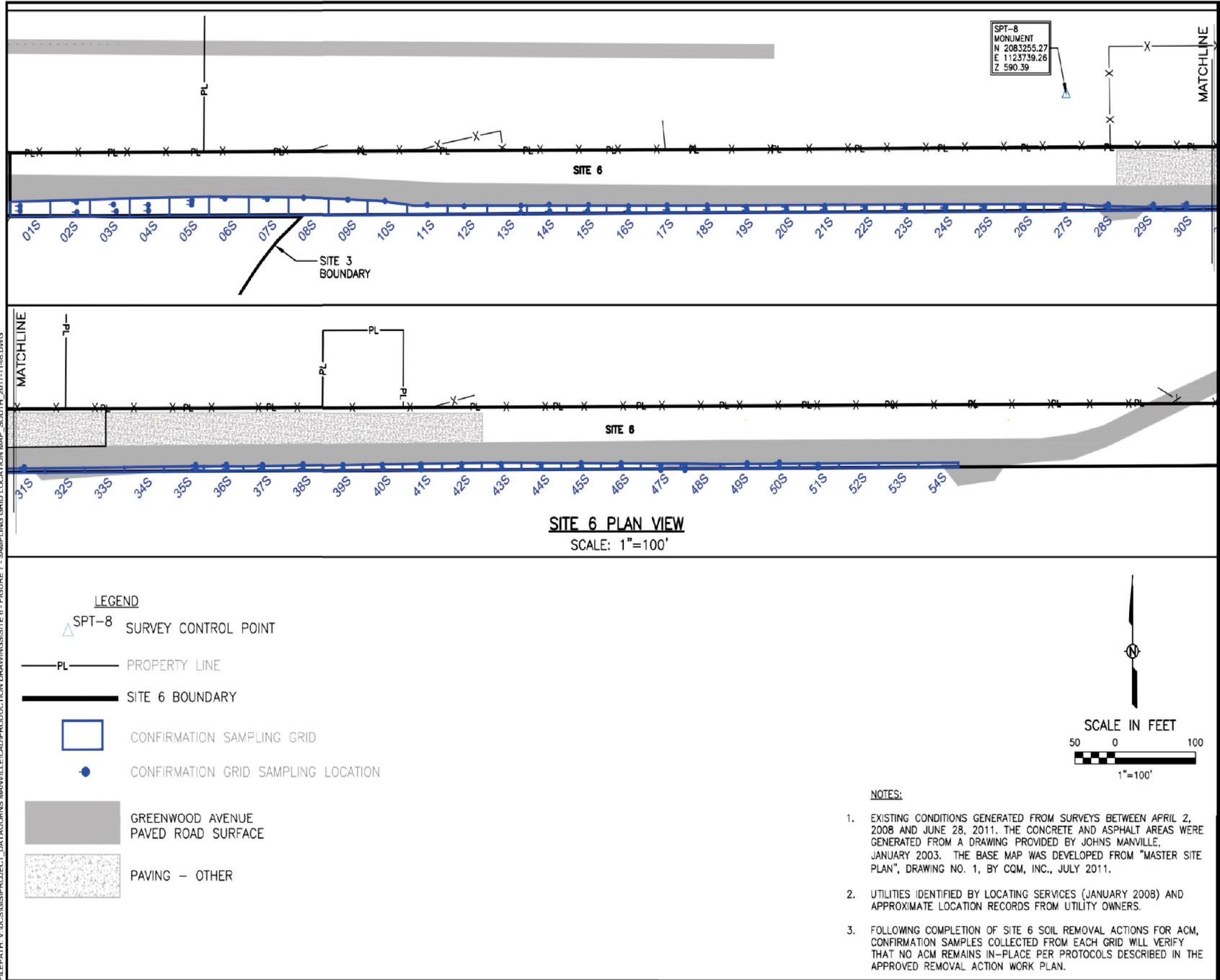


ANS 11-17
 Approved:
 Cracked:
 Designer:
 Project Management In Title:
 2016-08-30 2016-08-30
 FIG 1 - SAMPLE LOCATIONS (SURVEY AS OF 2016-08-30) 2016-08-30 DVG
 Last saved by: IRIAN PANSTEAU (2016-08-16) Last Printed: 2016-08-16
 www.irs.illinois.gov PROJECT DATA/OWMS MANVILLE/ROAD PRODUCTION DRAWINGS/SITE 3

FIGURE 4

UTILITY CORRIDOR SOIL EXCAVATION GRIDS - PLAN VIEW

Site 3
 Southwestern Site Area
 Waukegan, IL
 Project No.: 60458421 09-13-2016



List saved by: CANDICE CZOSNYK(2017-11-08) | Last Pritter: 2017-11-08
 FILEPATH: V:\03\GIS\PROJECT_DATA\JOHNS MANVILLE\CAD\PRODUCTION DRAWINGS\SITE 6 - FIGURE 7 - SAMPLING GRID LOCATION MAP SOUTH_2017-11-08.DWG

Appendix E

*F.A. Rte 42
SECTION 8
LAKE Co.*

GRANT FOR PUBLIC HIGHWAY

THIS INDENTURE WITNESSETH: That Grantor, COMMONWEALTH EDISON COMPANY, an Illinois Corporation, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, paid by and for the State of Illinois, Grantee herein, acting by and through the Department of Public Works and Buildings, hereby grants, but without warranty, subject to the reservations, conditions and provisions hereinafter contained, unto Grantee the right to use for highway purposes only, the following tract of land:

Parcel No. 0392

PART A

A part of the Westerly 100 feet of all that part of the Southwest Quarter of the Southwest Quarter of Section 10 in Township 45 North, Range 12 East of the Third Principal Meridian, lying Easterly of the Right of Way of the Chicago and North Western Railway Company, in Lake County, Illinois, described as follows: Beginning at the intersection of the Easterly Right-of-Way line of the Chicago and North Western Railway Company and the South line of the Southwest Quarter of said Section 10; thence North 6° 39' 32" East 305.30 feet, as measured along said Easterly Right of Way; thence North 89° 44' 18" East 35.00 feet; thence North 11° 09' 06" East 194.74 feet; thence North 15° 11' 23" East 202.24 feet; thence North 6° 39' 33" East 101.37 feet; thence South 83° 20' 30" East 20.00 feet to a point on a line 100.00 feet Easterly of the Easterly Right of Way line of the Chicago and North Western Railway Company; thence South 6° 39' 32" West 792.89 feet to a point on the South line of the Southwest Quarter of said Section 10; thence South 89° 44' 18" West 100.73 feet, as measured along the South line of the Southwest Quarter of said Section 10, to the Point of Beginning.

PART B

A part of the Westerly 100 feet of all that part of the West Half of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the Third Principal Meridian, lying Easterly of the Right of Way of the Chicago and North Western Railway Company, in Lake County, Illinois, described as follows: Beginning at the intersection of the Easterly Right of Way line of the Chicago and North Western Railway Company and the South line of Greenwood Avenue, said South line of Greenwood Avenue being 66 feet South of and parallel to the North line of the Northwest Quarter of said Section 15; thence South 6° 39' 32" West 90.0 feet, as measured along the Easterly Right of Way of the Chicago and North Western Railway Company; thence South 13° 02' 59" East, 148.26 feet; thence South 6° 39' 32" West 100.00 feet; thence South 2° 48' 12" East 304.14 feet to a point on the Westerly line of Sand Street; thence North 6° 39' 32" East 641.72 feet along the Westerly line of Sand Street to a point on the South line of Greenwood Avenue; thence South 89° 44' 16" West,

Grantee: ILLINOIS DIVISION OF HIGHWAYS
595 SO. STATE ST., ELGIN 60120

1517501

IDOT 002838

1517501

100.73 feet along the South line of the Greenwood Avenue, to the Point of Beginning.

PARCEL NO. E392

A part of the Westerly 100 feet of all that part of the Southwest Quarter of the Southwest Quarter of Section 10, Township 45 North, Range 12 East of the Third Principal Meridian, lying Easterly of the Right of Way of the Chicago and North Western Railway Company, in Lake County, Illinois, described as follows: Commencing at the intersection of the Easterly Right of Way of the Chicago and North Western Railway Company and the North line of Greenwood Avenue, said North line of Greenwood Avenue being 40 feet North of and parallel to the South line of the Southwest Quarter of the Southwest Quarter of said Section 10; thence North $6^{\circ} 39' 32''$ East 801.34 feet, as measured along the Easterly Right of Way of the Chicago and North Western Railway Company, to the Point of Beginning; thence South $83^{\circ} 21' 08''$ East 100.00 feet; thence North $6^{\circ} 39' 32''$ East 120.00 feet; thence North $83^{\circ} 21' 08''$ West 100.00 feet to a point on the Easterly Right of Way of the Chicago and North Western Railway Company; thence South $6^{\circ} 39' 32''$ West 120.00 feet, as measured along said Easterly Right of Way, to the Point of Beginning.

Parcel No. 0393

A part of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Beginning at the intersection of the Easterly line of Sand Street and the South line of Greenwood Avenue thence North $89^{\circ} 44' 17''$ East 643.23 feet as measured along the South line of Greenwood Avenue; thence South $0^{\circ} 15' 49''$ East 15.0 feet; thence South $81^{\circ} 54' 31''$ West 403.76 feet; thence South $89^{\circ} 44' 17''$ West 140.0 feet; thence South $27^{\circ} 50' 01''$ West 185.24 feet; thence South $0^{\circ} 06' 25''$ East 118.83 feet; thence South $14^{\circ} 42' 11''$ West 414.48 feet to a point on the Easterly line of Sand Street; thence North $6^{\circ} 39' 32''$ East 758.19 feet as measured along the Easterly line of Sand Street to the Point of Beginning.

Parcel No. E393

A part of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of the South line of Greenwood Avenue and the East line of Sand Street thence North $89^{\circ} 44' 17''$ East 643.23 feet; thence South $0^{\circ} 15' 49''$ East 15.00 feet to the Point of Beginning; thence South $0^{\circ} 15' 49''$ East 15.00 feet; thence South $57^{\circ} 56' 15''$ West 435.99 feet; thence South $23^{\circ} 33' 27''$ West 247.70 feet; thence South $34^{\circ} 53' 13''$ West 336.16 feet; thence South $26^{\circ} 17' 09''$ West 201.25 feet; thence North $83^{\circ} 26' 33''$ East 3.40 feet to a point on the East line of Sand Street; thence North $6^{\circ} 39' 32''$ East 189.57 feet as measured along the East line of Sand Street; thence North $14^{\circ} 42' 11''$ East 175.00 feet; thence North $41^{\circ} 26' 36''$ East 141.13 feet; thence North $17^{\circ} 14' 26''$ East 92.57 feet; thence North $1^{\circ} 03' 41''$ East 280.32 feet; thence North $27^{\circ} 50' 01''$ East 45.00 feet; thence North $89^{\circ} 44' 17''$ East 45.00 feet; thence South $1^{\circ} 00' 09''$ East 198.14 feet; thence North $53^{\circ} 41' 32''$ East 388.50 feet; thence North $81^{\circ} 54' 31''$ East 180.00 feet to the point of Beginning.

Parcel No. 0394

A part of the East 300 feet of the South half of the Southeast Quarter of Section 9 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as

follows: Beginning at the Southeast Corner of the Southeast Quarter of said Section 9 thence South 89° 45' 04" West 300.02 feet, as measured along the South line of the Southeast Quarter of said Section 9 thence North 0° 25' 40" East 105.61 feet; thence South 81° 40' 52" East 37.63 feet; thence South 0° 14' 56" East 20.00 feet; thence North 89° 45' 04" East 46.00 feet; thence North 0° 14' 56" West 20.00 feet; thence North 89° 45' 04" East 61.00 feet; thence North 0° 14' 52" West 120.00 feet; thence North 89° 45' 04" East 157.16 feet to a point on the East line of the South half of the Southeast Quarter of said Section 9; thence South 0° 25' 40" West 220.00 feet as measured along the said East line to the point of Beginning.

Parcel No. E394 ✓

PART A

A part of the East 300 feet of the South half of the Southeast Quarter of Section 9 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of the East line of the South half of the Southeast Quarter of said Section 9 and the North line of Greenwood Avenue, said North line of Greenwood Avenue being 40 feet North of the South line of the South half of the Southeast Quarter of said Section 9; thence North 0° 25' 40" East 355.00 feet, as measured along the said East line to the point of Beginning; thence North 0° 25' 40" East 180.00 feet, as measured along said East line; thence South 40° 20' 50" West 467.50 feet to a point on a line 300 feet West of the East line of the South half of the Southeast Quarter of said Section 9; thence South 0° 25' 40" West 114.39 feet; thence South 81° 40' 52" East 37.63 feet; thence North 41° 28' 28" East 160.78 feet; thence North 42° 03' 04" East 236.58 feet to the Point of Beginning.

Parcel No. E394 ✓

PART B

A part of the East 300 feet of the South half of the Southeast Quarter of Section 9 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Beginning at the intersection of the East line of the South half of the Southeast Quarter of said Section 9 and the North line of Greenwood Avenue, said North line of Greenwood Avenue being 40 feet North of the South line of the South half of the Southeast Quarter of said Section 9; thence South 89° 45' 04" West 300.02 feet, as measured along the North line of Greenwood Avenue; thence North 0° 25' 40" East 65.61 feet; thence South 81° 40' 52" East 37.63 feet to the Point of Beginning; thence South 0° 14' 56" East 20.00 feet; thence North 89° 45' 04" East 46.00 feet; thence North 0° 14' 56" West 20.00 feet; thence South 89° 45' 04" West 46.00 feet at the point of Beginning.

Parcel No. E395 ✓

PART A

A part of the Northwest Quarter of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of the South line of Greenwood Avenue, said South line being 40 feet South of the North line of the Northwest Quarter of the Northwest Quarter of said Section 15, and the Westerly Right of Way of the Chicago and North Western Railway Company; thence South 89° 45' 04" West 100.00 feet; thence South 0° 14' 56" East 75.00 feet to the point of Beginning; thence South 0° 15' 44" East 205.00 feet; thence South 89° 44' 15" West 91.00 feet; thence North 0° 15' 45" West 140.51 feet; thence North 89° 46' 04" East 24.98 feet; thence

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North 0° 14' 56" West 64.49 feet; thence North 89° 45' 04" East 66.00 feet to the Point of Beginning.

Parcel No. E395 ✓

PART B

A part of Lot 1 of School Trustee's Subdivision of Section 16 in Township 45 North, Range 12 East of the Third Principal Meridian, in Lake County, Illinois, described as follows: Commencing at the Southwest Corner of Lot 6 in Russell H. Edward's Business Sites, being a Subdivision of said Lot 1 in School Trustee's Subdivision thence North 88° 55' 20" East 77.28 feet, as measured along the South line of said Lot 6, to the Point of Beginning; thence South 0° 14' 56" East 36.25 feet; thence North 89° 45' 04" East 100.00 feet; thence North 0° 14' 56" West 37.69 feet to a point on the South line of Lot 7 in said Russell H. Edward's Business Sites; thence South 88° 55' 20" West 100.00 feet, as measured along the South lines of Lots 6 and 7 in said Fussell H. Edward's Business Sites; the the Point of Beginning.

Parcel No. 0395

PART A

A part of the Northwest Quarter of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the 3rd Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of the South line of Greenwood Avenue and the Westerly Right of Way of the Chicago and North Western Railway Company thence South 89° 45' 04" West 100.00 feet, as measured along the South line of Greenwood Avenue; thence South 0° 14' 56" East 75.00 feet; thence South 89° 45' 04" West 66.00 feet along a line 75.00 feet South of and parallel to the said South line of Greenwood Avenue; thence North 0° 14' 56" West 75.00 feet to a point on the south line of Greenwood Avenue; thence North 89° 45' 04" East 66.00 feet, as measured along the said South line of Greenwood, to the Point of Beginning.

Said tract of land herein described contains 0.114 Acres, more or less.

Parcel No. 0395

PART B

A part of Lot 1 in School Trustee's Subdivision of Section 16 and a part of the South 300 feet of the North 479.5 feet of that part of Northwest Quarter of the Northwest Quarter of Section 15, lying West of the Westerly line of the right of way of the Chicago and North Western Railway Company, all in Township 45 North, Range 12 East of the 3rd Principal Meridian in Lake County, Illinois, described as follows: Beginning at the intersection of the East line of the Northeast Quarter of said Section 16 and the South line of Lot 9 in Russell H. Edward's Business Sites, being a part of Lot 1 in said School Trustee's Subdivision and a part of the Northwest Quarter of the Northwest Quarter of said Section 15; thence South 89° 55' 20" West 141.77 feet, as measured along the South line of Lots 9 and 8 in said Russell H. Edward's Business Sites; thence South 0° 11' 03" East 52.27 feet; thence South 2° 37' 41" West 200.25 feet; thence South 5° 56' 41" East 48.05 feet; thence North 89° 09' 38" East 310.24 feet; thence North 0° 14' 03" West 144.53 feet; thence North 5° 56' 41" West 100.50 feet; thence North 3° 28' 56" West 54.52 feet to a point on the South line of Lot 10 in said Russell H. Edward's Business Sites; thence South 89° 44' 17" West 150.11 feet, as measured along the South line of Lots 10 and 9 of said Russell H. Edward's Business Sites to the point of beginning.

Said tract of land herein described contains 2.106 acres, more or less.

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Parcel No. 0399

A part of Lots 6, 7, 8 and 9 in Russell H. Edward's Business Sites, being a Subdivision of Lot 1 in School Trustee's Subdivision of Section 16 in Township 45 North, Range 12 East of the Third Principal Meridian, reference being made to the Plan thereof recorded in the Recorder's Office of Lake County, Illinois, in Book of Plats 31 on Page 102; described as follows: Beginning at the intersection of the South line of Greenwood Avenue and the East line of the Northeast Quarter of said Section 16; thence south 89° 45' 04" West 311.83 feet along the North lines of Lots 9, 8, 7 and 6 to a point 49.67 feet East of the Northwest corner of said Lot 6; thence South 14° 53' 01" West 46.61 feet; thence South 80° 47' 07" East 30.47 feet; thence North 89° 45' 07" East 150.00 feet; thence south 0° 14' 56" East 91.54 feet to a point on the South line of said Lot 8; thence North 88° 55' 20" East 141.77 feet along the South lines of said Lots 8 and 9 to a point on the East line of the Northeast Quarter of said Section 16; thence North 0° 38' 46" East 139.51 feet along the East line of the Northeast Quarter of said Section 16 to the Point of Beginning.

Parcel No. E399

A part of Lots 6 and 7 in Russell H. Edward's Business Sites, being a part of Lot 1 in School Trustee's Subdivision of Section 16 in Township 45 North, Range 12 East of the Third Principal Meridian, according to the Plat thereof recorded in Book 31 of Plats, Page 102, in Lake County, Illinois, described as follows: Commencing at the Southwest Corner of said Lot 6 thence North 88° 55' 20" East 77.28 feet, as measured along the South line of said Lot 6, to the Point of Beginning; thence North 0° 14' 56" West 93.71 feet; thence North 89° 45' 07" East 100.00 feet; thence South 0° 14' 56" East 92.27 feet to a point on the South line of said Lot 7; thence South 88° 55' 20" West 100.00 feet, as measured along the South line of Lots 6 and 7 to the Point of Beginning.

Parcel No. 0400

A part of Lots 1 and 2 in School Trustee's Subdivision of Section 16 and a part of the Northwest Quarter of the Northwest Quarter of Section 15 all in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of South line of the Northwest Quarter of the Northwest Quarter of said Section 15 and the Westerly Right of Way of the Chicago and North Western Railway Company thence South 89° 46' 07" West 204.00 feet as measured along the South line of the Northwest Quarter of the Northwest Quarter of said Section 15 to the Point of Beginning; thence North 0° 13' 53" West 204.00 feet; thence North 89° 46' 07" East 73.17 feet; thence North 8° 32' 41" East 82.02 feet; thence North 3° 34' 48" East 150.33 feet; thence North 1° 24' 09" East 350.14 feet; thence North 0° 14' 03" West 55.46 feet; thence South 89° 09' 38" West 310.24 feet; thence South 5° 56' 41" East 253.45 feet; thence South 0° 14' 03" East 300.00 feet; thence South 2° 50' 26" East 100.05 feet; thence South 0° 53' 54" East 185.11 feet to a point on the North line of Lot 3 in said School Trustee's Subdivision; thence North 89° 46' 07" East 172.61 feet, as measured along the North line of Lot 3 in said School Trustee's Subdivision and along the South line of the Northwest Quarter of the Northwest Quarter of said Section 15 to the Point of Beginning.

as shown on Exhibit "A", attached hereto and made a part hereof.

Grantor hereby reserves unto itself, its successors and assigns,

the right to install, operate, maintain renew and remove its or their facilities upon, over and under the surface of said described tracts of land, and to make such other and futher use of said tracts of land, as it or they shall see fit, insofar as is compatible with the use of said tracts of land for highway purposes.

Grantor hereby further reserves the right to trim from time to time such trees, saplings, and bushes as may reasonably be required in the operation and maintenance of said facilities of Grantor, and Grantee agrees not to plant any trees on or near said described tracts of land which can grow into said facilities of Grantor.

This grant is subject to two (2) roadways reserved in deed dated June 8, 1923, recorded on June 13, 1923, as Document #225388, an easement dated June 18, 1936 to the City of Waukegan for a 10-inch sanitary sewer, and an easement dated August 14, 1954, to North Shore Sanitary District for a 39-inch interceptor sanitary sewer. There may be other utility lines, mains, pipelines or other underground facilities in this area, however, the exact location and users are not known to Grantor but this grant is expressly made subject to such lines.

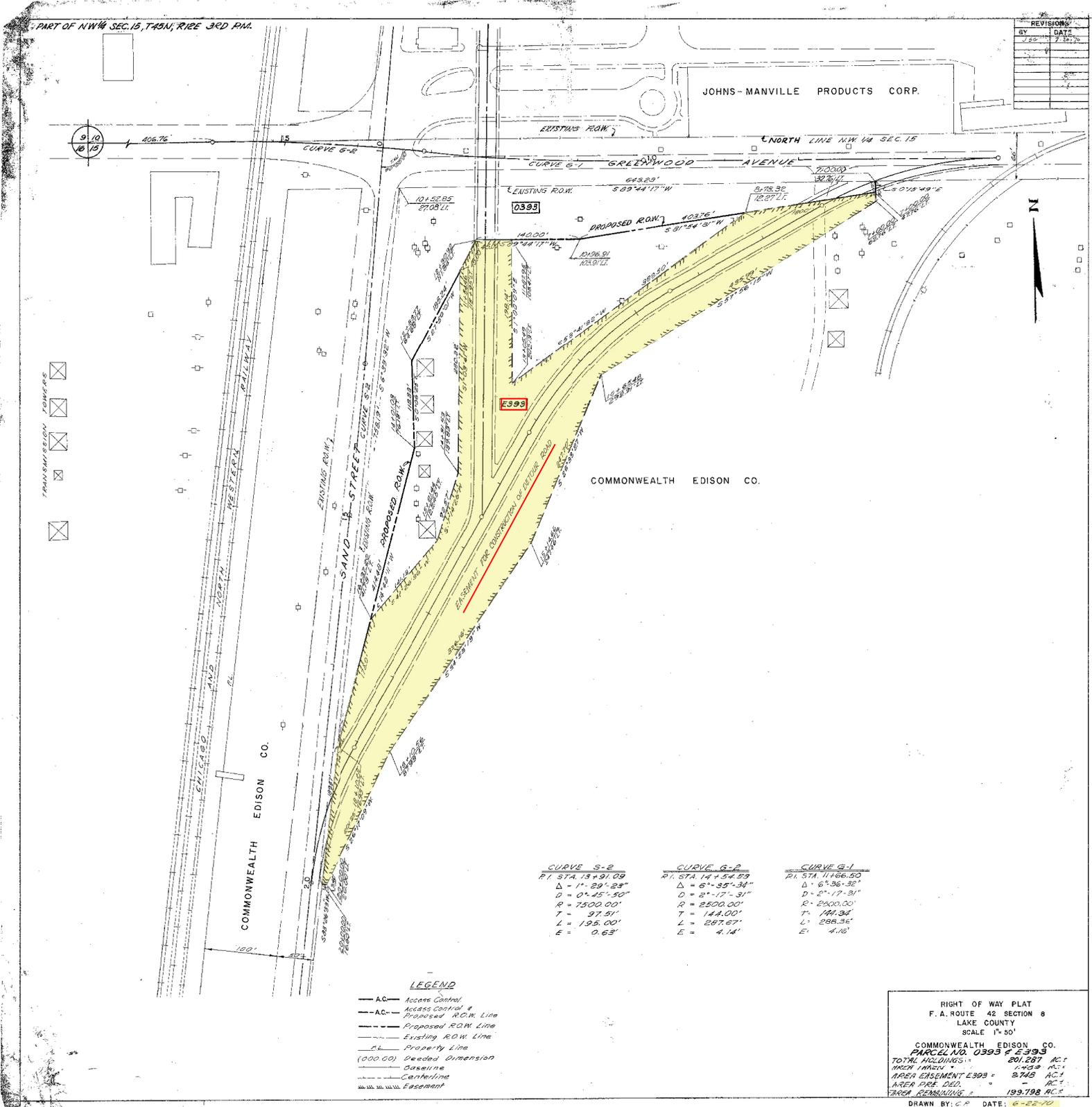
IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on this 3RD day of AUGUST, A.D. 1971.

COMMONWEALTH EDISON COMPANY

By Glen H. Berman
Vice President



1517501



REVISIONS	
BY	DATE

<p><u>CURVE S-2</u> PI, STA. 13+91.09 Δ = 1°-29'-23" D = 0°-45'-30" R = 7500.00' T = 97.91' L = 195.00' E = 0.63'</p>	<p><u>CURVE G-2</u> PI, STA. 14+54.59 Δ = 6°-35'-34" D = 2°-17'-31" R = 2500.00' T = 144.00' L = 287.67' E = 4.14'</p>	<p><u>CURVE G-1</u> PI, STA. 11+66.50 Δ = 6°-36'-32" D = 2°-17'-31" R = 2500.00' T = 144.34' L = 288.35' E = 4.16'</p>
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- LEGEND**
- AC — Access Control
 - - - AC - Access Control & Proposed R.O.W. Line
 - - - Proposed R.O.W. Line
 - Existing R.O.W. Line
 - - - Property Line
 - (000.00) Parcel Dimension
 - Casseline
 - Centerline
 - Easement

RIGHT OF WAY PLAT
 F. A. ROUTE 42 SECTION 8
 LAKE COUNTY
 SCALE 1" = 50'
 COMMONWEALTH EDISON CO.
 PARCEL NO. 0393 & E393
 TOTAL HOLDINGS = 201.287 AC.
 AREA EASEMENT E393 = 100.2 AC.
 AREA EASEMENT E393 = 2743 AC.
 AREA FIRE DED. = - AC.
 AREA REMAINING = 199.198 AC.
 DRAWN BY: C.P. DATE: 6-22-10

EXHIBIT B

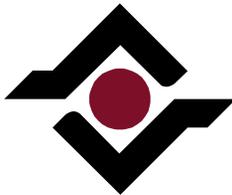
**Expert Rebuttal Supplemental Report
of Steven Gobelman
on Damages Attributable to IDOT
Based on IPCB Order of December 15, 2016**

Johns Manville
Vs
Illinois Department of Transportation

November 7, 2018



Prepared by:



ANDREWS
ENGINEERING INC

3300 Ginger Creek Drive
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Tel: 217.787-2334

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FIGURES

Gobelman: Figure 1: Site 3 and Site 6 Base Map
Gobelman: Figure 2: Nicor Location Map
Gobelman: Figure 3: City of Waukegan Water Line Location Map
Gobelman: Figure 4: AT&T Location Map
Gobelman: Figure 5: North Shore Gas Location Map
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TABLE

Gobelman: Table 1 – Cost Allocation Table

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Appendix A – Bibliography of Documents Cited
Appendix B – Exhibit 2
Appendix C – Land Acquisition Easement

1 PURPOSE AND SUMMARY

This supplemental report was written to correct the location of the Parcel 0393 as shown on the base map created in the rebuttal cost report dated August 22, 2018 (Gobelman: Figure 1). Based on this correction Figures Gobelman Figure 2 through Figure 8, Ex-2, and IDOT's cost allocation were revised accordingly. Only those areas within the August 22, 2018 Rebuttal Report affected by the Parcel 0393 location change are presented in this supplemental report.

2 COST ATTRIBUTED TO IDOT'S RESPONSIBILITY AS DEFINED BY IPCB

2.1 Base Map Creation (Gobelman: Figure 1)

The revised location of Parcel 0393 is based on the legal description from the Grant for Public Highway dated August 3, 1971 (Hearing Exhibit 41-1) (1) and IDOT as-built plans pages 23 and 24 (JM001153 and JM001154, Hearing Exh. 21A-23 & 24) (2) that was not correctly presented in my August 22, 2018 Rebuttal Report. Parcel 0393 begins at the intersection of the easterly line of Pershing Road (former Sand Street) and the south line of Greenwood Avenue. The 1971 plan sheets (2) show that IDOT Stationing 7+00 on Greenwood Avenue is at the eastern edge of Parcel 0393. I compared the revised base map created (Gobelman: Figure 1) with the overlay prepared in the original rebuttal report Ex-1 and presented the results in Appendix B, Ex-2.

3 ATTRIBUTION APPROACH

3.1 AT&T

Service	Site 3	Site 6	Sites 3 and 6
Professional – Engineering Related to AT&T	\$26,524	\$31,105	
Professional – Completion Related to AT&T		\$15,000	
Construction – T&M Related to AT&T			\$53,548
Construction – Management Related to AT&T			\$45,350
Utility Payment to AT&T	\$82,127	\$238,161	
Total	\$108,651	\$284,266	\$98,898
IDOT Attribution	\$20,426	\$4,548	\$6,329

3.1.1 Site 3

Within Site 3 the three AT&T telephone lines equal to approximately 1060 linear feet. The three AT&T telephone lines equal to approximately 199 linear feet within the area attributed to IDOT's responsibility as defined by IPCB or approximate 18.8 percent of the total costs within Site 3. The proportionate cost attributed to IDOT's responsibility as defined by IPCB is \$20,426.

3.1.2 Site 6

The length of the northern corridor is approximately 2,820 linear feet and southern corridor on Site 6 is approximately 2,650 linear feet each, for a total length of approximately 5,470 linear feet JM0040329. The length attributed to IDOT's responsibility as defined by IPCB is 90 linear feet,

from where the AT&T telephone line enters Site 6 to the east of soil sampling location 3S and ends halfway between 4S and 5S. The percent of the cost attributed to IDOT's responsibility as defined by IPCB is 1.6 percent (90/5,470) and the proportionate cost for Site 6 is \$4,548.

3.1.3 Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the costs that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the costs attributed to IDOT's responsibility as defined by IPCB (\$24,974) by the total Sites 3 and 6 costs (\$392,917). The percentage attributed to the combined Sites 3 and 6 costs is 6.4 percent (24,974/392,917). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$6,329.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for AT&T work performed attributable to IDOT is \$31,303, as shown in Gobelman: Table 1.

3.2 North Shore Gas

Service	Site 3	Site 6	Sites 3 and 6
Professional – Engineering for North Shore Gas	\$135,159	\$81,028	
Construction – T&M for North Shore Gas	\$162,678		\$22,327
Construction – Management for North Shore Gas			\$35,830
Utility Payment to North Shore Gas	\$34,687	\$153,833	
Total	\$332,524	\$234,861	\$58,157
IDOT Attribution	\$130,682	\$8,455	\$14,248

3.2.1 Site 3

The North Shore Gas line crosses Site 3 and a portion of Parcel 0393 near soil sampling location B3-15 and B3-50 (defined by the IPCB as being within IDOT liability). The distance the North Shore Gas line traverses diagonally across Site 3 with a corridor area is 10,866 square feet (25 foot corridor width). The area of the North Shore Gas line that impacts Parcel 0393 within IDOT's responsibility as defined by IPCB is approximately 4,271 square feet or about 39.3 percent (4,271/10,866) of the total cost within Site 3. The proportionate cost attributed to IDOT is \$130,682.

3.2.2 Site 6

As Mr. Dorgan stated, the capping of the clean corridor occurred within Site 6 near soil sampling location 4S. All capping of the North Shore Gas line on Site 6 was limited to the area around soil sampling location 4S is attributable to IDOT's responsibility as defined by IPCB.

Mr. Dorgan states that the length along the south side of Site 6 is approximately 2,005 linear feet. The length attributed to IDOT's responsibility as defined by IPCB is approximately 72 linear feet, from where the North Shore Gas line enters Site 6 to the west of soil sampling location 4S and

ends just east of soil sampling location 4S. The percent of the cost attributed to IDOT's responsibility as defined by IPCB is 3.6 percent and the proportionate cost for Site 6 is \$8,455.

3.2.3 Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the costs that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the costs attributed to IDOT's responsibility as defined by IPCB (\$139,321) by the total Sites 3 and 6 costs (\$567,385). The percentage attributed to the combined Sites 3 and 6 costs is 24.5 percent (139,321/567,385). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$14,248.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for North Shore Gas line work performed within IDOT's responsibility as defined by IPCB is \$153,385, as shown in Gobelman: Table 1.

3.3 Northeast Excavation

The Northeast Excavation is shown on the work plan to be 150 feet by 50 feet or 7,500 square feet. Part of the Northeast Excavation area is incorporated within Parcel 0393 as it relates to the area IDOT's responsibility as defined by IPCB, as shown on Gobelman: Figure 6.

The area of Parcel 0393 contained within the Northeast Excavation is approximately 1,889 square feet or 25.2 percent (1,889/7,500) of the Northeast Excavation. As a result, the portion of JM's costs for Northeast Excavation work performed attributable to IDOT's responsibility as defined by IPCB is \$12,583, as shown in Gobelman: Table 1.

Service	Site 3	Site 6	Sites 3 and 6
Professional – Engineering for Northeast Excavation	\$3,977		
Professional – Completion Costs for Northeast Excavation	\$10,000		
Construction – Base Bid for Northeast Excavation	\$35,957		
Total	\$49,934		
IDOT Attribution	\$12,583		

3.4 Dewatering

Service	Site 3	Site 6	Sites 3 and 6
Construction – Base Bid for Dewatering	\$140,800	\$159,250	
Construction – T&M for Dewatering	\$24,325		\$17,675
Construction – Management for Dewatering	\$74,530		\$21,500
Construction Services – Payments to Utilities	\$19,429	\$1,337	
Total	\$259,084	\$160,587	\$39,175
IDOT Attribution	\$56,221	\$37,738	\$8,775

3.4.1 Site 3

For Site 3, dewatering was required during the construction of the clean corridor associated with the Nicor line, North Shore Gas line, the City of Waukegan Water Line, and Northeast Excavation. As previously discussed IDOT was not liable for the Nicor line and the City of Waukegan Water Line. IDOT's responsibility as defined by IPCB was proportionate liable for 39.3 percent or \$130,682 of the North Shore Gas line cost within Site 3 and 25.2 percent or \$12,583 of the Northeast Excavation cost.

Service	Site 3	IDOT's Allocation
Nicor Line	\$218,090	\$0
North Shore Gas Line	\$332,524	\$130,682
City of Waukegan Water Line	\$61,037	\$0
Northeast Excavation	\$49,934	\$12,583
Total	\$661,585	\$143,265

To determine the percentage of the work associated with IDOT's responsibility as defined by IPCB liability, I divided the total cost attributed to IDOT's responsibility as defined by IPCB in Site 3 (\$143,265) by the total cost to complete the work for the Nicor line, North Shore Gas line, the City of Waukegan Water Line, and Northeast Excavation (\$661,585). This percentage, 21.7 percent (143,265/661,585), is the percent of the dewatering cost allocated to IDOT's responsibility as defined by IPCB liability. Therefore, JM's total costs for dewatering activities on Site 3 that are attributable to IDOT's responsibility as defined by IPCB totals \$56,221.

3.4.2 Site 6

For Site 6, dewatering was required during the construction of the clean corridor for the north and south side of Site 6. As stated in Mr. Dorgan's report he attributed 50 percent of the dewatering costs to IDOT's responsibility as defined by IPCB. In addition, Mr. Dorgan used soil sampling locations 1S to approximately 9S to define the Site 6 area. The final work plan indicates that the length of the south side of Site 6 is 419 linear feet (from the western end of Site 6 to soil sampling location 9S), as shown on Gobelman: Figure 1. Therefore the total length of dewatering in Site 6 is 838 linear feet (making the length of the north side and south side equal).

The length attributed to IDOT's responsibility as defined by IPCB is 197 linear feet, from where the western edge of Site 6 to halfway between 4S and 5S. The percent of the cost attributed to IDOT's responsibility as defined by IPCB is 23.5 percent (197/838) and the proportionate cost for Site 6 is \$37,738.

3.4.3 Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the cost that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the cost attributed to IDOT's responsibility as defined by IPCB (\$93,959) by the total cost from Sites 3 and 6 (\$419,671). The percentage attributed to the combined Sites 3 and 6 costs is 22.4 percent (93,959/419,671). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB cost is \$8,775.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for dewatering work performed and attributable to IDOT is \$102,734, as shown in Gobelman: Table 1.

3.5 General Site/Site Preparation

The General Site/Site Preparation Task Bucket, according to Mr. Dorgan, includes but is not limited to general project management, support to and interface with regulatory authorities, professional services oversight of construction activities, installation and maintenance of stormwater controls, traffic control, and clearing and grubbing the sites in preparation for construction.

Service	Site 3	Site 6	Sites 3 and 6
Professional – Engineering	\$355,534	\$519,027	
Professional – Completion Cost	\$70,621	\$53,250	
Professional – O&M	\$310,903		
Construction – Base Bid	\$138,310	\$95,560	
Construction – T&M		\$37,410	
Construction – Management			\$74,300
Construction – Misc.	\$57,362	\$102,082	
Total	\$932,730	\$807,328	\$74,300
IDOT Attribution	\$124,676	\$44,403	\$6,538

3.5.1 Site 3

Using the same process as Mr. Dorgan did in his report; I divided the portion of Site 3 cost for Construction Services that were attributable to IDOT's responsibility as defined by IPCB (\$247,619), by the Site 3 costs for Construction Services (\$1,476,454). The Professional Engineering Services - Engineering percentage is 16.8 percent (247,619/1,476,454). The Professional Engineering Services - Engineering cost attributed to IDOT's responsibility as defined by IPCB on Site 3 is \$59,730.

The same percentage (16.8 percent) utilized for the Professional Engineering Services – Completion Cost on Site 3 equated to \$11,864 to IDOT's responsibility as defined by IPCB.

Using the same percentage (6.5 percent) that is used in the Site 3 vegetative cap installation, the Site Preparation Professional Engineering Services O&M on Site 3 equates to \$20,209 to IDOT's responsibility as defined by IPCB.

The percentage (16.8 percent) utilized for the Construction Services Base Bid on Site 3 equated to \$23,236 to IDOT's responsibility as defined by IPCB.

The percentage (16.8 percent) utilized for the Construction Miscellaneous costs on Site 3 equated to \$9,637 to IDOT's responsibility as defined by IPCB.

Therefore, JM's costs for site preparation on Site 3 that are attributable to IDOT's responsibility as defined by IPCB total \$124,676.

3.5.2 Site 6

Using the same process as Mr. Dorgan did in his report; I divided the portion of Site 6 costs for Construction Services that were attributable to IDOT's responsibility as defined by IPCB (\$67,505), by the Site 3 costs for Construction Services (\$1,232,059). The Professional Engineering Services - Engineering percentage is 5.5 percent (67,505/1,232,059). The

Professional Engineering Services - Engineering cost attributed to IDOT's responsibility as defined by IPCB on Site 6 is \$28,546.

The same percentage (5.5 percent) is utilized for the Professional Engineering Services – Completion Cost on Site 6 equated to \$2,929 to IDOT's responsibility as defined by IPCB.

The percentage (5.5 percent) utilized for the Construction Services Base Bid on Site 6 equated to \$5,256 to IDOT's responsibility as defined by IPCB.

The percentage (5.5 percent) utilized for the Construction T&M costs on Site 6 equated to \$2,058 to IDOT's responsibility as defined by IPCB.

The percentage (5.5 percent) utilized for the Construction Miscellaneous costs on Site 6 equated to \$5,615 to IDOT's responsibility as defined by IPCB.

Therefore, JM's costs for site preparation on Site 6 that are attributable to IDOT's responsibility as defined by IPCB total \$44,403.

3.5.3 Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the costs that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the costs attributed to IDOT's responsibility as defined by IPCB (\$48,010) by the total Sites 3 and 6 costs (\$548,602). The percentage attributed to the combined Sites 3 and 6 costs is 8.8 percent (48,010/548,602). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$6,538.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for dewatering work performed and attributable to IDOT is \$175,617, as shown in Gobelman: Table 1.

3.6 Health and Safety

3.6.1 Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the cost that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the Construction Services cost attributed to IDOT's responsibility as defined by IPCB (\$48,010) by the total Sites 3 and 6 costs (\$548,602). The percentage attributed to the combined Sites 3 and 6 costs is 8.8 percent (48,010/548,602). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$6,776, as shown in Gobelman: Table 1.

3.7 EPA Oversight Costs

Reimbursement cost for USEPA oversight costs.

Service	Site 3	Site 6
EPA Oversight	\$233,805	\$125,675
Total	\$233,805	\$125,675
IDOT Attribution	\$39,279	\$6,912

3.7.1 Site 3

Using the same process as Mr. Dorgan did in his report, the portion of Site 3 costs for Construction Services that were attributable to IDOT's responsibility as defined by IPCB (\$247,619), by the Site 3 costs for Construction Services (\$1,476,454). Then applying this percentage (16.8 percent) to the cost for USEPA Oversight on Site 3 is \$39,279, as shown in Gobelman: Table 1.

3.7.2 Site 6

Using the same process as Mr. Dorgan did in his report, the portion of Site 6 cost for Construction Services that were attributable to IDOT's responsibility as defined by IPCB (\$67,505), by the Site 3 costs for Construction Services (\$1,232,059). Then applying this percentage (5.5 percent) to the cost for USEPA Oversight on Site 6 is \$6,912, as shown in Gobelman: Table 1.

3.8 Cost for Legal/Legal Support Services

Legal support services were related to negotiation of easements and other agreements for Sites 3 and 6 for required utility work. I did not analyze the attribution or reasonableness of these costs to the allocation process. As calculated in Mr. Dorgan's report, the allocation percentage was calculated by dividing the cost attributed to IDOT's responsibility as defined by IPCB for utility work (\$190,281) by utility related work for Site 3, Site 6, and Site 3/6 (\$1,638,837). The percentage attributed to the legal support services is 11.6 percent (190,281/1,638,837). As applied to JM's cost for Legal Support Services (\$71,840), IDOT's responsibility as defined by IPCB for Legal Support Services is \$8,333, as shown in Gobelman: Table 1.

4 IDOT'S RESPONSIBILITY AS DEFINED BY IPCB ATTRIBUTION SUMMARY

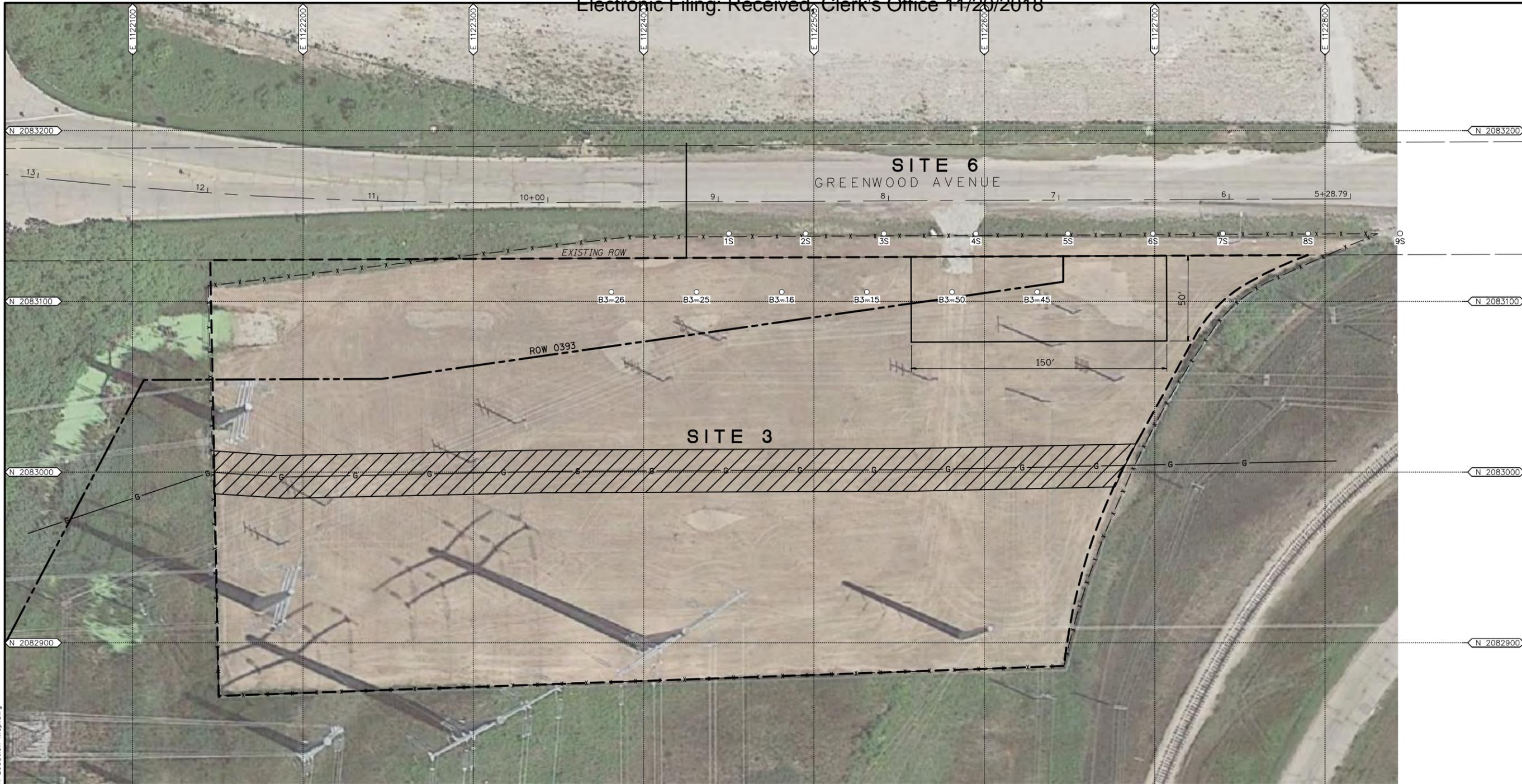
IDOT's responsibility as defined by IPCB cost allocation amounts are presented in the following table:

Task Bucket	Site 3	Site 6	Sites 3 and 6	Total
Nicor Gas	\$0	\$0	\$0	\$0
City of Waukegan Water Line	\$0	\$0	\$0	\$0
AT&T	\$20,426	\$4,548	\$6,329	\$31,303
Utility/ACM Excavation	\$0	\$5,591	\$0	\$5,591
North Shore Gas	\$130,682	\$8,455	\$14,248	\$153,385
Northeast Excavation	\$12,583	\$0	\$0	\$12,583
Dewatering	\$56,221	\$37,738	\$8,775	\$102,734
Ramp	\$0	\$0	\$0	\$0
Filling/Capping	\$27,707	\$11,173	\$18,657	\$57,537
General Site/Site Preparation	\$124,676	\$44,403	\$6,538	\$175,617
Health and Safety	\$0	\$0	\$6,776	\$6,776
USEPA Oversight Cost	\$39,279	\$6,912	\$0	\$46,191
Legal Support	\$0	\$0	\$8,333	\$8,333
Total	\$411,574	\$118,820	\$69,656	\$600,050

5 IDOT'S RESPONSIBILITY AS DEFINED BY IPCB ATTRIBUTION

Based on the above table, it is my opinion that \$600,050 of JM's cost (\$5,579,794) incurred on Site 3 and Site 6 are attributable to IDOT in accordance to the IPCB ruling.

FIGURES



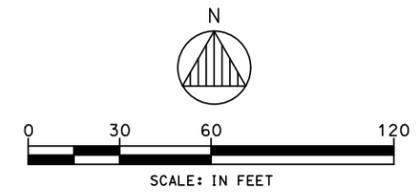
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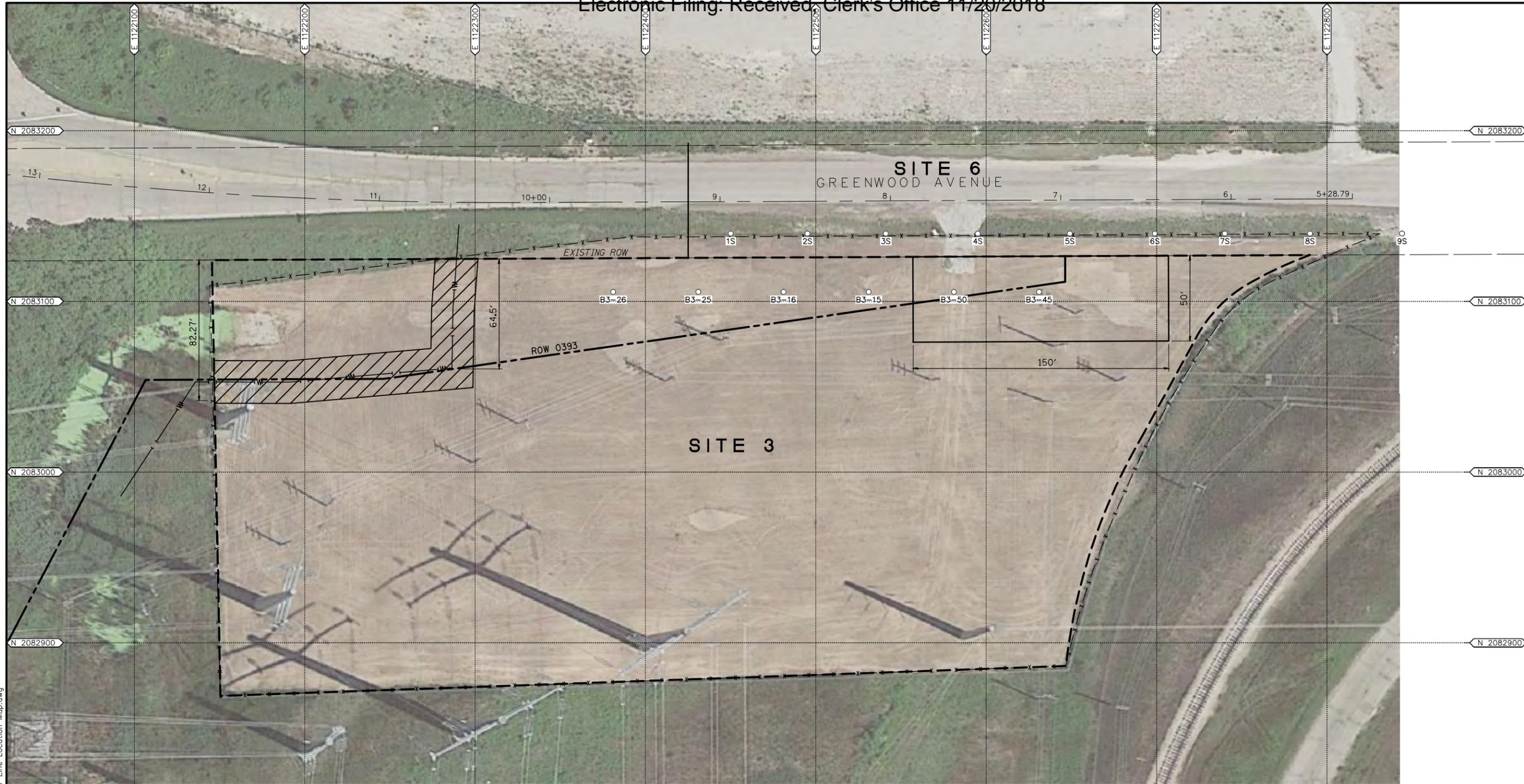
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2. IDOT ROW 0393 LAND ACQUISITION LEGAL DESCRIPTION AND AT WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REVISION 2, MARCH 31, 2014, JM004753.
4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, JM0040322.

LEGEND

- APPROXIMATE SITE 3 BOUNDARY
- APPROXIMATE RIGHT OF WAY
- APPROXIMATE NICOR GAS TRANSMISSION LINE
- EXISTING FENCE LINE
- EXISTING BORING LOCATION
- NICOR CLEAN CORRIDOR



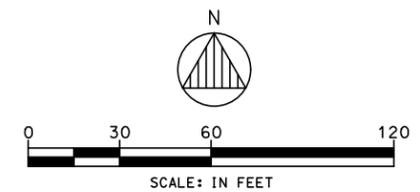
<p>ANDREWS ENGINEERING, INC. 3300 GINGER CREEK DRIVE SPRINGFIELD, ILLINOIS 62711-7233 PH (217) 787-2334 FAX (217) 787-9495 PONTIAC, IL • LOMBARD, IL • INDIANAPOLIS, IN • WARRENTON, MO PROFESSIONAL DESIGN ENGINEERING AND LAND SURVEYING FIRM #184-001541</p>	APPROVED BY: SLG DESIGNED BY: SLG DRAWN BY: MPN	NO. _____ DATE _____	REVISION DESCRIPTION _____ _____ _____	BY _____
NICOR LOCATION MAP PREPARED FOR JOHNS MANVILLE VS. IDOT PCB14-3 WAUKEGAN, ILLINOIS				
DATE: AUGUST 2018		PROJECT ID: 160021/0001		
SHEET NUMBER:		GOBELMAN: FIGURE 2		



NOTES:

1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
2. IDOT ROW 0393 LAND ACQUISITION LEGAL DESCRIPTION AND AT WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REVISION 2, MARCH 31, 2014, JM004753.
4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, JM0040322.

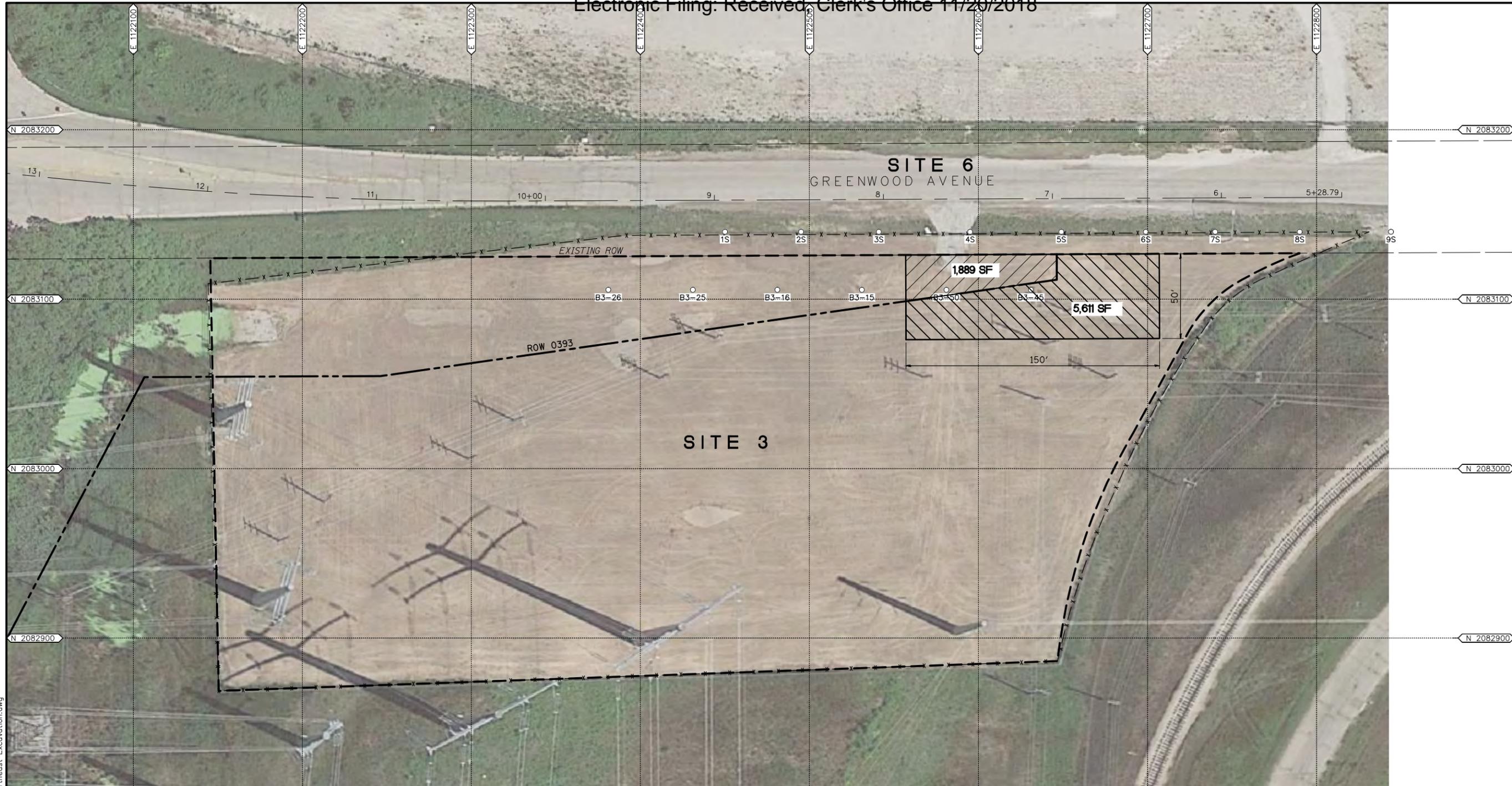
LEGEND	
	APPROXIMATE SITE 3 BOUNDARY
	APPROXIMATE RIGHT OF WAY
	APPROXIMATE CITY OF WAUKEGAN WATER LINE (6")
	EXISTING FENCE LINE
	EXISTING BORING LOCATION
	CITY OF WAUKEGAN WATER LINE CLEAN CORRIDOR



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<p>ANDREWS ENGINEERING, INC. 3300 GINGER CREEK DRIVE SPRINGFIELD, ILLINOIS 62711-7233 PH (217) 787-2334 FAX (217) 787-9495 PONTIAC, IL • LOMBARD, IL • INDIANAPOLIS, IN • WARRENTON, MO PROFESSIONAL DESIGN ENGINEERING AND LAND SURVEYING FIRM #184-001541</p>							
CITY OF WAUKEGAN WATER LINE LOCATION MAP		PREPARED FOR JOHNS MANVILLE VS. IDOT PCB14-3 WAUKEGAN, ILLINOIS					
DATE:		AUGUST 2018					
PROJECT ID:		160021/0001					
SHEET NUMBER:		GOBELMAN: FIGURE 3					
APPROVED BY: SLG	DESIGNED BY: SLG	DRAWN BY: MPN	NO.	DATE	REVISION	DESCRIPTION	BY

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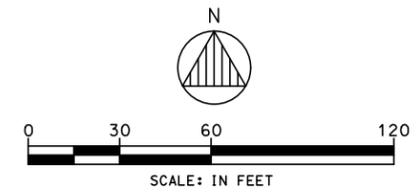


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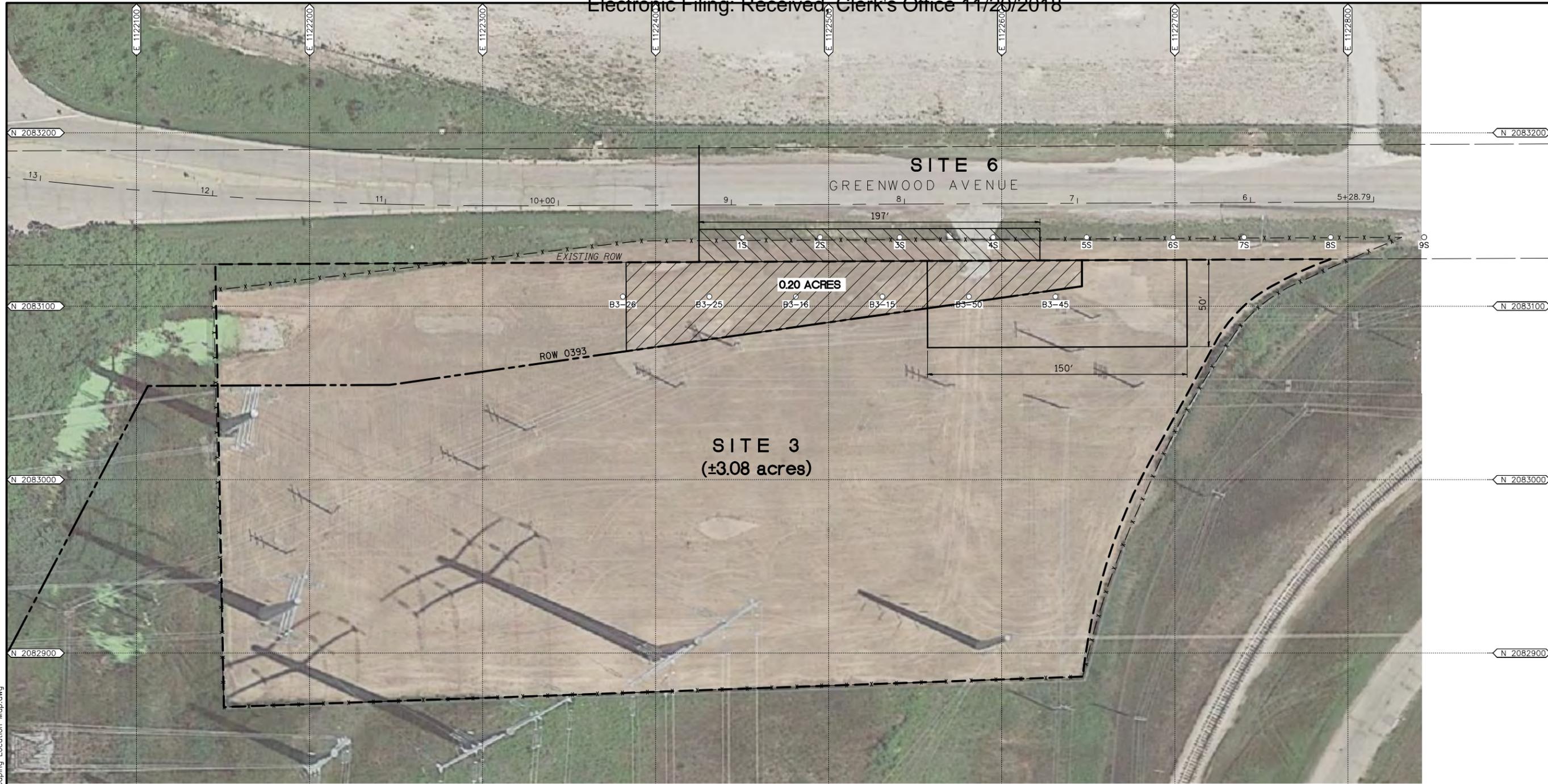
1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
2. IDOT ROW 0393 LAND ACQUISITION LEGAL DESCRIPTION AND AT WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REVISION 2, MARCH 31, 2014, JM004753.
4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, JM0040322.

LEGEND

	APPROXIMATE SITE 3 BOUNDARY
	APPROXIMATE RIGHT OF WAY
	EXISTING FENCE LINE
	EXISTING BORING LOCATION
	SQUARE FEET
	NORTHEAST EXCAVATION
	NORTHEAST EXCAVATION ATTRIBUTABLE TO IDOT BASED ON IPCB ORDER



NORTHEAST EXCAVATION LOCATION MAP	
PREPARED FOR JOHNS MANVILLE VS. IDOT PCB14-3 WAUKEGAN, ILLINOIS	
DATE:	AUGUST 2018
PROJECT ID:	160021/0001
SHEET NUMBER:	
GOBELMAN: FIGURE 6	
APPROVED BY: SLG	DESIGNED BY: SLG
DRAWN BY: MPN	
NO.	DATE
	REVISION DESCRIPTION
	BY

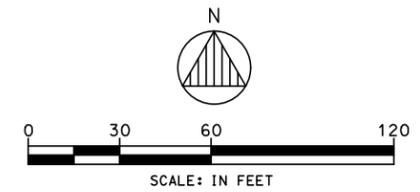


NOTES:

1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
2. IDOT ROW 0393 LAND ACQUISITION LEGAL DESCRIPTION AND AT WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
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4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, JM0040322.

LEGEND

	APPROXIMATE SITE 3 BOUNDARY
	APPROXIMATE RIGHT OF WAY
	EXISTING FENCE LINE
	EXISTING BORING LOCATION
	SITE 3 FILLING/CAPPING AREA ATTRIBUTABLE TO IDOT BASED ON IPCB ORDER
	SITE 6 FILLING/CAPPING AREA ATTRIBUTABLE TO IDOT BASED ON IPCB ORDER



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<p style="text-align: center;">FILLING/CAPPING LOCATION MAP</p> <p style="text-align: center;">PREPARED FOR JOHNS MANVILLE VS. IDOT PCB14-3 WAUKEGAN, ILLINOIS</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">ANDREWS ENGINEERING, INC.</td> <td style="width: 50%;"></td> </tr> <tr> <td>3300 GINGER CREEK DRIVE</td> <td></td> </tr> <tr> <td>SPRINGFIELD, ILLINOIS 62711-7233</td> <td></td> </tr> <tr> <td>PH (217) 787-2334 FAX (217) 787-9495</td> <td></td> </tr> <tr> <td>PONTIAC, IL • LOMBARD, IL • INDIANAPOLIS, IN • WARRENTON, MO</td> <td></td> </tr> <tr> <td>PROFESSIONAL DESIGN ENGINEERING AND LAND SURVEYING FIRM #184-001541</td> <td></td> </tr> <tr> <td>APPROVED BY: SLG DESIGNED BY: SLG DRAWN BY: MPN</td> <td></td> </tr> </table>	ANDREWS ENGINEERING, INC.		3300 GINGER CREEK DRIVE		SPRINGFIELD, ILLINOIS 62711-7233		PH (217) 787-2334 FAX (217) 787-9495		PONTIAC, IL • LOMBARD, IL • INDIANAPOLIS, IN • WARRENTON, MO		PROFESSIONAL DESIGN ENGINEERING AND LAND SURVEYING FIRM #184-001541		APPROVED BY: SLG DESIGNED BY: SLG DRAWN BY: MPN							
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<p>DATE: AUGUST 2018</p> <p>PROJECT ID: 160021/0001</p> <p>SHEET NUMBER:</p> <p>GOBELMAN: FIGURE 8</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">NO.</th> <th style="width: 50%;">DATE</th> <th style="width: 50%;">REVISION DESCRIPTION</th> <th style="width: 50%;">BY</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	DATE	REVISION DESCRIPTION	BY																
NO.	DATE	REVISION DESCRIPTION	BY																		

TABLE

COST ALLOCATION TABLE AS DEFINED BY ICLB ORDER

Work/Cost Type	Task Bucket											
	Nicor Gas			City of Waukegan Water Line			AT&T			ComEd		
	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6
Professional Engineering Services LFR/Arcadis/AECOM	\$ 106,086			\$ 35,867	\$ 48,433		\$ 26,524	\$ 31,105				
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	18.8%	1.6%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,987	\$ 498	\$ -	\$ -	\$ -	\$ -
Professional Engineering Services Completion Costs AECOM Estimate								\$ 15,000				
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.6%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 240	\$ -	\$ -	\$ -	\$ -
Operations and Maintenance AECOM Estimate												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Campanella Base Bid	\$ 106,848			\$ 25,170								
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Campanella T&M Services	\$ 5,156				\$ 38,241				\$ 53,548			
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	6.4%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,427	\$ -	\$ -	\$ -
Construction Services DMP			\$ 360						\$ 45,350			
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	6.4%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,902	\$ -	\$ -	\$ -
Construction Services Miscellaneous												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Payments to Utilities							\$ 82,127	\$ 238,161				
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	18.8%	1.6%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,440	\$ 3,811	\$ -	\$ -	\$ -	\$ -
Easement Legal Support Manikas												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
EPA Oversight												
Percent Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Costs	\$ 218,090	\$ -	\$ 360	\$ 61,037	\$ 86,674	\$ -	\$ 108,651	\$ 284,266	\$ 98,898	\$ -	\$ -	\$ -
Total IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,426	\$ 4,548	\$ 6,329	\$ -	\$ -	\$ -

AT&T

Total AT&T Site 3 and Site 6	\$	392,917
IDOT Attribution	\$	24,975
Percent IDOT attribution		6.4%
AT&T IDOT Total	\$	31,304

COST ALLOCATION TABLE AS DEFINED BY IPLCB ORDER

Work/Cost Type	Task Bucket											
	Utility/Asbestos Containing Material (ACM) Excavation			North Shore Gas (NSG)			Northeast Excavation			Dewatering		
	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6
Professional Engineering Services LFR/Arcadis/AECOM				\$ 135,159	\$ 81,028		\$ 3,977					
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	39.3%	3.6%	0.0%	25.2%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 53,117	\$ 2,917	\$ -	\$ 1,002	\$ -	\$ -	\$ -	\$ -	\$ -
Professional Engineering Services Completion Costs AECOM Estimate							\$ 10,000					
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	25.2%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,520	\$ -	\$ -	\$ -	\$ -	\$ -
Operations and Maintenance AECOM Estimate												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Campanella Base Bid		\$ 155,318					\$ 35,957			\$ 140,800	\$ 159,250	
Percentage Attribution to IDOT	0.0%	3.6%	0.0%	0.0%	0.0%	0.0%	25.2%	0.0%	0.0%	21.7%	23.5%	0.0%
IDOT Attribution	\$ -	\$ 5,591	\$ -	\$ -	\$ -	\$ -	\$ 9,061	\$ -	\$ -	\$ 30,554	\$ 37,424	\$ -
Construction Services Campanella T&M Services				\$ 162,678		\$ 22,327				\$ 24,325		\$ 17,675
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	39.3%	0.0%	24.5%	0.0%	0.0%	0.0%	21.7%	0.0%	22.4%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 63,932	\$ -	\$ 5,470	\$ -	\$ -	\$ -	\$ 5,279	\$ -	\$ 3,959
Construction Services DMP							\$ 35,830			\$ 74,530		\$ 21,500
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	24.5%	0.0%	0.0%	21.7%	0.0%	22.4%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 8,778	\$ -	\$ -	\$ -	\$ 16,173	\$ -	\$ 4,816
Construction Services Miscellaneous												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Payments to Utilities				\$ 34,687	\$ 153,833					\$ 19,429	\$ 1,337	
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	39.3%	3.6%	0.0%	0.0%	0.0%	0.0%	21.7%	23.5%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 13,632	\$ 5,538	\$ -	\$ -	\$ -	\$ -	\$ 4,216	\$ 314	\$ -
Easement Legal Support Manikas												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
EPA Oversight												
Percent Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Costs	\$ -	\$ 155,318	\$ -	\$ 332,524	\$ 234,861	\$ 58,157	\$ 49,934	\$ -	\$ -	\$ 259,084	\$ 160,587	\$ 39,175
Total IDOT Attribution	\$ -	\$ 5,591	\$ -	\$ 130,682	\$ 8,455	\$ 14,248	\$ 12,583	\$ -	\$ -	\$ 56,221	\$ 37,738	\$ 8,775

North Shore Gas (NSG)
 Total NSG Site 3 and Site 6 \$ 567,385
 IDOT Attribution \$ 139,137
 Percent IDOT attribution 24.5%
 NSG IDOT Total \$ 153,385

Dewatering
 Total dewater Site 3 and Site 6 \$ 419,671
 IDOT Attribution \$ 93,959
 Percent IDOT attribution 22.4%
 Dewatering IDOT Total \$ 102,734

COST ALLOCATION TABLE AS DEFINED BY ICLB ORDER

Work/Cost Type	Task Bucket											
	Ramp			Filling and Capping			General Site/Site Preparation			Health and Safety		
	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6
Professional Engineering Services LFR/Arcadis/AECOM	\$ 20,880						\$ 355,534	\$ 519,027				
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	16.8%	5.5%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 59,730	\$ 28,546	\$ -	\$ -	\$ -	\$ -
Professional Engineering Services Completion Costs AECOM Estimate							\$ 70,621	\$ 53,250				
Percentage Attribution to IDOT		0.0%	0.0%	0.0%	0.0%	0.0%	16.8%	5.5%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,864	\$ 2,929	\$ -	\$ -	\$ -	\$ -
Operations and Maintenance AECOM Estimate							\$ 310,903					
Percentage Attribution to IDOT		0.0%	0.0%	0.0%	0.0%	0.0%	6.5%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,209	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Campanella Base Bid				\$ 328,983			\$ 138,310	\$ 95,560				\$ 77,000
Percentage Attribution to IDOT		0.0%	0.0%	6.5%	0.0%	0.0%	16.8%	5.5%	0.0%	0.0%	0.0%	8.8%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 21,384	\$ -	\$ -	\$ 23,236	\$ 5,256	\$ -	\$ -	\$ -	\$ 6,776
Construction Services Campanella T&M Services				\$ 41,721	\$ 188,183	\$ 231,862		\$ 37,410				
Percentage Attribution to IDOT		0.0%	0.0%	6.5%	3.6%	5.3%	0.0%	5.5%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 2,712	\$ 6,775	\$ 12,289	\$ -	\$ 2,058	\$ -	\$ -	\$ -	\$ -
Construction Services DMP				\$ 55,550	\$ 122,170	\$ 120,150			\$ 74,300			
Percentage Attribution to IDOT		0.0%	0.0%	6.5%	3.6%	5.3%	0.0%	0.0%	8.8%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 3,611	\$ 4,398	\$ 6,368	\$ -	\$ -	\$ 6,538	\$ -	\$ -	\$ -
Construction Services Miscellaneous							\$ 57,362	\$ 102,082				
Percentage Attribution to IDOT		0.0%	0.0%	0.0%	0.0%	0.0%	16.8%	5.5%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,637	\$ 5,615	\$ -	\$ -	\$ -	\$ -
Construction Services Payments to Utilities												
Percentage Attribution to IDOT		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Easement Legal Support Manikas												
Percentage Attribution to IDOT		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
EPA Oversight												
Percent Attribution to IDOT		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Costs	\$ 20,880	\$ -	\$ -	\$ 426,254	\$ 310,353	\$ 352,012	\$ 932,730	\$ 807,329	\$ 74,300	\$ -	\$ -	\$ 77,000
Total IDOT Attribution	\$ -	\$ -	\$ -	\$ 27,707	\$ 11,173	\$ 18,657	\$ 124,676	\$ 44,403	\$ 6,538	\$ -	\$ -	\$ 6,776

Filling and Capping

Total Fill and Cap Site 3 and Site 6	\$	736,607
IDOT Attribution	\$	38,879
Percent IDOT attribution		5.3%
Fill and Cap IDOT Total	\$	57,536

General Site/Site Preparation

Total Construction Cost	\$	1,476,454	Site 3	\$	1,476,454
Total IDOT Attribution	\$	247,619	Site 6	\$	1,232,059
Percent IDOT Attribution		16.8%	Site 3/6	\$	548,602
				\$	67,505
				\$	48,010
					8.8%

COST ALLOCATION TABLE AS DEFINED BY ICLB ORDER

Work/Cost Type	Task Bucket						Total			Total Site 3 and Site 6 Costs
	EPA Oversight			Legal Support Services			Site 3	Site 6	Site 3 and Site 6	
	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	
Professional Engineering Services LFR/Arcadis/AECOM							\$ 684,027	\$ 679,593	\$ -	\$ 1,363,620
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 118,836	\$ 31,961	\$ -	\$ 150,797
Professional Engineering Services Completion Costs AECOM Estimate							\$ 80,621	\$ 68,250	\$ -	\$ 148,871
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 14,384	\$ 3,169	\$ -	\$ 17,553
Operations and Maintenance AECOM Estimate							\$ 310,903	\$ -	\$ -	\$ 310,903
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,209	\$ -	\$ -	\$ 20,209
Construction Services Campanella Base Bid							\$ 776,068	\$ 410,128	\$ 77,000	\$ 1,263,196
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 84,235	\$ 48,271	\$ 6,776	\$ 139,282
Construction Services Campanella T&M Services							\$ 233,880	\$ 263,834	\$ 325,412	\$ 823,126
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 71,923	\$ 8,832	\$ 25,145	\$ 105,900
Construction Services DMP							\$ 130,080	\$ 122,170	\$ 297,490	\$ 549,740
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 19,784	\$ 4,398	\$ 29,403	\$ 53,585
Construction Services Miscellaneous							\$ 57,362	\$ 102,082	\$ -	\$ 159,444
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,637	\$ 5,615	\$ -	\$ 15,251
Construction Services Payments to Utilities							\$ 136,243	\$ 393,331	\$ -	\$ 529,574
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 33,288	\$ 9,663	\$ -	\$ 42,951
Easement Legal Support Manikas							\$ 71,840	\$ -	\$ 71,840	\$ 71,840
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	11.6%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 8,333	\$ -	\$ -	\$ 8,333	\$ 8,333
EPA Oversight	\$ 233,805	\$ 125,675					\$ 233,805	\$ 125,675	\$ -	\$ 359,480
Percent Attribution to IDOT	16.8%	5.5%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ 39,279	\$ 6,912	\$ -	\$ -	\$ -	\$ -	\$ 39,279	\$ 6,912	\$ -	\$ 46,191
Total Costs	\$ 233,805	\$ 125,675	\$ -	\$ -	\$ -	\$ 71,840	\$ 2,642,989	\$ 2,165,063	\$ 771,742	\$ 5,579,794
Total IDOT Attribution	\$ 39,279	\$ 6,912	\$ -	\$ -	\$ -	\$ 8,333	\$ 411,574	\$ 118,821	\$ 69,658	\$ 600,052

<u>Manikas Support Site 3/6</u>	Site 3	Site 6	Site 3 and 6	Total
Total costs for utility work	\$ 720,302	\$ 761,119	\$ 157,415	\$ 1,638,836
Total IDOT Attribution	\$ 151,108	\$ 18,595	\$ 20,578	\$ 190,281
Percent IDOT Attribution				11.6%

Appendix A

BIBLIOGRAPHY OF DOCUMENTS CITED

1. *Grant of Public Highway, August 3, 1971.*
2. *State of Illinois Department of Public Works and Buildings, Division of Highways, Plans for Proposed Federal Aid Highway, F.A. Route 42 – Section 8-HB & 8-VB, Lake County, Contract #28266. 1971.*

Appendix B

Appendix C

F.A. R. 42
SECTION 8
LAKE Co.

GRANT FOR PUBLIC HIGHWAY

THIS INDENTURE WITNESSETH: That Grantor, COMMONWEALTH EDISON COMPANY, an Illinois Corporation, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, paid by and for the State of Illinois, Grantee herein, acting by and through the Department of Public Works and Buildings, hereby grants, but without warranty, subject to the reservations, conditions and provisions hereinafter contained, unto Grantee the right to use for highway purposes only, the following tract of land:

Parcel No. 0392
PART A

A part of the Westerly 100 feet of all that part of the Southwest Quarter of the Southwest Quarter of Section 10 in Township 45 North, Range 12 East of the Third Principal Meridian, lying Easterly of the Right of Way of the Chicago and North Western Railway Company, in Lake County, Illinois, described as follows: Beginning at the intersection of the Easterly Right-of-Way line of the Chicago and North Western Railway Company and the South line of the Southwest Quarter of said Section 10; thence North 6° 39' 32" East 305.30 feet, as measured along said Easterly Right of Way; thence North 89° 44' 18" East 35.00 feet; thence North 11° 09' 06" East 194.74 feet; thence North 15° 11' 23" East 202.24 feet; thence North 6° 39' 33" East 101.37 feet; thence South 83° 20' 30" East 20.00 feet to a point on a line 100.00 feet Easterly of the Easterly Right of Way line of the Chicago and North Western Railway Company; thence South 6° 39' 32" West 792.89 feet to a point on the South line of the Southwest Quarter of said Section 10; thence South 89° 44' 18" West 100.73 feet, as measured along the South line of the Southwest Quarter of said Section 10, to the Point of Beginning.

PART B

A part of the Westerly 100 feet of all that part of the West Half of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the Third Principal Meridian, lying Easterly of the Right of Way of the Chicago and North Western Railway Company, in Lake County, Illinois, described as follows: Beginning at the intersection of the Easterly Right of Way line of the Chicago and North Western Railway Company and the South line of Greenwood Avenue, said South line of Greenwood Avenue being 66 feet South of and parallel to the North line of the Northwest Quarter of said Section 15; thence South 6° 39' 32" West 90.0 feet, as measured along the Easterly Right of Way of the Chicago and North Western Railway Company; thence South 13° 02' 59" East, 148.26 feet; thence South 6° 39' 32" West 100.00 feet; thence South 2° 48' 12" East 304.14 feet to a point on the Westerly line of Sand Street; thence North 6° 39' 32" East 641.72 feet along the Westerly line of Sand Street to a point on the South line of Greenwood Avenue; thence South 89° 44' 16" West,

Grantee: ILLINOIS DIVISION OF HIGHWAYS
595 SO. STATE ST., ELGIN 60120

1517501

IDOT 002838

1519501

100.73 feet along the South line of the Greenwood Avenue, to the Point of Beginning.

PARCEL NO. E392

A part of the Westerly 100 feet of all that part of the Southwest Quarter of the Southwest Quarter of Section 10, Township 45 North, Range 12 East of the Third Principal Meridian, lying Easterly of the Right of Way of the Chicago and North Western Railway Company, in Lake County, Illinois, described as follows: Commencing at the intersection of the Easterly Right of Way of the Chicago and North Western Railway Company and the North line of Greenwood Avenue, said North line of Greenwood Avenue being 40 feet North of and parallel to the South line of the Southwest Quarter of the Southwest Quarter of said Section 10; thence North 6° 39' 32" East 801.34 feet, as measured along the Easterly Right of Way of the Chicago and North Western Railway Company, to the Point of Beginning; thence South 83° 21' 08" East 100.00 feet; thence North 6° 39' 32" East 120.00 feet; thence North 83° 21' 08" West 100.00 feet to a point on the Easterly Right of Way of the Chicago and North Western Railway Company; thence South 6° 39' 32" West 120.00 feet, as measured along said Easterly Right of Way, to the Point of Beginning.

Parcel No. 0393

A part of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Beginning at the intersection of the Easterly line of Sand Street and the South line of Greenwood Avenue thence North 89° 44' 17" East 643.23 feet as measured along the South line of Greenwood Avenue; thence South 0° 15' 49" East 15.0 feet; thence South 81° 54' 31" West 403.76 feet; thence South 89° 44' 17" West 140.0 feet; thence South 27° 50' 01" West 185.24 feet; thence South 0° 06' 25" East 118.83 feet; thence South 14° 42' 11" West 414.48 feet to a point on the Easterly line of Sand Street; thence North 6° 39' 32" East 758.19 feet as measured along the Easterly line of Sand Street to the Point of Beginning.

Parcel No. E393

A part of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of the South line of Greenwood Avenue and the East line of Sand Street thence North 89° 44' 17" East 643.23 feet; thence South 0° 15' 49" East 15.00 feet to the Point of Beginning; thence South 0° 15' 49" East 15.00 feet; thence South 57° 56' 15" West 435.99 feet; thence South 23° 33' 27" West 247.70 feet; thence South 34° 53' 13" West 336.16 feet; thence South 26° 17' 09" West 201.25 feet; thence North 83° 26' 33" East 3.40 feet to a point on the East line of Sand Street; thence North 6° 39' 32" East 189.57 feet as measured along the East line of Sand Street; thence North 14° 42' 11" East 175.00 feet; thence North 41° 26' 36" East 141.13 feet; thence North 17° 14' 26" East 92.57 feet; thence North 1° 03' 41" East 280.32 feet; thence North 27° 50' 01" East 45.00 feet; thence North 89° 44' 17" East 45.00 feet; thence South 1° 00' 09" East 198.14 feet; thence North 53° 41' 32" East 388.50 feet; thence North 81° 54' 31" East 180.00 feet to the point of Beginning.

Parcel No. 0394

A part of the East 300 feet of the South half of the Southeast Quarter of Section 9 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as

follows: Beginning at the Southeast Corner of the Southeast Quarter of said Section 9 thence South 89° 45' 04" West 300.02 feet, as measured along the South line of the Southeast Quarter of said Section 9 thence North 0° 25' 40" East 105.61 feet; thence South 81° 40' 52" East 37.63 feet; thence South 0° 14' 56" East 20.00 feet; thence North 89° 45' 04" East 46.00 feet; thence North 0° 14' 56" West 20.00 feet; thence North 89° 45' 04" East 61.00 feet; thence North 0° 14' 52" West 120.00 feet; thence North 89° 45' 04" East 157.16 feet to a point on the East line of the South half of the Southeast Quarter of said Section 9; thence South 0° 25' 40" West 220.00 feet as measured along the said East line to the point of Beginning.

Parcel No. E394 ✓

PART A

A part of the East 300 feet of the South half of the Southeast Quarter of Section 9 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of the East line of the South half of the Southeast Quarter of said Section 9 and the North line of Greenwood Avenue, said North line of Greenwood Avenue being 40 feet North of the South line of the South half of the Southeast Quarter of said Section 9; thence North 0° 25' 40" East 355.00 feet, as measured along the said East line to the point of Beginning; thence North 0° 25' 40" East 180.00 feet, as measured along said East line; thence South 40° 20' 50" West 467.50 feet to a point on a line 300 feet West of the East line of the South half of the Southeast Quarter of said Section 9; thence South 0° 25' 40" West 114.39 feet; thence South 81° 40' 52" East 37.63 feet; thence North 41° 28' 28" East 160.78 feet; thence North 42° 03' 04" East 236.58 feet to the Point of Beginning.

Parcel No. E394 ✓

PART B

A part of the East 300 feet of the South half of the Southeast Quarter of Section 9 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Beginning at the intersection of the East line of the South half of the Southeast Quarter of said Section 9 and the North line of Greenwood Avenue, said North line of Greenwood Avenue being 40 feet North of the South line of the South half of the Southeast Quarter of said Section 9; thence South 89° 45' 04" West 300.02 feet, as measured along the North line of Greenwood Avenue; thence North 0° 25' 40" East 65.61 feet; thence South 81° 40' 52" East 37.63 feet to the Point of Beginning; thence South 0° 14' 56" East 20.00 feet; thence North 89° 45' 04" East 46.00 feet; thence North 0° 14' 56" West 20.00 feet; thence South 89° 45' 04" West 46.00 feet at the point of Beginning.

Parcel No. E395 ✓

PART A

A part of the Northwest Quarter of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of the South line of Greenwood Avenue, said South line being 40 feet South of the North line of the Northwest Quarter of the Northwest Quarter of said Section 15, and the Westerly Right of Way of the Chicago and North Western Railway Company; thence South 89° 45' 04" West 100.00 feet; thence South 0° 14' 56" East 75.00 feet to the point of Beginning; thence South 0° 15' 44" East 205.00 feet; thence South 89° 44' 15" West 91.00 feet; thence North 0° 15' 45" West 140.51 feet; thence North 89° 46' 04" East 24.98 feet; thence

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North 0° 14' 56" West 64.49 feet; thence North 89° 45' 04" East 66.00 feet to the Point of Beginning.

Parcel No. E395 ✓

PART B

A part of Lot 1 of School Trustee's Subdivision of Section 16 in Township 45 North, Range 12 East of the Third Principal Meridian, in Lake County, Illinois, described as follows: Commencing at the Southwest Corner of Lot 6 in Russell H. Edward's Business Sites, being a Subdivision of said Lot 1 in School Trustee's Subdivision thence North 88° 55' 20" East 77.28 feet, as measured along the South line of said Lot 6, to the Point of Beginning; thence South 0° 14' 56" East 36.25 feet; thence North 89° 45' 04" East 100.00 feet; thence North 0° 14' 56" West 37.69 feet to a point on the South line of Lot 7 in said Russell H. Edward's Business Sites; thence South 88° 55' 20" West 100.00 feet, as measured along the South lines of Lots 6 and 7 in said Fussell H. Edward's Business Sites; the the Point of Beginning.

Parcel No. 0395

PART A

A part of the Northwest Quarter of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the 3rd Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of the South line of Greenwood Avenue and the Westerly Right of Way of the Chicago and North Western Railway Company thence South 89° 45' 04" West 100.00 feet, as measured along the South line of Greenwood Avenue; thence South 0° 14' 56" East 75.00 feet; thence South 89° 45' 04" West 66.00 feet along a line 75.00 feet South of and parallel to the said South line of Greenwood Avenue; thence North 0° 14' 56" West 75.00 feet to a point on the south line of Greenwood Avenue; thence North 89° 45' 04" East 66.00 feet, as measured along the said South line of Greenwood, to the Point of Beginning.

Said tract of land herein described contains 0.114 Acres, more or less.

Parcel No. 0395

PART B

A part of Lot 1 in School Trustee's Subdivision of Section 16 and a part of the South 300 feet of the North 479.5 feet of that part of Northwest Quarter of the Northwest Quarter of Section 15, lying West of the Westerly line of the right of way of the Chicago and North Western Railway Company, all in Township 45 North, Range 12 East of the 3rd Principal Meridian in Lake County, Illinois, described as follows: Beginning at the intersection of the East line of the Northeast Quarter of said Section 16 and the South line of Lot 9 in Russell H. Edward's Business Sites, being a part of Lot 1 in said School Trustee's Subdivision and a part of the Northwest Quarter of the Northwest Quarter of said Section 15; thence South 89° 55' 20" West 141.77 feet, as measured along the South line of Lots 9 and 8 in said Russell H. Edward's Business Sites; thence South 0° 11' 03" East 52.27 feet; thence South 2° 37' 41" West 200.25 feet; thence South 5° 56' 41" East 48.05 feet; thence North 89° 09' 38" East 310.24 feet; thence North 0° 14' 03" West 144.53 feet; thence North 5° 56' 41" West 100.50 feet; thence North 3° 28' 56" West 54.52 feet to a point on the South line of Lot 10 in said Russell H. Edward's Business Sites; thence South 89° 44' 17" West 150.11 feet, as measured along the South line of Lots 10 and 9 of said Russell H. Edward's Business Sites to the point of beginning.

Said tract of land herein described contains 2.106 acres, more or less.

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Parcel No. 0399

A part of Lots 6, 7, 8 and 9 in Russell H. Edward's Business Sites, being a Subdivision of Lot 1 in School Trustee's Subdivision of Section 16 in Township 45 North, Range 12 East of the Third Principal Meridian, reference being made to the Plan thereof recorded in the Recorder's Office of Lake County, Illinois, in Book of Plats 31 on Page 102; described as follows: Beginning at the intersection of the South line of Greenwood Avenue and the East line of the Northeast Quarter of said Section 16; thence south 89° 45' 04" West 311.83 feet along the North lines of Lots 9, 8, 7 and 6 to a point 49.67 feet East of the Northwest corner of said Lot 6; thence South 14° 53' 01" West 46.61 feet; thence South 80° 47' 07" East 30.47 feet; thence North 89° 45' 07" East 150.00 feet; thence south 0° 14' 56" East 91.54 feet to a point on the South line of said Lot 8; thence North 88° 55' 20" East 141.77 feet along the South lines of said Lots 8 and 9 to a point on the East line of the Northeast Quarter of said Section 16; thence North 0° 38' 46" East 139.51 feet along the East line of the Northeast Quarter of said Section 16 to the Point of Beginning.

Parcel No. E399

A part of Lots 6 and 7 in Russell H. Edward's Business Sites, being a part of Lot 1 in School Trustee's Subdivision of Section 16 in Township 45 North, Range 12 East of the Third Principal Meridian, according to the Plat thereof recorded in Book 31 of Plats, Page 102, in Lake County, Illinois, described as follows: Commencing at the Southwest Corner of said Lot 6 thence North 88° 55' 20" East 77.28 feet, as measured along the South line of said Lot 6, to the Point of Beginning; thence North 0° 14' 56" West 93.71 feet; thence North 89° 45' 07" East 100.00 feet; thence South 0° 14' 56" East 92.27 feet to a point on the South line of said Lot 7; thence South 88° 55' 20" West 100.00 feet, as measured along the South line of Lots 6 and 7 to the Point of Beginning.

Parcel No. 0400

A part of Lots 1 and 2 in School Trustee's Subdivision of Section 16 and a part of the Northwest Quarter of the Northwest Quarter of Section 15 all in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of South line of the Northwest Quarter of the Northwest Quarter of said Section 15 and the Westerly Right of Way of the Chicago and North Western Railway Company thence South 89° 46' 07" West 204.00 feet as measured along the South line of the Northwest Quarter of the Northwest Quarter of said Section 15 to the Point of Beginning; thence North 0° 13' 53" West 204.00 feet; thence North 89° 46' 07" East 73.17 feet; thence North 8° 32' 41" East 82.02 feet; thence North 3° 34' 48" East 150.33 feet; thence North 1° 24' 09" East 350.14 feet; thence North 0° 14' 03" West 55.46 feet; thence South 89° 09' 38" West 310.24 feet; thence South 5° 56' 41" East 253.45 feet; thence South 0° 14' 03" East 300.00 feet; thence South 2° 50' 26" East 100.05 feet; thence South 0° 53' 54" East 185.11 feet to a point on the North line of Lot 3 in said School Trustee's Subdivision; thence North 89° 46' 07" East 172.61 feet, as measured along the North line of Lot 3 in said School Trustee's Subdivision and along the South line of the Northwest Quarter of the Northwest Quarter of said Section 15 to the Point of Beginning.

as shown on Exhibit "A", attached hereto and made a part hereof.

Grantor hereby reserves unto itself, its successors and assigns,

the right to install, operate, maintain renew and remove its or their facilities upon, over and under the surface of said described tracts of land, and to make such other and futher use of said tracts of land, as it or they shall see fit, insofar as is compatible with the use of said tracts of land for highway purposes.

Grantor hereby further reserves the right to trim from time to time such trees, saplings, and bushes as may reasonably be required in the operation and maintenance of said facilities of Grantor, and Grantee agrees not to plant any trees on or near said described tracts of land which can grow into said facilities of Grantor.

This grant is subject to two (2) roadways reserved in deed dated June 8, 1923, recorded on June 13, 1923, as Document #225388, an easement dated June 18, 1936 to the City of Waukegan for a 10-inch sanitary sewer, and an easement dated August 14, 1954, to North Shore Sanitary District for a 39-inch interceptor sanitary sewer. There may be other utility lines, mains, pipelines or other underground facilities in this area, however, the exact location and users are not known to Grantor but this grant is expressly made subject to such lines.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on this 3RD day of AUGUST, A.D. 1971.

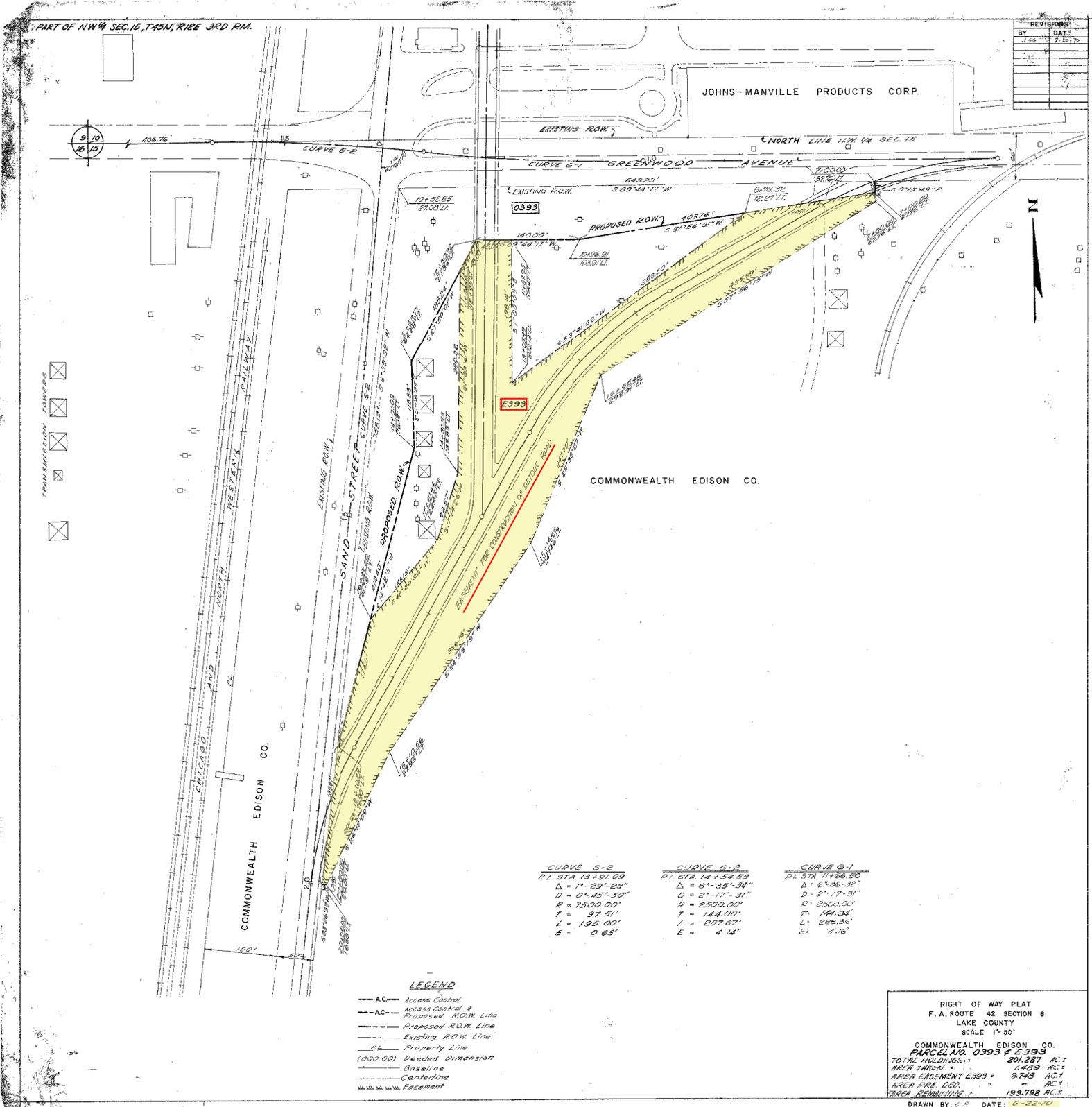
COMMONWEALTH EDISON COMPANY

By Glen H. Berman
Vice President



Assistant Secretary

1517501



REVISIONS	
BY	DATE

<p>CURVE S-2 PI STA. 13+91.09 $\Delta = 1^{\circ} 29' 25''$ $D = 0^{\circ} 45' 30''$ $R = 7500.00'$ $T = 97.51'$ $L = 195.00'$ $E = 0.63'$</p>	<p>CURVE G-2 PI STA. 14+54.59 $\Delta = 6^{\circ} 35' 34''$ $D = 2^{\circ} 17' 31''$ $R = 2500.00'$ $T = 144.00'$ $L = 297.67'$ $E = 4.14'$</p>	<p>CURVE G-1 PI STA. 1166.50 $\Delta = 6^{\circ} 36' 32''$ $D = 2^{\circ} 17' 31''$ $R = 2500.00'$ $T = 144.34'$ $L = 298.36'$ $E = 4.16'$</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

- LEGEND**
- AC — Access Control
 - - - AC - Proposed R.O.W. Line
 - Proposed R.O.W. Line
 - - - Existing R.O.W. Line
 - Property Line
 - (1000.00) Dashed Dimension
 - Baseline
 - Centerline
 - Easement

RIGHT OF WAY PLAT
 F. A. ROUTE 42 SECTION 8
 LAKE COUNTY
 SCALE 1" = 50'

COMMONWEALTH EDISON CO.
PARCEL NO. 0393 & E393

TOTAL HOLDINGS = 20,287 AC.
 WHEEL TRACKS = 1,009 AC.
 AREA EASEMENT E393 = 2,748 AC.
 AREA FIRE DED. = AC.
 AREA REMAINING = 199,798 AC.

DRAWN BY: C.P. DATE: 6-22-10

EXHIBIT C

October 25, 2018

EXPERT REBUTTAL REPORT OF DOUGLAS G. DORGAN JR. ON DAMAGES ATTRIBUTABLE TO IDOT

**JOHNS MANVILLE VS
ILLINOIS DEPARTMENT OF TRANSPORTATION**

Former Johns Manville Facility
Site 3 and Site 6
Waukegan, Illinois

PREPARED BY



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1 INTRODUCTION

1.1 Summary

The report presents my response to the Expert Rebuttal Report of Steven L. Gobelman, dated August 22, 2018 (herein referred to as the "Gobelman Report"). I am rebutting "opinions" expressed by Mr. Gobelman in the Gobelman Report and in his deposition. In addition, I have addressed various "factual" statements contained in the Gobelman Report and in his deposition. My opinions in my initial report and this rebuttal report are made to a reasonable degree of scientific certainty. I reserve the right to supplement this and my initial Expert Report of Douglas G. Dorgan Jr. on Damages Attributable to IDOT ("Dorgan Expert Report") if additional, relevant information becomes available.

1.2 Information Considered

For purposes of this report, in addition to reviewing the documents presented within the Gobelman Report and those noted in my Dorgan Expert Report, I have reviewed documents produced in response to a document request sent to Mr. Gobelman and the Deposition of Mr. Gobelman taken on October 2, 2018. Some specific documents referenced herein have been cited within this Expert Rebuttal Report.

2 REBUTTAL OPINIONS

The following provides my expert rebuttal opinions, followed by information supporting these opinions:

2.1 The Gobelman Report Relies on an Inaccurate, Inconsistent, and Unreliable Methodology

After reviewing Mr. Gobelman's Report and deposition, I affirm my opinions and methodology in my Dorgan Expert Report, which take into consideration the way in which the work was performed at the Sites and the way the Board crafted its Order by referencing areas and soil borings.

Mr. Gobelman and I agree on how JM's Implementation Costs were tabulated and allocated to Site 3 and Site 6. There appears to be no dispute over the total amount of Implementation Costs incurred by JM, the reasonableness of those Implementation Costs, that JM paid those Implementation Costs, how I assigned those Implementation Costs into task buckets, how I allocated those Implementation Costs between Sites 3 and 6, and/or how I assigned and attributed the collective Site 3 and 6 Implementation Costs. Mr. Gobelman agrees with the methodology on these points and incorporates it in the Gobelman Report. Our opinions, however, diverge on how the Implementation Costs are "attributed" to IDOT. My approach is more reasonable and accurate.

Mr. Gobelman does not have a consistent methodology for attributing costs to IDOT and mixes various approaches throughout his Gobelman Report. For example, in some instances, he uses linear feet to calculate the portion of costs attributable to IDOT for a non-uniform excavation (Utility/ACM Soils) and in others, he uses square feet (Northeast Excavation), again for a non-uniform excavation. While Mr. Gobelman agrees that using volume would be a reasonable approach, he never utilizes it.

Further, as explained below, Mr. Gobelman's opinions are based upon a flawed Base Map (Figure 1 of the Gobelman Report). Mr. Gobelman's Site 3 IDOT attribution calculations are based on this flawed figure, which contradicts the USEPA-approved figure the Board relied on in entering the IPCB Order. Mr. Gobelman's Site 6 IDOT attribution calculations are based on a flawed understanding of the work done on Site 6. Because of this, Mr. Gobelman's attribution calculations for Sites 3 and 6 are incorrect.

The Gobelman Report fails to consider why certain cleanup activities were required and how the scope of the cleanup was driven by Site conditions and where visible ACM was observed during earlier investigation activities. As presented in Figure 2 of the Dorgan Expert Report, visual ACM was found predominantly in the IDOT Areas of Liability and the record suggests that the visual ACM drove the work mandated by the Enforcement Action Memorandum (EAM) and the work ultimately performed.

The work done for the North Shore Gas (NSG) line on Site 3 is a good example of how IDOT contamination drove the remedy. As explained in the Dorgan Expert Report, the only ACM found along the NSG line on Site 3 was attributed to IDOT by the Board (borings B3-15 and B3-50). In the EAM, USEPA required the creation of a 25-foot clean corridor for all of the NSG line on Site 3, notwithstanding whether ACM was found directly above a section of the line or not.

The Gobelman Report also too narrowly limits IDOT's areas of liability to the area immediately around soil borings specifically identified by the Board in the Order. This approach is inconsistent with USEPA's requirements, including but not limited to, 1) that each soil boring represents a 50 by 50-foot area and that JM remove all ACM contamination within this area, and 2) JM remove ACM contamination extending to the next clean boring. The Gobelman Report, therefore, improperly, incorrectly, and unreasonably takes too restrictive an approach in opining on the costs attributable to IDOT.

2.2 The Base Map (Figure 1) of the Gobelman Report Inaccurately Represents the Boundary and Features of Site 3

The Gobelman Report contains figures for Sites 3 and 6, with mapping of boundaries and boring locations, that are based on Mr. Gobelman's "interpretation" of a Google image that he indicates shows a fence around Site 3 (see **Figure 1 – Gobelman Report; Exhibit EX-2**). This methodology is not reasonably relied upon by experts in the field. It is also inconsistent with figures approved by USEPA and used by the Board in ruling on the issues from the first phase of this case after hearing. These Gobelman figures inaccurately plot the Site 3 boundaries, the soil boring locations, Parcel No. 0393 and the various areas (including utilities) where JM performed work. As a result, the overall Gobelman Report is inaccurate and misleading.

For example, Figure 1 of the Gobelman Report, which is the basis for Mr. Gobelman's other figures, presents an incorrect Site 3 boundary. Mr. Gobelman's fundamental argument, as stated in his deposition, is that the boundary of Site 3 should be further north (about ten feet) than where it is represented on Figure 1 of the Dorgan Expert Report (included herein as **Figure 2**) and the AECOM Final Report submitted to USEPA. As discussed further below, Mr. Gobelman's inaccurate relocation of the northern boundary of Site 3 leads to an improper plotting of the Parcel No. 0393 boundary. It even appears that Mr. Gobelman laid out Parcel No. 0393 incorrectly from his referenced IDOT Document #1517501, furthering the incorrect Parcel location. As a result, Mr. Gobelman comes to the incorrect opinion that various samples and areas where work was performed by JM are not located within Parcel No. 0393. By creating his own flawed map, Mr. Gobelman misleadingly and improperly reduces the areas where the Board has held IDOT liable (such as Parcel No. 0393) and the corresponding costs attributable to IDOT in those areas.

Mr. Gobelman claims (as represented within EX-1 of the Gobelman Report) that AECOM, Mr. Dorgan, and Atwell all incorrectly plotted the boundaries of Site 3 based on three source documents he claims do not match. It is my understanding that Mr. Gobelman created an overlay of the Site 3 boundary (see **Figure 1**) using these three documents:

1. The Atwell ALTA Survey presented as Exhibit G of the Dorgan Expert Report (Atwell Survey);
2. Figure 2 in the AECOM Final Report, Southwestern Site Area, Sites 3, 4/5, and 6, Waukegan Illinois dated March 20, 2018 (AECOM Figure 2); and¹
3. Figure 1 of the Dorgan Expert Report (Dorgan Expert Report Figure 1).

To properly compare boundaries on a map, you must have a reference to a common geographical point. This is a fundamental component of preparing such a comparison based upon my past experience. Mr. Gobelman admitted in his deposition that he did not have and did not use such a common reference point to compare the figure boundaries. Mr. Gobelman's methodology is therefore improper.

While Mr. Gobelman claimed that he used the State Plane Coordinate System as the reference point, he acknowledged in his deposition that these coordinates were not included on two of the three source figures. Without a consistent reference point, it was an improper and an unreliable methodology for Mr. Gobelman to try and compare the three figures. His conclusion that the figures do not match, and his depiction of the inconsistencies as represented in EX-1, are inaccurate.

To create his own Site 3 boundary figure, Mr. Gobelman used what he interpreted as a fence line on a Google Map image. He then "assumed that Site 3 was contained within the shown fencing except in the northwest and northeast corner of Site 3." He offers no basis for this assumption, and in his deposition acknowledges, "I would assume that my boundaries would be a little bit larger than – than what was depicted because I'm using a fence line and not the actual site."² This statement counters his logic that the fence line is the property boundary and in reality this makes his Site 3 larger than the correct boundary. He then superimposes his incorrect interpretation of the boundaries from EX-1 onto the Google Map image along with his interpretation of the Site 3 boundaries (see Gobelman Report at EX-2, included herein as **Figure 1**). He also includes on EX-2 his interpretation of where Parcel No. 0393 and the Northeast Excavation are located. Because his plots are based upon flawed Site 3 boundaries and faulty interpretation of Document 1517501, their locations are incorrect on EX-2 and the other Gobelman Report figures. Per the supported documentation provided by Mr. Gobelman regarding the legal description of Parcel 0393, I found multiple errors in his interpretation of Document

¹ Based upon the attachments to his Gobelman Report, I believe Mr. Gobelman's reference above to AECOM Figure 2 is intended to be a reference to Figure 2 of Appendix A of the AECOM Final Report (see Gobelman Report at Appendix D) that was prepared by CQM, Inc.

² Line 18 – 21, Page 98, Gobelman deposition.

1517501. He begins his description of the boundary for Parcel 0393 at the location where it turns south into Site 3, using a given bearing of S 0° 15' 49" E at 15 feet. At this point, the following errors are evident:

1. Document 1517501 states the parcel boundary to a bearing of S 81° 54' 31" W at 403.76 feet, however, Gobelman plotted this bearing as S 83° 3' 38" W at 365.53 feet.
2. Document 1517501 parcel boundary continues at a bearing of S 89° 44' 17" W at 140.0 feet, however, Mr. Gobelman plotted this at S 83° 16' 50" W at 180.66 feet; this appears to be continuing in the same direction as the previous bearing.
3. The lengths plotted by Gobelman as noted above are not consistent with the lengths referenced in Document 1517501.

The misinterpreted bearings and faulty lengths both contribute to the incorrect layout and location of Parcel 0393.

Based on Mr. Gobelman's claim that the boundary for Site 3 is not consistent on the referenced figures, I verified the boundary with my own overlay using AutoCAD and GIS.³ I have created my own figure showing an overlay of the Site 3 boundaries provided on the referenced figures (included herein as **Figure 3**). **Figure 3** presents boundaries based on the following figures:

1. Figure 2 of Appendix A of the AECOM Final Report (CQM Figure 2);
2. Dorgan Expert Report Figure 1;
3. The Atwell Survey; and
4. Gobelman Report Figure 1.

I used the above referenced four figures to demonstrate the differences between the boundaries depicted in my Dorgan Expert Report and in the Gobelman Report. My approach is a more technical and defensible methodology for assessing the boundary of Site 3 and one that is recognized as reasonably reliable by those in my field. **Figure 3**, which relies on this methodology, is accurate and aligns with the figures contained in AECOM's Final Report.

The varying boundaries for Site 3 as shown on **Figure 3** are based on the following:

1. CQM Figure 2 from the AECOM Final Report submitted to USEPA – The four corners of Site 3 contained coordinates aligning with the Illinois East State Plane Coordinate System NAD83, with the boundaries subsequently placed to those locations. The North, West, and South boundary lines were connected to those

³ The use of Autodesk AutoCAD Civil 3D software allows the global connection to the given coordinate systems of Illinois East NAD83 for more precise location. The base grid point N 2,083,000 & E 1,122,500 can be identified and a 100'x100' grid created for comparable construction of the different boundaries represented on the above referenced figures.

corners and the East curved boundary was drawn per visual interpretation of CQM Figure 2;

2. Figure 1 of Dorgan Expert Report – This Figure was created by obtaining the CAD drawing being used by AECOM. The original AECOM figure was produced using Illinois East State Plane Coordinates for the Site 3 corners. Certain features were then shown such as the samples exhibiting Visual ACM. The boundaries of Site 3 were laid out with measurements from the coordinates of Parcel No. 0393 and the Illinois East State Plane Coordinate grid anchored within the source AutoCAD file. It shows Parcel No. 0393 with bearings and directions located along the Greenwood Avenue right of way. The location of Parcel No. 0393 is illustrated on this Figure using the legal description referenced at Document 1649408;
3. Atwell Survey – The boundaries for Site 3 on the Atwell Survey were laid out using scaled measurements taken from the Illinois East State Plane Coordinate grid to locate the northwest corner of Site 3; from there, the boundary was plotted based on the bearings of length and direction described on the Atwell Survey;
4. Gobelman Figure EX-2 – The boundaries of Site 3 were laid out using Gobelman Figure EX-2, which shows the State Plane Coordinate grid and Parcel No. 0393 in relation to his Site 3 boundary based on his fence line interpretation and interpretation of Document 1517501. It is apparent that Mr. Gobelman created the southern and western boundaries to align with his interpretation of the fence line without any bearing or point of beginning, which is improper methodology.

As illustrated on the Property Boundary Comparison Layout (**Figure 3**), each description has been presented and color coded. As **Figure 3** demonstrates, there is strong consistency between the Dorgan Expert Report Figure 1 and the CQM Figure 2 from the AECOM Final Report. It is important to understand that the Site 3 boundary as shown on Dorgan Expert Report Figure 1 and CQM Figure 2 are comparable with the legal description boundary between the ComEd parcel and the IDOT Right of Way. The boundary of Site 3 on the Dorgan Expert Report Figure 1 and CQM Figure 2 have a direct relationship to the Illinois East State Plane Coordinate System NAD83. By contrast, Gobelman EX-2 (and each of his other figures) uses a fence line as an arbitrary reference point. Furthermore, the northern boundary of Site 3 has its origination in early negotiations with USEPA and the original Settlement Agreement executed in 2008. The boundary as represented on CQM Figure 2 (and on Figure 1 of the Dorgan Expert Report), has been accepted and deemed accurate by USEPA since inception of work on Site 3 and Site 6.

It is my opinion that Gobelman EX-1, EX-2, Figure 1, and the remaining figures contained in the Gobelman Report misrepresent the boundaries and features of Sites 3 and 6 and Parcel 0393. Mr. Gobelman's arbitrary use of a fence line in a Google Map image as a reference point for creation of his figures has the effect of moving the northern boundary of Site 3 more north. This incorrectly modifies how certain sample locations (e.g., B3-45)

and remedial activities (e.g., AT&T telephone line abandonment) are depicted on his figures. **Figure 4 - Property Boundary Comparison Layout with Site Features** presents the modified boundary compared with the key remedial areas (e.g., AT&T lines, NSG Line, NE Excavation, and City of Waukegan Water Line).

In his deposition, Mr. Gobelman admitted that he relied upon sources he claims contained the wrong Site 3 boundaries (e.g., Dorgan Figure 1, the Atwell Survey, CQM Figure 2) to plot the locations of soil borings/samples, remedial features, and other key elements on his same Base Map/Figure 1. This is an improper methodology that calls into question all of his opinions.

2.3 Mr. Gobelman Incorrectly Interprets the Scope of IDOT's Area of Liability on Site 3 based on the IPCB Order

Mr. Gobelman opines that IDOT's liability, as found by the Board, is confined to specific soil boring locations, specifically including B3-25, B3-15, B3-16, B3-50, and B3-45. He also says that his attributions for Site 3 are based upon the eastern edge of Parcel No. 0393. As noted above and on **Figure 3**, the location of Parcel No. 0393, the NSG line, the AT&T lines, the Northeast Excavation, and Site 3 boundary are inaccurate, making his attribution opinions incorrect.

Mr. Gobelman fails to consider that a soil boring, typically not more than 2 inches in diameter, is intended to be representative of a larger area. Test pits are similarly intended to be representative of a larger area. The record reflects that USEPA considered every soil boring/test pit to represent a 50-by-50-foot grid of contamination that needed to be remediated. Moreover, as Mr. Gobelman stated, the USEPA required the remediation work to travel to the first clean boring.⁴

Each soil boring/test pit served as a representation of the conditions at and under that location, a point Mr. Gobelman ignores. In many situations, the ACM contamination connected to a given soil boring/test pit was much larger in depth and width than what was collected in the sample. For example, as stated in the Dorgan Expert Report, Mr. Dave Peterson explained that, upon excavation, a consistent seam of ACM was observed along the entire transect from 1S-8S that had been placed there at the same time.

Once remediation began, the scope of the contamination present at each of the original soil sample locations was identified. USEPA required JM to remove soils to a depth where no visual ACM was present and where no ACM was detected. This caused the amount of ACM removed in certain locations to vary. For example, JM had to excavate deeper and remove more material on the western portion of the Northeast Excavation than on the eastern portion because the ACM had been buried at a greater depth on the western side.

⁴ Gobelman Deposition, Page 137, Line 4 and 5

JM was required to remove much more than the amount of soil depicted as a soil boring on a given figure contained in the AECOM Final Report or Dorgan Expert Report Figure 1. Mr. Gobelman does not take this into account. I therefore disagree with Mr. Gobelman's method of treating IDOT's liability so narrowly as it is not consistent with USEPA's required scope of work or with how experts in the field view what is represented by contamination found in a single boring.

2.4 Mr. Gobelman Misinterprets the Board's Decision on Parcel No. 0393

Based on Figure 1 of the Gobelman Report, as discussed above in Section 2.2, Mr. Gobelman concludes that B3-45 does not fall within Parcel No. 0393. This conclusion is based solely on his flawed Base Map/Figure 1, which misrepresents the Site 3 boundary. The location of soil boring B3-45 as presented on Figure 1 of the Dorgan Expert Report is accurate and shows B3-45 (which represents a 50-by-50 foot area) as falling within the IDOT Area of Liability. Any conclusions in the Gobelman Report based on soil boring B3-45 falling outside the boundary of Parcel No. 0393 are therefore faulty.

As stated in the Dorgan Expert Report, the Order specifically references areas of Site 3 where the Board determined IDOT is responsible for the presence of ACM:

1. Where IDOT restored Site 3 after construction (samples B3-25, B3-16 and B3-15);⁵ and
2. Where IDOT allowed open dumping through its control over Parcel No. 0393 at sample locations B3-25, B3-16, B3-15, B3-50, and B3-45 (to the extent sample B3-45 falls on Parcel 0393) on Site 3.⁶

Mr. Gobelman argues that IDOT's responsibility is for a "defined area based on soil sample locations within Parcel 0393."⁷ He is suggesting that IDOT's responsibility is limited to only those areas immediately in proximity to the specific soil borings referenced in the IPCB Order. Mr. Gobelman fails to consider the work mandated by USEPA that occurred well outside the immediate proximity of the referenced soil borings. As examples, work related to construction of a clean corridor for the City of Waukegan Water Line, sampling of the ramp area, and abandonment of AT&T telephone lines located across Parcel No. 0393 were driven in large part by ACM encountered at the boring locations identified by Mr. Gobelman on Parcel No. 0393.

Furthermore, Mr. Gobelman fails to consider the language and spirit of the Board's Order, which states, "IDOT's interest in Parcel 0393 therefore gives it the right to control a portion of Site 3. Within that portion of Site 3, ACM waste is present in the soil. By continuing to control the portion of Parcel 0393 falling within Site 3 (emphasis added),

⁵ IPCB Order page 10

⁶ IPCB Order page 13

⁷ Section 5.2 of Gobelman Report

IDOT continues to allow ACM waste in that soil.” The Board is clearly referencing the entirety of Parcel No. 0393 located within Site 3. As a result, it is my interpretation that the Board intended to attribute all work done by JM in, on and under Parcel No. 0393 (which IDOT controls given its easement interests) to IDOT, not just work done in areas in close proximity to certain boring locations within Parcel 0393. As a result, all costs associated with Parcel No. 0393 (including my attribution of \$61,0247 of the Waukegan Water Line, \$20,880 of ramp work, and other costs identified below) should be attributed to IDOT, which the Board found controls the parcel and the ACM present in the soil.

2.4.1 Northeast Excavation

Mr. Gobelman’s flawed approach does not consider what was driving the work in the Northeast Excavation, including the fact that the work had to be performed in 50 by 50-foot grids, the fact that the work had to extend to the nearest clean boring, and the fact that the ComEd Fiber Optic line that USEPA required be removed due, in part, to the fact it ran through 1S-4S (IDOT Area of Liability) also travels through the Northeast Excavation. Work performed for the Northeast Excavation included removal of soils from three square grids represented by the soil boring locations (see Dorgan Expert Report Figures 1 and 2). All the soil from within the grid was required to be removed based upon findings from the specifically referenced soil boring (e.g., B3-50 and B3-45). That is two thirds of the excavation. The eastern grid area was removed because B3-46 contained contamination as well as the fact that the ComEd fiber optic line attributed to an IDOT Area of Liability was located in this area.⁸ As a result, it is my opinion that all of the Northeast Excavation work should be attributed to IDOT. Additionally, Mr. Gobelman’s calculation that 1,905 square feet fall within Parcel No. 0393 is incorrect because it is based upon an inaccurate Base Map/Figure 1 and plotting of Parcel No. 0393 (see Gobelman Report Figure 6).

2.4.2 North Shore Gas

As stated in the Dorgan Expert Report, the portion of the NSG Line on Site 3 runs only through IDOT Areas of Liability. Mr. Gobelman ignores this fact and instead focuses on the areas surrounding B3-50 and B3-15 to attribute costs to IDOT. I disagree with this approach as noted above. Since the only ACM found along the NSG line on Site 3 was attributed to IDOT by the Board, Mr. Gobelman should have included all of the costs associated with work on the NSG line on Site 3 to IDOT. This is a more reasonable and accurate approach.

Mr. Gobelman’s restrictive view and approach to liability causes him to underestimate the costs attributable to IDOT with respect to the NSG line on Site 3 (see Dorgan Expert Report) as well as the Site 3 and 6 collective costs relating to NSG (see Dorgan Expert

⁸ USEPA Correspondence to Johns Manville dated February 1, 2012

Report). Mr. Gobelman underestimates this attribution by more than \$240,000 for Site 3 and more than \$30,000 for combined Site 3 and Site 6 costs.

Additionally, Mr. Gobelman's incorrect plotting of Parcel No. 0393 on his Base Map/Figure 1 results in less of the NSG line falling within Parcel No. 0393 (see **Figure 4**). Consequently, even using his own methodology, his conclusion that 3,278 square feet of the NSG line falls within Parcel No. 0393 (an IDOT Area of Liability) is incorrect.

2.4.3 AT&T

Mr. Gobelman used linear feet to calculate IDOT's liability related to the AT&T lines on Site 3. However, because his Base Map/Figure 1 is incorrect, he fails to account for AT&T lines that traverse Parcel 0393 that are shown correctly on Figure 1 of the Dorgan Expert Report and in the CQM Figure 2 contained in the Final Report. The actual linear footage of AT&T lines within Parcel 0393 is approximately 625 feet.

I continue to believe that my approach of considering how many AT&T lines ran through IDOT's Area of Liability (2 out of 3) and thus drove the remedial work to be a more reasonable approach. If one were to use Mr. Gobelman's approach, however, the IDOT attribution would not be materially different. As the total linear footage of the two AT&T lines that are within IDOT Areas of Liability is 625 feet, which is 57 percent of total linear footage of AT&T lines on Site 3.

2.5 Mr. Gobelman Incorrectly Interprets the Scope of IDOT's Area of Liability on Site 6

In Section 5.3 of the Gobelman Report, Mr. Gobelman again takes a narrow view of the scope of IDOT's responsibility based on the geographic limitations of soil sample locations 1S through 4S. I believe there are at least two important factors Mr. Gobelman fails to consider in his evaluation including:

1. The IPCB Order did not consider the full scope of soils removal and backfill plans for the south right of way of Greenwood Avenue; and
2. Mr. Gobelman does not consider the conditions that drove the scope of the cleanup on the south side of Site 6.

I have addressed each of these factors below.

2.5.1 Greenwood Avenue Construction Considerations

In Section 3.1.1 of the Dorgan Expert Report, I address in detail the Greenwood Avenue construction considerations that inform the scope of remediation and IDOT's liability for the work performed. I address the original construction plans, IDOT's requirement to remove unsuitable material from under the Greenwood Avenue Right of Way, and conditions observed by Mr. Peterson during remediation activities. Mr. Gobelman does

not address or rebut most of these points, including my discussion of Hearing Exhibit 21-A-26 (see Section 3.1.1.2 of the Dorgan Expert Report) and Mr. Peterson's visual observations. Consequently, I continue to believe that IDOT is responsible for Implementation Costs JM incurred for any and all work associated with and/or caused by contamination in sample grids 1S-8S.

2.5.2 Failure to Consider Remedy Drivers

As noted above, most of the visual ACM was encountered within IDOT's Area of liability (see Figure 2 of the Dorgan Expert Report). As a result of the buried visual ACM, USEPA required creation of a 25-foot clean corridor for all buried utilities on the Sites, "regardless of whether impacts from ACM were noted in the overlying soil during the assessment."⁹ Since IDOT is responsible for most of the visual ACM found on the relevant areas of the Sites, IDOT's unlawful disposal of ACM was the primary driver of the work required by USEPA in these areas, especially with respect to the clean corridors. For example, at the time the EAM¹⁰ was issued, no ACM had been found east of soil sample location 8S. Nonetheless, USEPA required a clean corridor for the entire NSG line from 4S and moving east regardless that ACM had not been found east of 8S.

2.5.2.1 AT&T

To determine IDOT's attribution for AT&T on Site 6, Mr. Gobelman calculates what he believes to be the length of the entire northern and southern corridor for Site 6. He says that this comes to 5,470 linear feet. He then calculates what he believes to be IDOT's responsibility based on linear feet, assuming the AT&T lines run the length of the entire corridor on both the north and south sides of Site 6. Based on the record, the AT&T lines do not run the entire length of the north and south corridor on Site 6. As a result, Mr. Gobelman's calculation is incorrect.

Given what was driving the removal of the AT&T lines (the visual ACM found along these lines) I believe my original approach that attributed costs to IDOT based on the number of lines running through the IDOT Area of Liability is more reasonable and more accurate than Mr. Gobelman's approach.

2.5.2.2 Utility ACM Soils Excavation

Mr. Gobelman's assessment of IDOT's responsibility for ACM soils excavation is based upon the assumptions that JM created clean corridors for the entire north and south sides

⁹ Correspondence dated December 20, 2012 from Bryan Cave to USEPA Re: Notice of Dispute Concerning Enforcement Action Memorandum dated November 30, 2012, Page 7 and Page 10.

¹⁰ USEPA Enforcement Action Memorandum dated November 30, 2012.

of Site 6¹¹ and that the amount of soil removed all along the south side of Site 6 was consistent. These assumptions are inaccurate based upon the record.

In part, given what was driving the removal of the soils, the visual ACM found along these lines, in particular those from 1S-4S and, in some instances 1S-8S, I believe my original approach of attributing the costs to IDOT based upon the number of lines running through the IDOT Areas of Liability was more reasonable and more accurate than Mr. Gobelman's approach.

2.5.2.3 North Shore Gas

Mr. Gobelman incorrectly claims that I said that "the length [of the NSG line] along the south side of Site 6 is approximately 2005 linear feet." Mr. Gobelman then calculates how much of this 2005 linear feet is located solely around 4S. He concludes it is 47 linear feet.

For the reasons stated herein, including that visual ACM in the IDOT Areas of Liability drove the need to remove the NSG line on the south side of Site 6 and the fact that JM was required to create clean corridors for the entire NSG line east of 8S, notwithstanding whether ACM was present, I disagree with Mr. Gobelman's approach and maintain that IDOT is responsible for all costs associated with the removal of the NSG line on the south side of Site 6. I did not include any costs associated with the removal of the NSG line on the north side of Site 6.

2.5.2.4 Ramp

Figure 7 of the Gobelman Report depicts what Mr. Gobelman believes to be the ramp referenced in the Dorgan Expert Report. The depiction is inaccurate. The "ramp" work identified in Mr. Dorgan's report included large portions of the northwest corner of Site 3 entirely within Parcel No. 0393. Accordingly, any opinions Mr. Gobelman makes about the "ramp" are incorrect. Since the ramp work was contained within Parcel 0393 and was driven by ACM found in this IDOT Area of Liability, I believe my approach was more reasonable and more accurate than Mr. Gobelman's approach.

2.6 Mr. Gobelman's Site 3 and Site 6 Cost Allocations are Inaccurate

2.6.1 Dewatering

Mr. Gobelman's dewatering calculations are inaccurate because they are predicated upon incorrect attributions of IDOT liability based upon narrowly defined boring locations, a flawed Base Map/Figure 1, a misunderstanding of the work done on Site 6, and an improper methodology that ignores what was driving the dewatering work. I believe my

¹¹ Gobelman Deposition, Page 126.

approach at looking at what was driving the need to do the dewatering work as more reasonable and accurate than Mr. Gobelman's approach.

2.6.2 Filling and Capping

Mr. Gobelman's filling and capping calculations are inaccurate because they are predicated upon incorrect attributions of IDOT's liability based upon narrowly defined boring locations, a flawed Base Map/Figure 1, a misunderstanding of the work done on Site 6 and an improper methodology that ignores what was driving the filling and capping work. I believe my approach at looking at what was driving the need to do the filling and capping work as more reasonable and accurate than Mr. Gobelman's approach.

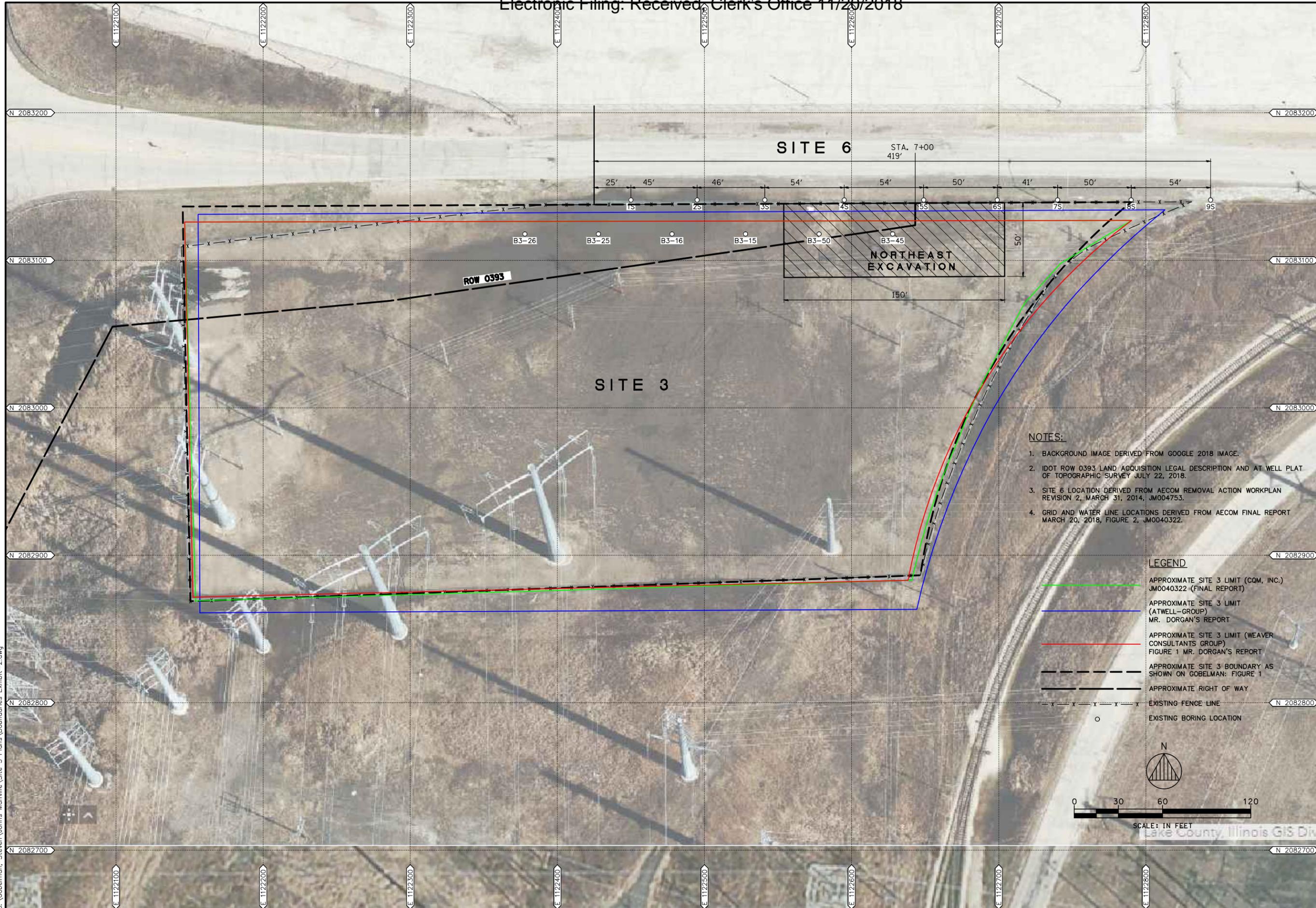
Moreover, his approach is unreasonably limited in that it does not include the total area of IDOT Areas of Liability to determine acreage. Rather, he calculates acreage based on calculations made in his flawed figures and based upon his incorrect view of the area and work required by USEPA in remediating various soil borings. For example, with respect to Site 3, he did not include acreage for Parcel 0393 (0.54 Acres), the entire Northeast Excavation or the entire NSG line.

2.6.3 General Site Prep, USEPA Oversight, Health and Safety and Legal Support Services on Site 3

Mr. Gobelman's attribution approach follows my method of assigning site-wide costs by dividing IDOT's share of the construction-related costs by the total construction-related costs. Because Mr. Gobelman miscalculated IDOT's share of the construction-related costs, all of his calculations for these site-wide costs categories are incorrect, unreasonable, and unreliable.

Figures

Figure 1
Gobelman Report Exhibit EX-2

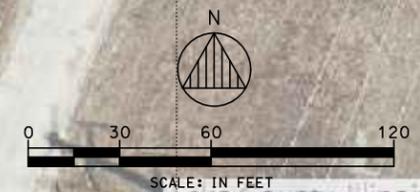


NOTES:

1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
2. IDOT ROW 0393 LAND ACQUISITION LEGAL DESCRIPTION AND AT WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REVISION 2, MARCH 31, 2014, JM004753.
4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, JM0040322.

LEGEND

- APPROXIMATE SITE 3 LIMIT (CQM, INC.) JM0040322 (FINAL REPORT)
- APPROXIMATE SITE 3 LIMIT (ATWELL-GROUP) MR. DORGAN'S REPORT
- APPROXIMATE SITE 3 LIMIT (WEAVER CONSULTANTS GROUP) FIGURE 1 MR. DORGAN'S REPORT
- - - APPROXIMATE SITE 3 BOUNDARY AS SHOWN ON GOBELMAN: FIGURE 1
- - - APPROXIMATE RIGHT OF WAY
- x x x x EXISTING FENCE LINE
- o EXISTING BORING LOCATION



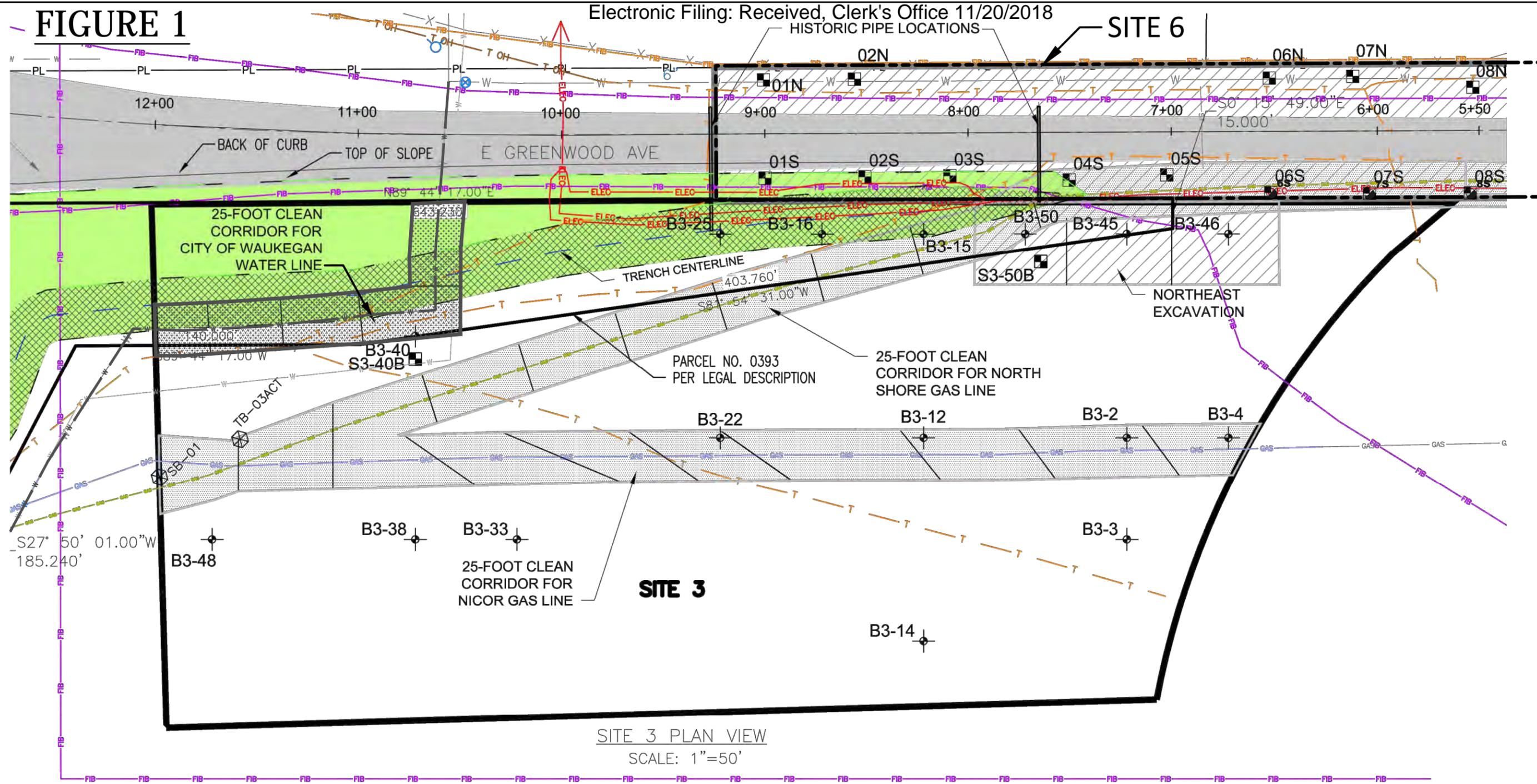
ANDREWS							
ENGINEERING, INC.							
3300 GINGER CREEK DRIVE							
SPRINGFIELD, ILLINOIS 62711-7233							
PH (217) 787-2334 FAX (217) 787-9495							
PONTIAC, IL • LOMBARD, IL • INDIANAPOLIS, IN • WARRENTON, OR							
PROFESSIONAL DESIGN ENGINEERING AND LAND SURVEYING FIRM #184-001541							
APPROVED BY: SLG	DESIGNED BY: SLG	DRAWN BY: MPN	NO.	DATE	REVISION DESCRIPTION		BY
SITE 3 LIMITS PREPARED FOR JOHNS MANVILLE VS. IDOT PCB14-3 WAUKEGAN, ILLINOIS							
DATE: AUGUST 2018							
PROJECT ID: 160021/0001							
SHEET NUMBER:							
EX-2							

Tab: Layout1 Last Saved: August 21, 2018, by Mike Nguyen Plotted: Tuesday, August 21, 2018 11:21:23 AM
 S:\Gobelman, Steven\Johns Manville Site 3 Plans\Boundaries Exhibit-2.dwg

Figure 2
Figure 1 of the Dorgan Expert Report

FIGURE 1

Electronic Filing: Received, Clerk's Office 11/20/2018



SITE 3 PLAN VIEW
SCALE: 1"=50'

NOTE:

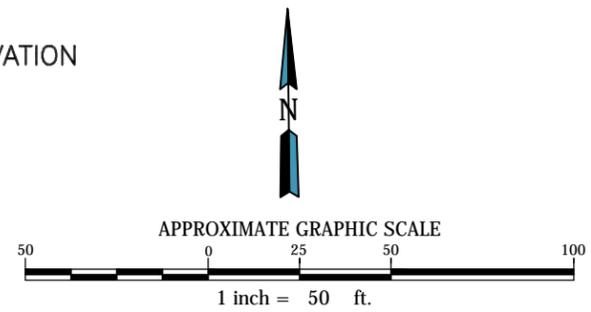
SAMPLE LOCATIONS WITH ACM DETECTED ≥ 0.25 AND/OR VISIBLY OBSERVED ACM ARE SHOWN.

LEGEND:

- S3-50B LFR TEST PIT (2008)
- B3-33 ELM BORING (1999)
- SB-01 AECOM BORING / TEST PIT (2013)
- HISTORICAL TRENCH
- EMBANKMENT
- SITE 6 BOUNDARY
- SITE 3 BOUNDARY

- CITY OF WAUKEGAN WATER LINE (10")
- INCORRECT CENTERLINE OF WATER LINE MARKED OUT BY CITY OF WAUKEGAN
- NORTH SHORE GAS HP GAS LINE (12")
- NICOR HP GAS LINE (20")
- AT&T UNDERGROUND PHONE CABLE (DASHED WHERE ASSUMED)
- AT&T FIBER OPTIC CABLE
- COMED FIBER OPTIC CABLE
- COMED UNDERGROUND 12KV POWER LINES (3X)

- CLEAN CORRIDOR
- EXCAVATION



NOTE: Site layout supplied by AECOM.

PREPARED FOR: Johns Manville

Construction Features

Site 3 & Site 6 - Former Johns Manville Manufacturing Facility
WAUKEGAN, IL

NO.	DATE	REVISION DESCRIPTION

Weaver Consultants Group

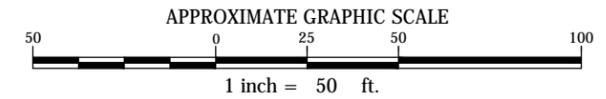
WEAVER CONSULTANTS GROUP
35 E. WACKER
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CHICAGO, ILLINOIS 60601
(312) 922-1030
WWW.WCGRP.COM

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REVIEWED BY: DGD
DATE: 6/12/2018
FILE: 2570-312-07
CADFILES 1-4 Road x-section.dwg

FIGURE 1

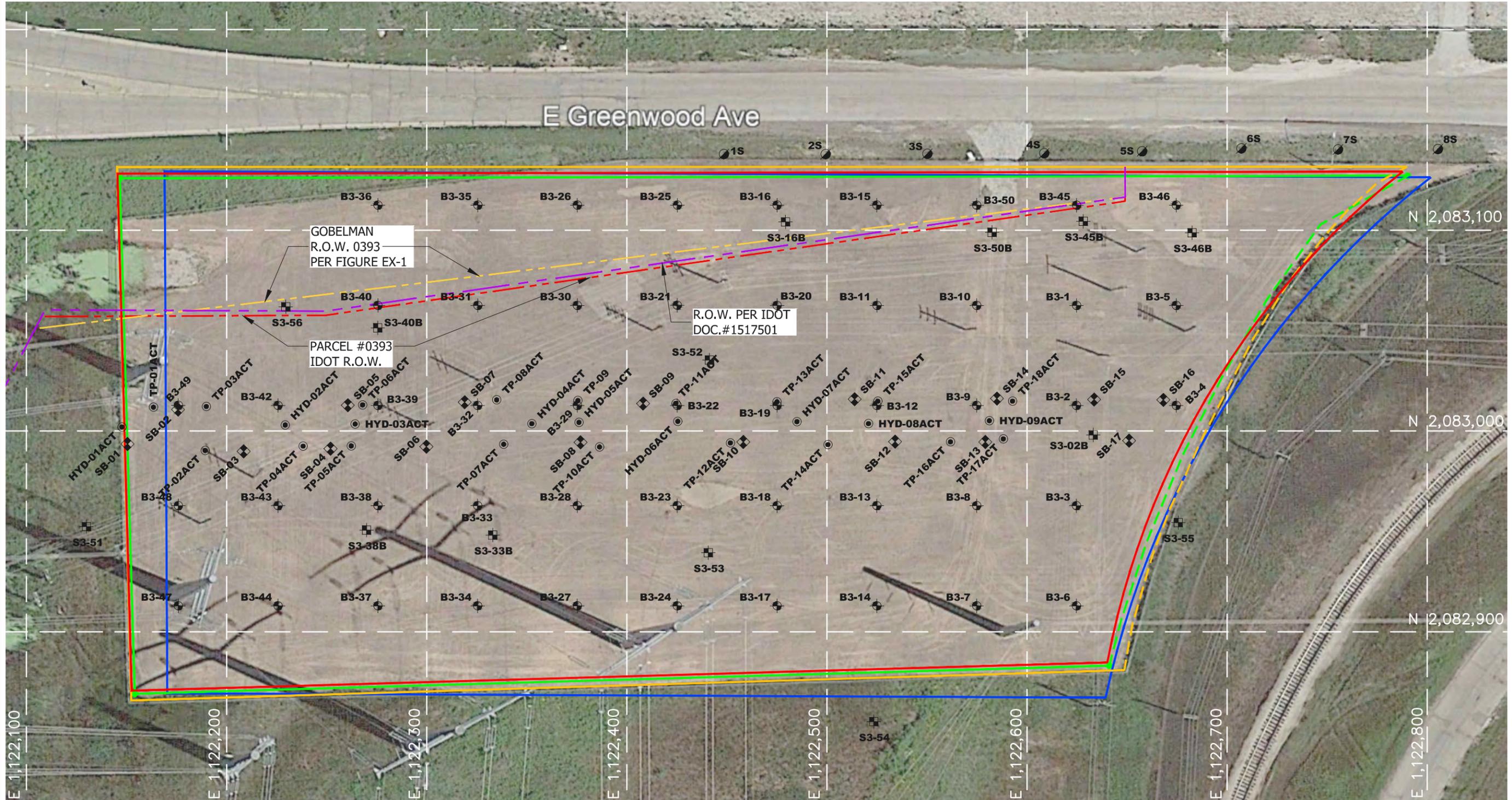
Figure 3
Property Boundary Comparison Layout



PREPARED FOR:

 Johns Manville

PROPERTY BOUNDARY
 COMPARISON LAYOUT
 Site 3 & Site 6 - Former Johns Manville Manufacturing Facility
 WAUKEGAN, IL



NOTE: DASHED BOUNDARY LINES ARE ESTIMATED FROM VISUAL INSPECTION OF SUPPORTED DOCUMENTS, NOT ACTUAL MEASUREMENTS.

SOURCE: AERIAL IMAGE ADAPTED FROM GOOGLE EARTH IMAGERY, DATED 7/6/2018. GRID BASED ON ILLINOIS EAST LATITUDE/LONGITUDE.

LEGEND

- PROPERTY BOUNDARY BY ATWELL PER COORDINATES AND DIRECTION, BASE LOCATION MEASURED FROM LAT/LONG GRID INTERSECTION N 2085000, E1122500.
- PROPERTY BOUNDARY BY AECOM/WCG MEASURED FROM PARCEL NO. 0393 COORDINATES.
- PROPERTY BOUNDARY BY CQM, INC PER CORNER COORDINATES GIVEN IN DOCUMENT
- PROPERTY BOUNDARY BY GOBELMAN-FIGURE 1 ILLUSTRATION AND MEASURED FROM LAT/LONG GRID
- - - IDOT R.O.W. FOR PARCEL 0393, PER DOCUMENT # 1517501

NO.	DATE	REVISION DESCRIPTION

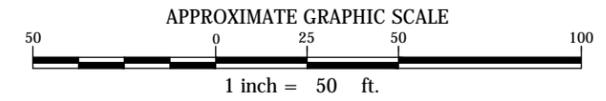
Weaver Consultants Group

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 www.wcgrp.com

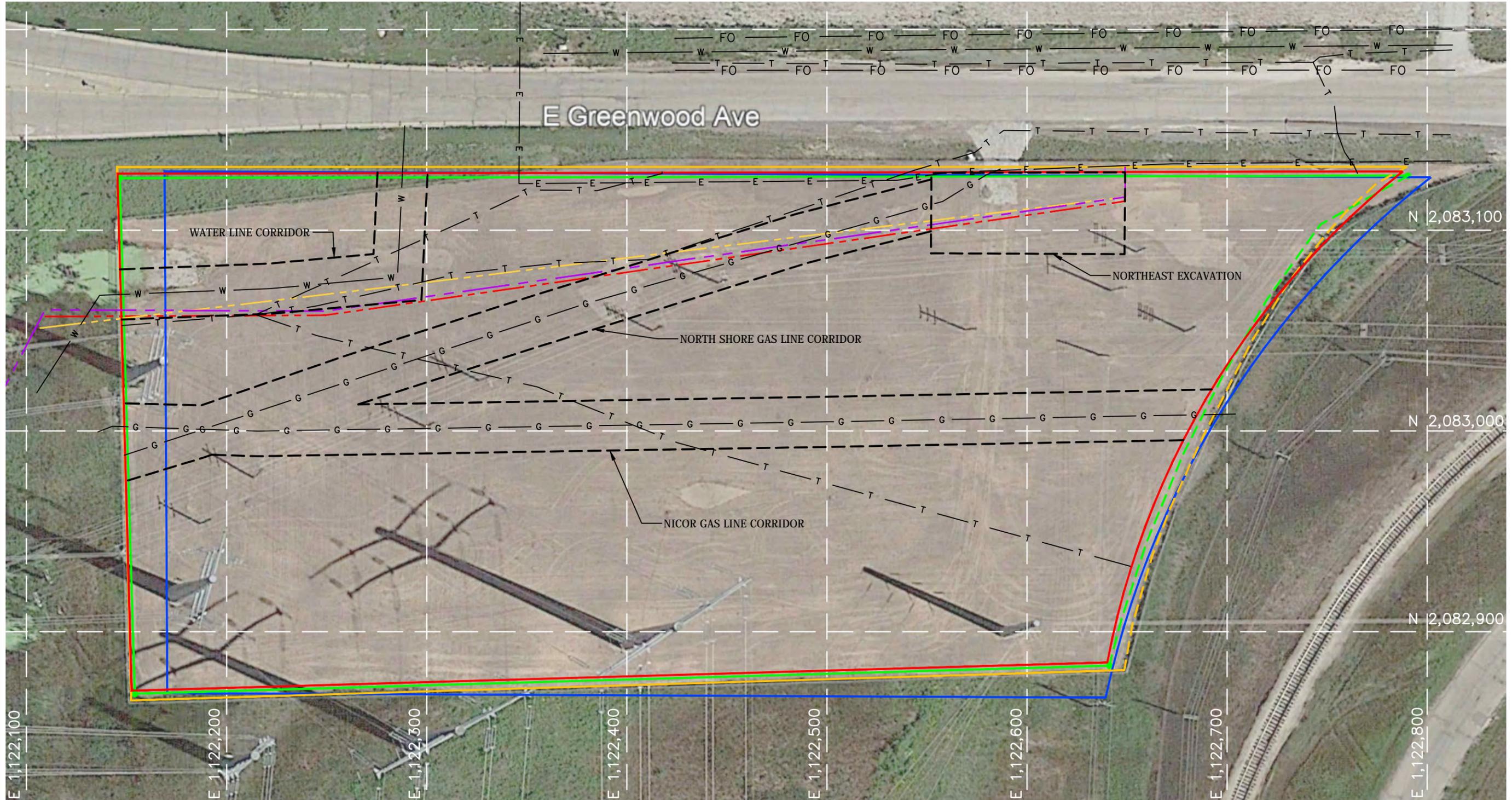
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 REVIEWED BY: DGD
 DATE: 10/25/2018
 FILE: 2570-312-07
 CADFILES 1-4 Road & section.dwg

Figure 4
Property Boundary Comparison Layout with Site Features



PREPARED FOR:
**PROPERTY BOUNDARY COMPARISON
 LAYOUT WITH SITE FEATURES**
 Site 3 & Site 6 - Former Johns Manville Manufacturing Facility
 WAUKESHA, IL



NOTE: DASHED BOUNDARY LINES ARE ESTIMATED FROM VISUAL INSPECTION OF SUPPORTED DOCUMENTS, NOT ACTUAL MEASUREMENTS.

SOURCE: AERIAL IMAGE ADAPTED FROM GOOGLE EARTH IMAGERY, DATED 7/6/2018. GRID BASED ON ILLINOIS EAST LATITUDE/LONGITUDE.

LEGEND

— T —	— T —	EXISTING UNDERGROUND TELEPHONE LINE
— G —	— G —	EXISTING UNDERGROUND GAS LINE
— FO —	— FO —	EXISTING UNDERGROUND FIBER OPTIC LINE
— E —	— E —	EXISTING UNDERGROUND ELECTRIC LINE
— W —	— W —	EXISTING UNDERGROUND WATER LINE

LEGEND

	PROPERTY BOUNDARY BY ATWELL PER COORDINATES AND DIRECTION, BASE LOCATION MEASURED FROM LAT/LONG GRID INTERSECTION N 2085000, E1122500.
	PROPERTY BOUNDARY BY AECOM/WCG MEASURED FROM PARCEL NO. 0393 COORDINATES.
	PROPERTY BOUNDARY BY CQM, INC PER CORNER COORDINATES GIVEN IN DOCUMENT
	PROPERTY BOUNDARY BY GOBELMAN-FIGURE 1 ILLUSTRATION AND MEASURED FROM LAT/LONG GRID
	IDOT R.O.W. FOR PARCEL 0393, PER DOCUMENT # 1517501

NO.	DATE	REVISION DESCRIPTION



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 REVIEWED BY: DGD
 DATE: 10/25/2018
 FILE: 2570-312-07
 CADFILES 1-4 Road & section.dwg

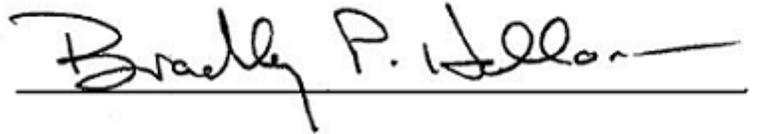
EXHIBIT D

Hearing tentatively scheduled for the week of December 10, 2018

Be advised that the discovery schedule and hearing schedule may have to be revisited due to unforeseen circumstances, including availability of deponents and witnesses.

The parties or their legal representatives are directed to participate in a telephonic status conference with the hearing officer on April 19, 2018, at 11:30 a.m. The telephonic status conference must be initiated by the complainant, but each party is nonetheless responsible for its own appearance.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.

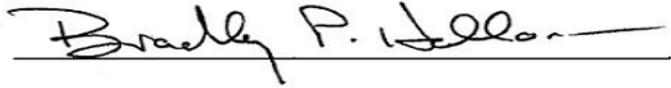
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
312.814.8917
Brad.Halloran@illinois.gov

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were e-mailed on April 4, 2018, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was e-mailed to the following on April 4, 2018:

Don Brown
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

@ Consents to electronic service

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Susan Brice
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Gabrielle Sigel
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EXHIBIT E

ILLINOIS POLLUTION CONTROL BOARD
April 19, 2018

JOHNS MANVILLE, a Delaware corporation,)
)
Complainant,)
)
v.) PCB 14-3
) (Citizens Enforcement)
ILLINOIS DEPARTMENT OF)
TRANSPORTATION,)
)
Respondent.)

HEARING OFFICER ORDER

On April 19, 2018, all parties participated in a telephonic status conference with the hearing officer. Counsel for respondent stated that he has two depositions scheduled for April 30, 2018 and May 4, 2018. Counsel also stated that he has been in contact with a third potential deponent and attempting to schedule a third deposition. Counsel stated that he has had difficulty scheduling a deposition but hopes to schedule it by May 10, 2018. To that end, counsel made an oral motion to extend the discovery schedule for 15 days.

Over objection, counsel's motion was granted but was told that no further extensions will be granted without good cause. The revised discovery schedule is as follows:

Deadline to complete all fact witness depositions- May 15, 2018

Deadline for JM to submit its expert report(s) – June 14, 2018

Deadline for IDOT to depose JM expert(s) – July 25, 2018

Deadline for IDOT to submit its expert report(s) – August 22, 2018

Deadline for JM to depose IDOT expert(s) – September 24, 2018

Deadline for JM to submit any rebuttal reports – October 17, 2018

Deadline for completion of deposition(s) of JM's rebuttal expert(s) – November 12, 2018

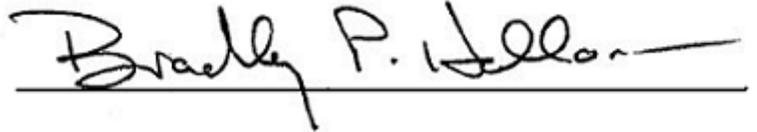
Deadline for parties to file prehearing motions, including motions *in limine* – November 26, 2018

Deadline for parties to file responses to prehearing motions – December 5, 2018

Hearing tentatively scheduled for the week of January 14, 2019

The parties or their legal representatives are directed to participate in a telephonic status conference with the hearing officer on June 14, 2018, at 11:30 a.m. The telephonic status conference must be initiated by the complainant, but each party is nonetheless responsible for its own appearance.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Bradley P. Halloran" with a horizontal line underneath it.

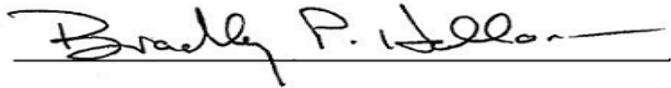
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
312.814.8917
Brad.Halloran@illinois.gov

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were e-mailed on April 19, 2018, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was e-mailed to the following on April 19, 2018:

Don Brown
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

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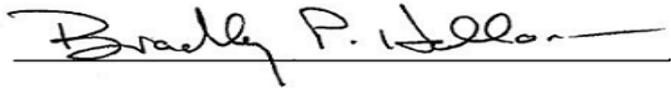
EXHIBIT F

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were e-mailed on October 30, 2018, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was e-mailed to the following on October 30, 2018:

Don Brown
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
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Chicago, Illinois 60601

@ Consents to electronic service

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Chicago, IL 60654

PCB 2014-003@
Robert W. Brunner
Bryan Cave LLP
161 N. Clark Street
Suite 4300
Chicago, IL 60601-3715

EXHIBIT G

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter Of:)	
)	
JOHNS MANVILLE, a Delaware corporation,)	
)	
)	
JM,)	PCB No. 14-3
)	
v.)	
)	
ILLINOIS DEPARTMENT OF TRANSPORTATION,)	
)	
)	
Respondent.)	

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on June 9, 2016, I caused to be filed with the Clerk of the Pollution Control Board of the State of Illinois, *Complainant's Brief in Support of its Objections to IDOT's Use of Undisclosed Opinion Testimony and Bases* and *Complainant's Objections to IDOT's Use of Exhibits as Evidence Without Accompanying Witness Testimony*, a copy of which is attached hereto and herewith served upon you via e-mail. Paper hardcopies of this filing will be made available upon request.

Dated: June 9, 2016

Respectfully submitted,

BRYAN CAVE LLP

Attorneys for Johns Manville

By: /s/ Lauren J. Caisman
Susan Brice, ARDC No. 6228903
Lauren J. Caisman, ARDC No. 6312465
161 North Clark Street, Suite 4300

Chicago, Illinois 60601
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter Of:)	
)	
JOHNS MANVILLE, a Delaware corporation,)	
)	
)	
Complainant,)	PCB No. 14-3
)	
v.)	
)	
ILLINOIS DEPARTMENT OF TRANSPORTATION,)	
)	
)	
Respondent.)	

COMPLAINANT’S BRIEF IN SUPPORT OF ITS OBJECTIONS TO BAR IDOT’S USE OF UNDISCLOSED OPINION TESTIMONY AND BASES

Complainant JOHNS MANVILLE (“JM”) hereby submits its Objections to Respondent ILLINOIS DEPARTMENT OF TRANSPORTATION’S (“IDOT”) Use of Undisclosed Opinion Testimony and Bases as follows:

INTRODUCTION

During hearing of this matter on May 24 and 25, 2016, the testimony of IDOT’s proffered expert in IDOT’s construction practices in the 1970s, Steven Gobelman, represented a drastic departure from any of the opinions and bases for those opinions previously disclosed one year earlier in his Expert Rebuttal Report dated May 29, 2015 (Trial Exhibit 08) and from his testimony at deposition on July 10, 2015 (Trial Exhibit 04C). In fact, much of Mr. Gobelman’s testimony at trial was brand new. JM objects to these new opinions and bases and moves that the opinions be excluded/stricken from evidence:

1) New Opinion: IDOT did not place fill material on Site 6 or in the embankment area that contains asbestos containing material (“ACM”) as depicted in the construction drawings based upon three new sub-opinions that: 1) the embankment work ended at Station 7 along Greenwood; 2) a certain percentage of unsuitable material was not removed at certain locations based upon a review of certain construction drawings and a 1975 change order and 3) IDOT

would not have used other types of ACM, *e.g.*, roofing or insulation, as embankment material (Transcript of May 24: pp. 299:10-300:22; Transcript of May 25: pp. 101:10-120:19 (testimony elicited, in part, within offer of proof); 145:6-155:21; 162:23-163:6; 168:19-180:18; 183:5-20; 185:9-186:7; 254:5-9);

2) New Opinion: Trial Exhibit 052, which Mr. Gobelman admitted he did not see or rely upon prior to drafting his Expert Report (despite being produced months earlier) shows that the former JM parking lot was raised off the ground with fill material (Transcript of May 25: pp. 130:9-131:9);

3) Apparent New Opinion: Although unclear, it seems that Mr. Gobelman might be opining that ACM was initially buried on Sites 3 and 6 through utility work. (Transcript of May 25: pp. 200:14-203:17). Mr. Gobelman was adamant in his deposition that he was not offering any opinions on how the ACM initially became buried, but only that utility work might have disturbed or possibly buried deeper the ACM that had been previously buried. (*See* Trial Exhibit 04C at pp. 66:6-67:9; 175:13-18);

4) New Basis for Opinion: That Mr. Gobelman stereoscopically reviewed aerial photographs in forming his opinions (Transcript of May 25: pp. 121:4-131:22 (testimony elicited, in part, within offer of proof); 188:4-198:12). The use of this technique was never disclosed in Mr. Gobelman's Expert Report Trial Exhibit 08) or deposition (Trial Exhibit 04C).

In addition to these new opinions discussed herein, IDOT also attempted to elicit undisclosed opinion testimony from Mr. Gobelman through use of two demonstrative figures (Trial Exhibits 164 and 202). (*See* Transcript of May 25: pp. 97:10-99:12; 145:6-164:8; 171:14-180:6; 200:10-201:4; 202:20-203:17; 264:19-268:10.) Though JM initially agreed that Trial Exhibit 164 could be used for demonstrative purposes only, JM did not know that Trial Exhibit 164 was intended to be used to craft a number of entirely new opinions until Mr. Gobelman stated them on the stand. (*See* Transcript of May 25: pp. 145:6-146:6.) And, though the Hearing Officer had stated that demonstrative figures were due on the day of trial, IDOT did not produce the *amended* Trial Exhibit 164 or Trial Exhibit 202, until mid-way through the direct examination of Mr. Gobelman on May 25, 2016 (the last day of hearing). In contrast, despite not having been required to do so, JM produced a figure created by Mr. Dorgan, JM's expert, before discovery even closed and weeks before trial of this matter (Trial Exhibit 084). IDOT did not

object to its production or its use as evidence at any point in these proceedings, including when JM introduced it during hearing.¹ (See Transcript of May 23: pp. 216:23-221:20.) Thus, to the extent there could have been any valid objection, which JM denies, it has been waived.

Unlike Mr. Gobelman's demonstrative figures (Trial Exhibits 164 and 202), Mr. Dorgan's Figure (Trial Exhibit 084) supports the opinion Mr. Dorgan offered in both his Initial Expert Report and his Rebuttal Report that IDOT buried ACM within the zone of fill material on Site 6 and northern portion of Site 3. Perhaps more importantly, all that Trial Exhibit 084 does is zoom in on the visual ACM noted in Figures 3 and 5 of Mr. Dorgan's Initial Report above the fill line *already* depicted in Figure 5. IDOT does not appear dispute this. Mr. Gobelman admits that he based his demonstrative Trial Exhibits 164 and 202 on Mr. Dorgan's Figures contained in his Reports. (See Transcript of May 25: pp. 148:19-149:4; 172:1-19). Further, in describing Figure 5 in his Initial Expert Report, Mr. Dorgan opined:

When you compare the engineering drawings used by IDOT for Bypass Road A and Greenwood Avenue with the location of Transite and ACM, it is clear that the Transite and ACM is [are] located in areas that were excavated and filled by IDOT as part of the construction. This is demonstrated most clearly on Figures 4 and 5, which demonstrates the occurrence of asbestos within soil samples collected from fill materials placed by IDOT. The Transite and ACM were found on Site 3 and Site 6 within fill materials placed by IDOT, above the predominant Site 3 and Site 6 elevation prior to IDOT construction, or in areas where IDOT excavated and removed "unsuitable materials."

(Trial Ex. 06-17.)

Even though Mr. Gobelman said nothing about Mr. Dorgan's Figures, including Figures 3 and 5, in his Expert Rebuttal Report, he was still asked about them at his deposition. Mr. Gobelman stated: "I believe the figures were accurate in what he was presenting." (Trial Exhibit 04C at p. 44:9.) Later, Mr. Gobelman agreed that Figure 5 showed that ACM was found "within

¹Further, while Mr. Dorgan did also produce a correction of his figure contained in Trial Exhibit 06-27 at trial, unlike Mr. Gobelman's testimony regarding Trial Exhibits 164 and 202, Mr. Dorgan's testimony and the information depicted in his demonstrative, amended Trial Exhibit 06-27, did not contain or represent any new opinions being offered by Mr. Dorgan. (See Transcript of May 23: p. 203:3-10.)

the area that was filled by IDOT's contractor,” the area “between the unsuitable material and the final grade line.” (*Id.* at p. 187:2-9.) Now, Mr. Gobelman is saying the exact opposite through a new opinion on the stand. This is exactly the type of unfair surprise the rules are supposed to prevent. Nowhere in his Expert Rebuttal Report did Mr. Gobelman reserve the right to supplement or modify his opinions or the bases therefor. Even if he had, however, trial is not the appropriate place to do so. To overrule JM’s objections and permit this evidence would run afoul of well-established Illinois law.

ARGUMENT

“If an opinion is important to a case, it and the basis for it must be disclosed prior to trial.” *Boehm v. Ramey*, 329 Ill. App. 3d 357, 363 (4th Dist. 2002). Because it is so vital that opinions be disclosed prior to trial, no exceptions to Illinois Supreme Court Rule 213, governing expert disclosures, are recognized. *Id.* As such, “[t]he information disclosed in answer to a Rule 213(f) interrogatory, or in a discovery deposition, limits the testimony that can be given by a witness on direct examination at trial.” Illinois Supreme Court Rule 213(g).² In fact, it is an abuse of discretion “to allow parties to present opinions at trial without having disclosed those opinions in response to Rule 213(g) interrogatories.” *Boehm*, 329 Ill. App. 3d at 363 (remanding for new trial where expert opined on subjects not disclosed); *Warrender v. Millsop*, 304 Ill. App. 3d 260 (2d Dist. 1999) (reversing and remanding for new trial where trial court abused its discretion in failing to exclude expert testimony that had not been timely disclosed).

Under these well-established rules and principles, the trial testimony given by Mr. Gobelman in support of IDOT should necessarily be limited to that which has already been disclosed in his Expert Rebuttal Report (essentially, an answer to a Rule 213(f) interrogatory)

²In contrast to IDOT’s objection response at trial, compliance with Rule 213 is not dependent on what questions are asked in a discovery deposition. Rather, it is IDOT’s onus to comply with the spirit of the Rule by being forthcoming in its expert disclosures.

and in his deposition. Mr. Gobelman's testimony on direct examination at trial, however, went far beyond the disclosures made by IDOT. For a controlled expert witness like Mr. Gobelman, IDOT was required to identify: "(i) the subject matter on which the witness will testify; (ii) the conclusions and opinions of the witness and the bases therefor; (iii) the qualifications of the witness; and (iv) any reports prepared by the witness about the case." Illinois Supreme Court Rule 213(f)(3) (emphasis added). Further, IDOT had a continuing duty to "seasonably supplement or amend any prior answer or response whenever new or additional information" became known to IDOT. Illinois Supreme Court Rule 213(i). IDOT never did. IDOT has failed to comport with these Illinois Rules and should not be permitted to evade them by eliciting undisclosed opinions, and the bases therefor, from its controlled expert witness.

These "supreme court rules on discovery are also *mandatory* rules of procedures that courts and counsel must follow." *Dep't of Transp. v. Crull*, 294 Ill. App. 3d 531, 537 (4th Dist. 1998) (emphasis in original) (agreeing with IDOT and rejecting argument that it was proper to include new opinion testimony where the expert was never asked about the expert's basis for his opinions at deposition). Rule 213's standard for disclosure are exacting (*see id.* at 538-539) because "[d]iscovery rules permit litigants to ascertain and rely upon opinions of experts retained by their adversaries . . . The committee comments to Rule 213 plainly state that one of the purposes of Rule 213 is to avoid surprise. To allow either side to ignore Rule 213's plain language defeats its purposes and encourages tactical gamesmanship." *Id.* at 537 (internal citations omitted); *see also Coleman v. Abella*, 322 Ill. App. 3d 792, 799 (1st Dist. 2002). This is precisely what IDOT attempted to do at trial in having Mr. Gobelman testify regarding the new, never-before-disclosed opinions and new, never-before-disclosed, bases for his opinions enumerated above. Not only is eliciting such testimony without prior disclosure prejudicial, but

also it is sanctionable. *See* Illinois Supreme Court Rule 219 (providing for sanctions for failure to comply with discovery, including barring a party from maintaining any particular defense, barring a witness from testifying, and striking a party's pleadings relating to that issue); *Sullivan v. Edward Hosp.*, 209 Ill. 2d 100, 110 ("Where a party fails to comply with the provisions of Rule 213, a court should not hesitate sanctioning the party, as Rule 213 demands strict compliance." (internal quotations omitted)); 35 Ill. Admin. Code 101.800; 35 Ill. Admin. Code 101.802.

Mr. Gobelman's opinions at trial exceeded the "fair scope of facts known and opinions disclosed before trial" and extended well past logical corollaries to the previously disclosed opinions contained in his Expert Rebuttal Report (Trial Exhibit 08). As such, the testimony should be barred. *See Sullivan*, 209 Ill. 2d at 110-111 (affirming striking of portion of expert testimony); *Seef v. Ingalls Mem. Hosp.*, 311 Ill. App. 3d 7, 23-24 (1st Dist. 1999) (reversing allowance of undisclosed opinion testimony); *Coleman*, 322 Ill. App. 3d 792 at 798, 800 (finding that striking of expert testimony in its entirety was too drastic a discovery sanctions, but finding that court could have limited the testimony to those matters disclosed); *Wilbourn v. Cavalenes*, 398 Ill. App. 3d 837, 849-852 (1st Dist. 2010) (holding trial court properly struck portion of expert's testimony where basis for opinion was not disclosed as required by evidentiary rules).

IDOT has previously argued against the exact practices in which it now engages. In *Crull*, IDOT argued (successfully) that the opposing party should not be permitted to elicit testimony that had not been disclosed prior to trial and were contained nowhere in the expert's report or deposition. *See* 294 Ill. App. 3d at 534 (reversing trial court's decision to overrule IDOT's objection to new opinion testimony). IDOT should not be permitted to reverse course now. To hold otherwise would severely prejudice JM, who has not had the opportunity to

investigate Mr. Gobelman's novel assertions, particularly when the effect of the admissions of these numerous, undisclosed opinions would be cumulative. *See Seef*, 311 App. 3d at 24 (finding that the cumulative effect of the erroneous admission of undisclosed opinions mandated reversal and remand for new trial). Therefore, pursuant to both the plain language and the spirit of Illinois Supreme Court Rule 213, Mr. Gobelman's new opinions and bases should be barred or stricken.

CONCLUSION

WHEREFORE, Complainant JOHNS MANVILLE respectfully requests that the Hearing Officer sustain its objections and further strike any testimony elicited³ regarding previously undisclosed expert opinion testimony and of previously undisclosed bases for expert opinion testimony.

Dated: June 9, 2016

Respectfully submitted,

BRYAN CAVE LLP

Attorneys for Complainant Johns Manville

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³Attached hereto as **Exhibit 1** is a list of the transcript cites/testimony from the hearing that JM seeks to have excluded from the record and that JM moves to strike.

EXHIBIT 1

May 24 Transcript Cites JM Seeks To Have Excluded/Stricken

- Pages 299:10-300:22

May 25 Transcript Cites JM Seeks To Have Excluded/Stricken

- Pages 97:10-99:12
- Pages 101:10-120:19
- Pages 121:4-131:22
- Pages 145:6-164:8
- Pages 168:19-180:18
- Page 183:5-20
- Pages 185:9-186:7
- Pages 188:4-198:12
- Pages 200:10-203:17
- Page 254:5-9
- Pages 264:19-268:10

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter Of:)	
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JOHNS MANVILLE, a Delaware corporation,)	
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)	
Complainant,)	PCB No. 14-3
)	
v.)	
)	
ILLINOIS DEPARTMENT OF TRANSPORTATION,)	
)	
)	
Respondent.)	

COMPLAINANT’S OBJECTIONS TO IDOT’S USE OF EXHIBITS AS EVIDENCE WITHOUT ACCOMPANYING WITNESS TESTIMONY

Complainant JOHNS MANVILLE (“JM”) hereby submits its Objections to IDOT’s Use of Exhibits as Evidence Without Accompanying Witness Testimony.⁴

INTRODUCTION

During the hearing on this matter and in the middle of IDOT’s presentation of evidence to defend against JM’s claims and to purportedly prove some of its affirmative defenses, IDOT announced for the first time that it plans to move certain exhibits into evidence without any accompanying witness testimony. (See Transcript of May 25: pp. 276:12-277:6; 280:6-282:5.) IDOT argued that JM stipulated to the exhibits for purposes of authenticity and admissibility and thus no presentation of evidence is necessary at the hearing regarding these exhibits. IDOT apparently wants to use the exhibits in post hearing briefs to support its case without: 1) allowing JM the ability to know how the exhibit will be interpreted and presented to the Board; 2) without allowing JM to know which fact the exhibit will be used to prove or disprove; and 3) without

⁴Attached hereto as **Exhibit 2** is a list of the exhibits, the introduction of which JM objects to without accompanying witness testimony.

allowing JM to cross examine the evidence or offer evidence in rebuttal. This unorthodox use of exhibits was not stated in its pre-hearing report or otherwise raised beforehand and flies in the face of established rules of civil procedure and evidence. JM objects on three fundamental grounds: (1) the stipulation agreed to was the admissibility “for foundation purposes” only; (2) IDOT's proposed use of the exhibits would severely prejudice JM, would violate JM's due process rights and is not permitted under Illinois law; and (3) new evidence is not permitted in closing and/or post hearing briefs.

1. The Stipulation Was Limited to Foundation

First, as IDOT well knows, the intent of the stipulation was for foundation purposes only. As set forth in the email communication attached hereto as **Exhibit 3**, because of the voluminous records in this case, JM wanted to streamline the hearing and suggested that the parties stipulate to the “admissibility for foundation purposes” of certain exhibits. IDOT ultimately agreed. When the stipulations were included in JM's pre-hearing report, this was not specifically stated as JM believed it was implicit and understood by the parties. However, JM stated that it stipulated to the “genuineness and admissibility” of certain exhibits. According to Black's Law Dictionary, “admissible” means “[c]apable of being legally admitted; allowable; permissible; [w]orthy of gaining entry of being admitted.” BLACK'S LAW DICTIONARY 52 (9th ed. 2009) (emphasis added). Agreeing that a document is capable of being admitted because it is genuine and meets the parameters of the hearsay exceptions (without needing to call records custodians for foundational purposes) is very different from agreeing that a document is actually admitted as evidence or as the truth itself, let alone admitted without any context.

When IDOT filed its pretrial report late and after JM's pre-trial report, it likewise stated only that JM had “stipulate[d] to the authenticity and admissibility” of documents on IDOT's

exhibit list, with certain exceptions. (See § II.a.) Neither the pretrial report filed by IDOT nor the one filed by JM stipulated that exhibits on the parties' respective lists would be "admitted" as evidence of or the truth of some fact. If the parties had stipulated to facts, those would have been in the pre-hearing reports. They are not.

During the hearing, the parties identified for the Hearing Officer the documents "stipulated to" as the matter proceeded. This procedure then allowed the parties to avoid having to call various witnesses to lay the foundation for all of the documents. This was the reason for the stipulation, as understood by all parties. It was never JM's intent to agree that IDOT would not have to use witnesses to introduce the exhibits and tie them to the facts in the case. This would make no sense and is not consistent with common practice and the law.

2. IDOT's Approach Would Violate Illinois Law and Prejudice JM

Administrative as well as judicial proceedings are governed by the fundamental principles and requirements of due process of law. *Scott v. Dep't of Commerce & Cmty. Affairs*, 84 Ill. 2d 42, 53 (Ill. 1981); *Brown v. Air Pollution Control Bd.*, 37 Ill. 2d 450, 454, (Ill. 1967). The Illinois Administrative Procedure Act, which applies to this case, ensures this due process when it provides:

(a) The rules of evidence and privilege as applied in civil cases in the circuit courts of this State shall be followed. . . . Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form.

(b) Subject to the evidentiary requirements of subsection (a) of this Section, a party may conduct cross-examination required for a full and fair disclosure of the facts.

5 ILCS 100/10-40(a)(b); *see also* 35 Ill. Adm. Code 101.626.

The Illinois Supreme Court has interpreted 5 ILCS 100/10-40(b) to require that there be witnesses and testimony presented to support the facts being offered at hearing. *Scott v. Dep't of*

Commerce & Cmty. Affairs, 84 Ill. 2d 42, 53 (Ill. 1981) (court finding that agency was required to call witnesses, who could then be cross-examined, to support allegations at hearing). In *Scott*, the Illinois Supreme Court stated that “implicit in the provision for cross-examination [set forth in 5 ILCS 100/1-40(b)] is the requirement that there be witnesses and testimony presented by the agency, for otherwise the right of cross-examination is meaningless.”

The Pollution Control Board Rules, which address written *testimony*, are consistent. Rule 35 Ill. Adm. Code 101.626 provides that “[w]ritten testimony may be introduced by a party in a hearing only if provided to all other parties of record prior to the date of the hearing and only after the opposing parties have had an opportunity to object to the written testimony and to obtain a ruling on the objections prior to its introduction. Written testimony may be introduced by a party only if the persons whose written testimony is introduced *are available for cross-examination at hearing.*” (emphasis added).

On June 3, 2016, IDOT filed a list of “Hearing Exhibits for admission into Evidence (Revised 6-3-16).” However, the following exhibits from that list, although stipulated to for “admissibility” foundation purposes only by JM, have not been introduced at trial by either party to date: 022, 023, 024, 025, 026, 027, 028, 030, 032, 036, 039, 044, 051, 062, 078, 080, 081, 086, 092, 093, 095, 102, 104, 105, 106, 108, 109, 110, 113, 114, 115, 116, 117, 118, 119, 120, 129, 132, 134, 139, 140 and 161. Notably, from this list, it appears that Exhibit 102 was never produced and is mislabeled on the IDOT Hearing Exhibit List as former Exhibit 21. Former Exhibit 21 is something entirely different.⁵ IDOT’s list also contains a number of exhibits to which JM did not stipulate in any fashion: 038, 123, 124, 125, 133, 142, 143, 158, 159, 160, 162, 163, 164, 165, 166 (stipulated for demonstrative purposes only), 200 and 202 (JM objected). To the extent these exhibits were contained in another exhibit, there is also no stipulation. As such,

⁵ JM had previously asked IDOT to provide Bates Stamps for all of its Exhibits, but IDOT refused to do so.

JM objects to the admission of these exhibits without witness testimony, and for additional evidentiary reasons. Further, the Hearing Officer has already sustained JM's objection to the admission of Exhibits 162 and 163 into evidence (*see* Transcript of May 24: p. 180:12-17) and so their appearance on IDOT's list of "Hearing Exhibits for admission into Evidence" is highly improper. (*See* Transcript of May 23: pp. 7:10-13:22; Transcript of May 24: pp. 174:18-180:17.)

JM objects to the extent that IDOT seeks the admission of these exhibits into evidence without any accompanying witness testimony during the remainder of trial, including post hearing briefs. IDOT represented that it wants to use these exhibits to prove up its case-in-chief, its affirmative defenses and possibly other defenses. But without testimony about the exhibits, JM will have no idea how IDOT interprets a particular exhibit (including whether that interpretation is correct or otherwise factually supported), let alone which exhibits IDOT believes supports its various affirmative defenses. The rule is clear that JM is entitled a "full and fair disclosure of the facts" at hearing and that cross examination provides for this. *See* 5 ILCS 100/10-40(b). JM cannot cross examine IDOT on or present rebuttal evidence regarding exhibits without a witness and without knowing how IDOT believes the exhibits fit into the case. IDOT basically wants JM to try the case blind. It would be fundamentally unfair and highly prejudicial to allow IDOT to proceed in this fashion.

In addition to the right of cross examination, Illinois law also requires that party to an administrative hearing be allowed to offer evidence in rebuttal. *N. Shore Sanitary Dist. v. Pollution Control Bd.*, 2 Ill. App. 3d 797, 801 (2d Dist. 1972) ("The rationale for restricting findings to evidence in the record is that due process of law requires that all parties have an opportunity to cross-examine witnesses and to offer evidence in rebuttal"); *Hazelton v. Zoning Bd. of Appeals of City of Hickory Hills, Cook County*, 48 Ill. App. 3d 348, 351 (1st Dist. 1977)

("Findings must be based on evidence introduced in the case, and nothing can be treated as evidence which is not introduced as such. . . . The rationale for restricting findings to evidence produced at the hearing is that due process of law requires that all parties have an opportunity to cross-examine witnesses and to offer evidence in rebuttal.). IDOT must be required to introduce the exhibits it believes support its case through a witness during the hearing. Otherwise, JM's due process rights would be violated. *See Environmental Protection Agency v. Marblehead Lime Co*, PCB No. 73-223, 1974 WL 5748, *4 (Oct. 10, 1974) (finding that respondent's due process rights "were not infringed upon" when the agency used photographs and other physical evidence because, in part, "cross examination was allowed on all such evidence.").

For example, IDOT has alleged many affirmative defenses, including unclean hands and laches. JM has no idea at this point how IDOT intends to establish these defenses, or many of its other affirmative defenses. IDOT is suggesting that these defenses will be established without testimony. Thus, as to these affirmative defenses, it is as if IDOT just showed up, moved these exhibits into evidence and rested. Such a strategy is not permitted under Illinois law. *Scott*, 84 Ill. 2d at 53. As stated by the Illinois Supreme Court, a "decision pursuant to an administrative hearing must be based *upon testimony* and other evidence received at the hearing." *Metro. Sanitary Dist. v. Pollution Control Bd.*, 62 Ill. 2d 38, 43(1975) (emphasis added). JM must know what the evidence allegedly supports in order to cross examine IDOT and offer rebuttal testimony. This case cannot be tried in a vacuum.

IDOT intends to take a similar strategy with the Expert Report of Keith Stoddard. It wants to use his written report without allowing JM to cross examine him. (*See* Transcript of May 25: p. 280:6-10 (IDOT stating that we can just have his "expert disclosure moved in").) JM introduced his Expert Report in its case-in-chief in order to rebut Mr. Stoddard, who was on

IDOT's Witness List. IDOT's need for Mr. Stoddard's expert testimony was the entire reason the trial was postponed and JM was required to endure three months of additional and expensive expert and related discovery. Now IDOT does not want to call Mr. Stoddard and instead wants to just use his disclosure, which is "night and day" from his deposition. (*Id.* at pp. 280:2-282:16.) This prejudice to JM in not being allowed to cross Mr. Stoddard is significant and alarming. But as stated in the Pollution Control Board Rules, written testimony cannot be used at hearing unless the "persons whose written testimony is introduced *are available for cross-examination at hearing.*" 35 Ill. Adm. Code 101.626 (emphasis added).

3. New Evidence Cannot be Used in Closing/Post Hearing Briefs

The Pollution Control Board Rules state that the Hearing Officer can require post-hearing submissions. 35 Ill. Adm. Code 101.612. But exactly how this process fits into the hearing does not appear to be set forth in the rules. However, JM understands that post-hearing briefs can be submitted in lieu of oral closing argument. Here, IDOT wants to argue in closing argument/post-hearing briefing about documents that were never discussed as evidence. This is not allowed. It is well-established that "[c]omments on the evidence during closing argument are proper only if proven by direct evidence or if based on a reasonable inference from the facts." *Copeland v. Stebco Products Corp.*, 316 Ill. App. 3d 932, 947-948 (1st Dist. 2000) (holding that remarks during closing argument that were not based on evidence introduced at trial or reasonable inferences from the evidence were improper).

For the reasons stated above, JM requests that the Hearing Officer order IDOT to introduce any exhibits it intends to rely upon in this case at trial and through a witness and similarly, to exclude the admission of any exhibits not introduced with a witness at trial. To hold otherwise not only would serve as a basis for reversal, but also would unnecessarily confuse

what is already a very complicated case. This approach will also help the Board streamline its review of this case.

Dated: June 9, 2016

Respectfully submitted,

BRYAN CAVE LLP

Attorneys for Complainant Johns Manville

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EXHIBIT 2

Exhibits To Which JM Objects

- 022
- 023
- 024
- 025
- 026
- 027
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- 036
- 038
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- 129
- 132
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- 142
- 143
- 158
- 159
- 160
- 161
- 162 (JM's objection already sustained)
- 163 (JM's objection already sustained)
- 164
- 165
- 166
- 167
- 200
- 202

EXHIBIT 3

Caisman, Lauren

From: Brice, Susan
Sent: Friday, February 05, 2016 1:10 PM
To: 'McGinley, Evan'; Caisman, Lauren
Cc: O'Laughlin, Ellen
Subject: RE: Follow up

I think that makes sense. Thanks



Susan Brice
Partner

susan.brice@bryancave.com T: +1 312 602 5124

From: McGinley, Evan [<mailto:emcginley@atg.state.il.us>]
Sent: Friday, February 05, 2016 1:07 PM
To: Brice, Susan; Caisman, Lauren
Cc: O'Laughlin, Ellen
Subject: RE: Follow up

Susan:

We're okay with stipulating to the admissibility of documents on a document by document basis. The best way to move this forward would be for you to provide us with a list of the documents that you'd like IDOT to stipulate to. Once we have your list, we'll make every effort to let you know as soon as we possibly can which ones we are willing to stipulate to admitting. Please note that there's one state holiday next week (Friday, Lincoln's Birthday, 2/12) and a second one the following Monday (President's Day, 2/15) and you should plan accordingly.

We look forward to getting your list of documents that you'd like us to stipulate to the admissibility of; we will have a similar list for your review in the near future.

Regards,

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emcginley@atg.state.il.us

From: Brice, Susan [<mailto:Susan.Brice@bryancave.com>]
Sent: Friday, February 05, 2016 10:49 AM
To: McGinley, Evan; Caisman, Lauren
Cc: O'Laughlin, Ellen
Subject: Follow up

Evan: I just wanted to follow up and see if you have a decision on stipulating on admissibility for foundation purposes, at least as to certain documents. Please let us know your thoughts.



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EXHIBIT H

EXHIBIT A

INCONSISTENCY CHART

*This chart does not point out where Mr. Gobelman was impeached or new opinions he offered for the first time at trial (which were objected to at that time); rather, it only points out the wholly inconsistent positions he took over the course of the case on various topics.

<u>Issue</u>	<u>Report</u>	<u>Deposition</u>	<u>Hearing Testimony</u>
Use of Concrete Transite Pipe During Project	The contractor would have “cleared” materials on the surface of Parking Lot and therefore would have taken the concrete Transite pipes off the Project Site. (Ex. 08-8, § 4)	“[I]t ’s very unlikely” that the contractor would have used concrete Transite pipes in the Embankments. (Ex. 04C-77 lines 5-12)	The contractor would have used concrete Transite pipes in Embankments, just not the Embankments where JM has found the ACM. (Tr. June 23, pp. 145:21-146:2; Tr. June 24, p. 10:10-16; Tr. May 25, pp. 161:7-162:16) <i>B u t s e e l a t e r c o n t r a d i t o r y e s t i m o n y . . .</i> The contractor placed concrete Transite pipes/ACM in the Sites 3 and 6 Embankments. (Tr. June 23, pp. 205:17-22; Tr. June 24, p. 10:10-16)
Value of Pipes	The contractor had to remove the pipes at “their own expense.” (Ex. 08-10, 08-11, § 8) “The contractor had no financial	Contractor was getting paid to haul the concrete Transite pipes offsite. (Ex. 04C-85 lines 2-21)	Concrete Transite pipes have “value” to the contractor and “the contractor isn ’t going to want to remove these pipes and take them offsite someplace and to discard them.” (Tr. May 25, p. 162:4-22)

	<p>incentive to crush and use the Transite pipes as part of their fill.” (Ex. 08-13, § 12)</p>		<p>The contractor would have used pipes in lieu of additional borrow material. (Tr. May 25, pp. 163:10-164:8; 165:2-10)</p>
<p>Cut and Fill</p>	<p>No materials from Site 3 would have been used in the Embankments. It would have been used in in detour roads and there was no excess cut from the roads. (Ex. 08- 13, § 12)</p>	<p>No materials from Site 3 would have been used in Embankments because there was no excess cut from construction of detour roads. (Ex. 04C-74 line 19-04C-75 line 17)</p> <p><i>B u t s e e l a t e r c o n t r a d i t o r y d e p o s i t i o n e s t i m o n y...</i></p> <p>“They would use that material [excess cut from the detour roads] to build embankment.” (Ex. 04C-146 line 2-04C-147 line 24)</p>	<p>There was no excess cut from detour roads. (Tr. May 24, pp. 292:1-12)</p> <p><i>B u t s e e a d m i s s i o n t h a t h e o f f e r e d t w o o p p o s i n g p o s i t i o n s i n h i s d e p o s i t i o n</i></p> <p>(Tr. June 23, pp. 96:24-102:8)</p> <p>Based upon sequencing in the record, there was 3,165 yards of excess cut from detour roads that could have been used in the Embankments. (Tr. June 23, pp. 100:4-102:8; 103:22-104:24)</p>
<p>Parking Lot Removal</p>	<p>JM’s Parking Lot was never removed in order to construct Detour Road A based solely on his belief that there was a typo in Exhibit 32.</p>	<p>Same as Report</p>	<p>He misinterpreted Exhibit 32, but maintains his position. He concedes that he has absolutely no evidentiary support for his position. (Tr. June 23, pp. 112:4-16; 116:17-21; 117:3-119:8)</p>

	(Ex. 08-7, 08-8, § 3)		
Asphalt on top of Parking Lot	The contractor would not have crushed pipes on top of the Parking Lot because he did not want to damage its stability. (Ex. 08-8, § 4)	Same as Report, but explains that Parking Lot was covered with asphalt, which could be damaged by crushing. (Ex. 04C-76 line 10-04C-77 line 1, 04C-150 lines 2-8, 04C-159 lines 10-18)	Says he has no opinion on whether Parking Lot had asphaltic cover. (Tr. June 23, pp. 112:4-16; 117:3-119:8)
Condition of Site 3 in 1960	Topographic maps indicate Site was “no longer depicted as a wet area,” i.e. it was depicted as a dry area, in 1960. (Ex. 08-10, § 7)	Same as Report	Maps indicate Site is “still wet. It showed marshy areas,” i.e. wet areas, in 1960. (Tr. May 25, p. 136:2-7) <i>B u t s e e e s t i m o n y m o m e n t s l a t e r d e n y i n g e a r l i e r e s t i m o n y . . .</i> “Q: So you’re saying here that the area is still wet in 1960, right? That’s what you said --- a moment ago? A: No.” Rather, what he had said earlier was that purportedly that the area is “no longer depicted as wet” in 1960. (Tr. May 25, pp. 137:1-138:24)
Scope of Opinion on Utilities	Utility installation and maintenance work “would have disturbed	His opinion in his report is <u>not</u> an opinion on how ACM became buried in the first place by	There is a “strong indication that the asbestos-containing materials follows a lot of the utility lines” and such

	<p>the existing conditions and potential asbestos material could have been buried when these underground utility lines were installed or during maintenance.” (Ex. 08-9, § 6)</p>	<p>utilities, rather opinion on how work could have redistributed already buried ACM. (Ex. 04C-65 line 13-04C-67 line 9, 04C-175 lines 5-18)</p>	<p>work is “a process by which ACM on the surface could cause to be buried.” (Tr. May 25, pp. 200:14-19; 201:5-202:19)</p> <p>His opinion in his report <u>is</u> an opinion on how ACM became buried in the first place by utilities. (Tr. June 23, pp. 29:16-30:3)</p> <p>But see testimony moments later... “I don't believe I was making any opinion on the origin of the asbestos-containing material that was on Sites 3 and 6.” (Tr. June 23, p. 32:9-19)</p>
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