

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PSM SHELL, INC.,	)	
Petitioner,	)	
	)	
v.	)	PCB 19-
	)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION	)	Extension)
AGENCY,	)	
Respondent.	)	

**NOTICE**

Clerk  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601-3218

Mark P. Saliga  
Shield Environmental Associates, Inc.  
12600 Townepark Way  
Louisville, KY 40243

PLEASE TAKE NOTICE that I have today caused to be filed a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson  
Deputy General Counsel  
Dated: May 22, 2019  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PSM SHELL, INC.,	)	
Petitioner,	)	
	)	
v.	)	PCB No. 19-
	)	(LUST Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL	)	Extension)
PROTECTION AGENCY,	)	
Respondent.	)	

**REQUEST FOR NINETY DAY EXTENSION  
OF APPEAL PERIOD**

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, James G. Richardson, Deputy General Counsel, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board (“Board”) grant an extension of the thirty-five (35) day period for petitioning for a hearing to September 9, 2019, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On or about May 3, 2019, the Illinois EPA issued a final decision to the Petitioner.
2. On May 17, 2019, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, Petitioner received the final decision on or about May 7, 2019.

3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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James G. Richardson  
Deputy General Counsel

Dated: May 22, 2019

1021 North Grand Avenue, East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
217/782-9143 (TDD)

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**



## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. Box 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, ACTING DIRECTOR

(217) 524-3300

CERTIFIED MAIL #

7017 2680 0001 0209 0322

MAY 03 2019

RECEIVED MAY 06 2019

PSM Shell, Inc.  
Attn: Suresh Mehta  
69 Reagent Drive  
Oak Brook, IL 60523

FILE

Re: 1130205525 -- McLean County  
Bloomington/Mehta Suresh  
2401 East Oakland Avenue  
Incident-Claim No.:20180776 -- 69881  
Queue Date: January 4, 2019  
Leaking UST Fiscal File

Dear Suresh Mehta:

The Illinois Environmental Protection Agency (Illinois EPA) has completed the review of your application for payment from the Underground Storage Tank (UST) Fund for the above-referenced Leaking UST incident pursuant to Section 57.8(a) of the Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code) 734.Subpart F.

This information is dated January 2, 2019 and was received by the Illinois EPA on January 4, 2019. The application for payment covers the period from August 1, 2018 to November 30, 2018. The amount requested is \$306,339.19.

On January 4, 2019, the Illinois EPA received your application for payment for this claim. As a result of Illinois EPA's review of this application for payment, a voucher for \$189,495.83 will be prepared for submission to the Comptroller's Office for payment as funds become available based upon the date the Illinois EPA received your complete request for payment of this application for payment. Subsequent applications for payment that have been/are submitted will be processed based upon the date complete subsequent application for payment requests are received by the Illinois EPA. This constitutes the Illinois EPA's final action with regard to the above application(s) for payment.

The deductible amount of \$5,000.00 was withheld from your payment. Pursuant to Section 57.8(a)(4) of the Act, any deductible, as determined pursuant to the Office of the State Fire Marshal's eligibility and deductibility final determination in accordance with Section 57.9 of the Act, shall be subtracted from any payment invoice paid to an eligible owner or operator.

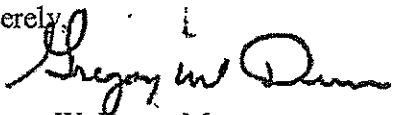
There are costs from this claim that are not being paid. Listed in Attachment A are the costs that are not being paid and the reasons these costs are not being paid.

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An underground storage tank system owner or operator may appeal this decision to the Illinois Air Pollution Control Board. Appeal rights are attached.

If you have any questions or require further assistance, please contact Jennifer Rossi of my staff at (217) 782-9285.

Sincerely,



Gregory W. Dunn, Manager  
Leaking Underground Storage Tank Section  
Division of Remediation Management  
Bureau of Land

GWD:JE

Attachments: Attachment A  
Appeal Rights

c: Mark Saliga, Shield Environmental  
Leaking UST Claims Unit

Attachment A  
Accounting Deductions

Re: 1130205525 -- McLean County  
Bloomington/Mehta Suresh  
2401 East Oakland Avenue  
Incident-Claim No.:20180776 -- 69881  
Queue Date: January 4, 2019  
Leaking UST Fiscal File

Citations in this attachment are from the Environmental Protection Act (415 ILCS 5) (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Item # Description of Deductions

1. \$13,260.00, deduction for costs for laboratory analytical, which lack supporting documentation as invoices were not submitted. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

In addition, analytical costs associated with any corrective action activities, services, or materials that exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734 are not reimburseable. The BTEX analysis rate has been reduced to \$109.59 per sample. The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

Moreover, SVOCs are not an indicator contaminant for diesel releases and the analysis exceeds the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

PNA analysis is required and would be reimbursed at a rate of \$195.98 per sample.

2. \$16,075.62, deduction for costs for subcontractor mark ups, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

In addition, these costs may be considered handling charges, but they are only eligible for payment if they are equal to or less than the amount determined by the following table:

Subcontract or Field Purchase Cost	Eligible Handling Charges as a Percentage of Cost
\$0-\$5,000	12%
\$5,001-\$15,000	\$600 + 10% of amount over \$5,000
\$15,001-\$50,000	\$1600 + 8% of amount over \$15,000
\$50,001-\$100,000	\$4400 + 5% of amount over \$50,000
\$100,001-\$1,000,000	\$6900 + 2% of amount over \$100,000

Such costs are ineligible for payment from the Fund pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.635.

Moreover, handling charges for subcontractor costs are only eligible for reimbursement when the contractor has submitted proof of payment for subcontractor costs. With no proof of payment such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630 (ii). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

3. \$5.98, deduction for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable

Funnels are considered an indirect cost and are not reimbursable.

4. \$62.27, deduction for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable

Rain suits are considered an indirect cost and are not reimbursable.

5. \$27.84, deduction for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the

Fund pursuant to 35 Ill. Adm. Code 734.630(v). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable

A cell phone charger is considered an indirect cost and is not reimbursable.

6. \$18,243.11, deduction for costs for vehicle charges/mileage, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

The Illinois EPA utilizes the federal mileage reimbursement rate for vehicle use.

7. \$320.00, deduction for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable

The charges associated with communication devices are considered an indirect cost and are not reimbursable.

8. \$2,000.00, deduction for costs for the project report, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

In addition, these costs exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).

9. \$2,054.79, deduction for costs for backfill purchase, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act



because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

Invoices were not provided for the backfill purchase costs requested for reimbursement.

10. \$2,840.50, deduction for costs for drum disposal, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

Manifests were not provided to document the number of drums transported off site. In addition, the 45 Day report received by the Illinois EPA on March 18, 2018 did not reference any drums generated or transported off site.

In addition, these costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. The drum disposal rate would be reduced to \$322.33 per drum. The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

11. \$291.31, deduction for costs for downspout repairs, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).
12. \$1,047.40, deduction for roll off repairs which are costs associated with the maintenance, repair, or replacement of leased or subcontracted equipment, other than costs associated with routine maintenance. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(yy). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not site investigation or corrective action costs.
13. \$44,990.00, deduction for costs for groundwater disposal, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc) as no groundwater disposal invoices were provided. Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to

meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

In addition, these costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. The groundwater disposal rate would be reduced to \$0.88 per gallon. The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

14. \$529.69, deduction for costs for mileage, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

15. \$26.00, deduction for indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(v). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable

Obtaining a Certificate of Good Standing is considered an indirect cost and is not reimbursable.

16. \$546.13, deduction for fuel surcharge costs, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

17. \$150.00, deduction for costs for the health and safety plan, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act

because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

18. \$210.00, deduction for waterway safety package costs, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.
19. \$162.00, deduction for costs for trash bags, which exceed the minimum requirements necessary to comply with the Act. Costs associated with site investigation and corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act are not eligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o).
20. \$10,421.29, deduction for costs for excavation, transportation and disposal of contaminated soil and replacement of backfill, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

Costs listed on the Remediation and Disposal Costs form under Conventional Technology appear to be duplicate costs of the items listed under the Non-Consulting Materials portion.

21. \$2,441.46, deduction for costs associated with any corrective action activities, services, or materials that exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. The project manager rate has been reduced to \$116.04 per hour. The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.
22. \$3,543.95, deduction for costs associated with any corrective action activities, services, or materials that exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. The senior project manager rate has been reduced to \$128.93 per hour. The costs exceed the maximum

payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable.

23. \$40.90, deduction for a reduction in the personnel title listed in Section 734.APPENDIX E Personnel Titles and Rates. Pursuant to Section 734.850(b) personnel costs must not exceed the amounts set forth in Appendix E and the personnel costs must be based on the work performed, regardless the title of the person performing the work. The Geologist I rate has been reduced to a Senior Account Technician rate of \$70.90 per hour.

The costs exceed the maximum payment amounts set forth in Subpart H, Appendix D, and/or Appendix E of 35 Ill. Adm. Code 734. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(zz). In addition, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they are not reasonable and 35 Ill. Adm. Code 734.630(dd).

24. \$2,610.00, deduction for Level D person change out costs, which lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Ill. Adm. Code 734.630(cc). Since there is no supporting documentation of costs, the Illinois EPA cannot determine that costs will not be used for activities in excess of those necessary to meet the minimum requirements of Title XVI of the Act. Therefore, such costs are not approved pursuant to Section 57.7(c)(3) of the Act because they may be used for site investigation or corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act.

25. \$3.12, adjustment in the handling charges due to the deduction(s) of ineligible costs. Such costs are ineligible for payment from the Fund pursuant to Section 57.1(a) of the Act and 35 Ill. Adm. Code 734.635.

The Certificate of Good Standing is an ineligible cost and therefore not eligible for handling charges.

### Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4) of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the filing of an appeal, please contact:

Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph, Suite 11-500  
Chicago, IL 60601  
312/814-3620

For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276  
217/782-5544

**CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on May 22, 2019 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD by the methods and to the persons identified below:

Electronic Service

Clerk  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601-3218

USPS First Class Mail

Mark P. Saliga  
Shield Environmental Associates, Inc.  
12600 Townepark Way  
Louisville, KY 40243

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson  
Deputy General Counsel  
Division of Legal Counsel  
1021 North Grand Avenue East  
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