

# **Alternate Institutional Control Road Right-of-Way**

**Kevin Schrems**

Michigan Department of Environmental Quality

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# Road Map

- Form Overview
- Status of Executed Forms
- Collaboration and Outreach Efforts
- Revisions
- Examples
- Senate Bill 717

# Road Right-of-Way Contamination



# Form Overview

- Addresses all exposure pathways
- Informs all affected property interests
- Provides consistent information to ensure that contamination within a road right-of-way is appropriately managed and exposure risks are controlled
  - When planning and performing construction projects, including worker safety and exposure control
- Fosters completion of remedial or corrective actions

# Form Public Introduction

- Webinar held on December 17, 2013
  - Recording still available
- Question and Answer Document
  - Addresses over 100 questions in multiple categories
- Form “finalized” June, 2014
- Announcement in AIPG September 2014 publication

# Location of Webinar Materials

The screenshot shows the Michigan Department of Environmental Quality (DEQ) website. The browser address bar displays the URL: michigan.gov/deq/0,4561,7-135-3311\_4109-358562--00.html. The website header includes navigation links for DEQ, Contacts, Permits, Online Services, Programs, and Locations, along with a search bar and social media icons. The main content area is titled "Compliance Assistance" and features a video player for a webinar titled "MDEQ - Road Right-of-Way Alternate Institutional Control Presentation". The video player shows a slide with the following text:

MDEQ - Road Right-of-Way Alternate Institutional Control Presentation  
SECTION 5  
LUG OR OTHER AUTHORITY CONFIRMATION OF ROAD RIGHT-OF-WAY INSTITUTIONAL CONTROL  
- Breakdown confirmation language

The video player also displays a table with the following columns: "NUMBER OF MINOR/MAJOR VIOLATIONS", "REMEDIAL ACTION REQUIRED", "REMEDIAL ACTION STATUS", "REMEDIAL ACTION DUE DATE", "REMEDIAL ACTION COMPLETION DATE", "REMEDIAL ACTION COST", "REMEDIAL ACTION FUNDING SOURCE", "REMEDIAL ACTION CONTACT", "REMEDIAL ACTION COMMENTS".

Below the video player, there is a text block explaining the webinar:

This webinar was presented on December 17, 2013 by the Michigan Department of Environmental Quality, Remediation and Redevelopment Division (RRD). The webinar introduced a newly proposed institutional control that is intended to provide information regarding the presence of contaminated soil and groundwater to those who may be working within a road right-of-way (ROW). This webinar was intended for local units of government, environmental professionals involved with contaminant remediation pursuant to Part 201 or Part 213 of the NREPA, non-governmental environmental protection groups, code officials, sanitarians, and any authority or stakeholder interested in addressing contamination pursuant to Part 201 or Part 213 of the NREPA in or around a non-Michigan Department of Transportation Road ROW.

At the bottom of the page, there are two links: [Powerpoint Presentation](#) and [Questions and Answers](#).



# Status of Requests and Executed Forms

## LUGs that have executed the AIC:

- Bay County Road Commission
- City of Albion
- City of Alpena
- City of Battle Creek
- City of Cadillac
- City of Flint
- Village of Homer
- City of Onsted
- City of Taylor
- City of Wyoming



# Collaboration/Outreach

- Ongoing collaboration
  - In person meetings, phone calls, emails
- Early 2015 Surveys
  - MPA members and consultants
    - Results – 6 responses/multiple LUGs
  - LUGs
    - Survey posted on MML Inside 208 Blog
    - Results – 2 entities responded

# Language Requiring Attention - Section 5

- Current version main points:
- LUG confirmation of no plans to relocate, vacate or abandon ROW
- LUG confirmation that submitter intends to rely on ROW to prevent unacceptable exposures
- LUG understands there may be additional costs
- LUG has reliable mechanism to track location
- LUG is certifying either the submitter has represented all ownership interests have been notified or LUG is exercising its control over ROW
- LUG agrees to notify MDEQ if conditions change

# Revisions

- Ongoing conversations identified 3 areas that caused LUG hesitation in Section 5:
  1. Additional Costs
  2. Tracking
  3. Submitter Representations
- Each area was revised upon evaluation of LRUR principles



# Revised Section 5

- Revised version main points:
- LUG confirmation of no plans to relocate, vacate or abandon ROW
- LUG confirmation that submitter intends to rely on ROW to prevent unacceptable exposures
- LUG has reliable mechanism to notify parties that perform work within ROW.
- LUG certifies its control over ROW
- LUG agrees to notify MDEQ if conditions change

# Continued Collaboration and Outreach for LUGs

- Revised language introduced to a LUG that has seen prior version
  - Positive feedback regarding revisions
- Other educational materials:
  - MDOT License Agreements for Institutional Control process
  - RRD's upcoming LUG outreach program to help LUGs better understand Michigan's environmental clean-up laws and how they affect Michigan's communities.

# Part 201 Executed ROW AIC City of Albion



# Albion Former MGP Site

SE Michigan Gas - Albion MGP  
Calhoun County  
Site ID# 13000356

KERMIT ID# 10120114003

DEPARTMENT OF ENVIRONMENTAL QUALITY - REMEDIATION AND REDEVELOPMENT DIVISION  
PO BOX 30426, LANSING, MI 48909-7026, Phone 317-284-6067, Fax 317-241-9511

## ROAD RIGHT-OF-WAY ALTERNATE INSTITUTIONAL CONTROL

When environmental contamination is proposed to remain in place within a road right-of-way (ROW) owned or controlled by a local unit of government (LUG), tribal government, or other authority, consult the Michigan Department of Transportation, the "Road Right-of-Way Alternate Institutional Control" may serve as an alternate institutional control pursuant to Section 20114E(3)(c) of Part 201, Environmental Remediation, or Section 2131(9)(d) of Part 213, Lansing Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1964 PA 451, as amended (NREPA). Acceptance of this Institution Control by the LUG or other road ROW authority is discretionary and voluntary. Furthermore, the LUG or other road ROW authority may require approval of certain permits, license agreements, or financial bonding that may be necessary for the road ROW as a condition of their authorization of this alternate institutional control mechanism. The party proposing to use the road ROW alternate institutional control (AIC) must complete Sections 1 through 4. If any underlying fee simple title ownership interests exist in the affected road ROW, the submitter shall obtain consent, as appropriate, of all parties in Section 5. The LUG, tribal government, or other authority that owns or controls the affected road ROW except the Michigan Department of Transportation, shall complete Section 5. The party proposing this AIC shall submit the completed form and all attachments with a No Further Action Report pursuant to Part 201 or a Final Assessment Report or Closure Report pursuant to Part 213 to the appropriate [Casefile@deq.michigan.gov](mailto:Casefile@deq.michigan.gov). The MDEQ Reference Number can be obtained by contacting the Remediation and Redevelopment Division at [deq@deq.michigan.gov](mailto:deq@deq.michigan.gov) or by calling 317-284-6133.

SECTION 1. SUBMITTER INFORMATION: MDEQ REFERENCE NUMBER: LROW-RRD-201-14-053

SITE OR FACILITY NAME: Albion Former MGP Site SITE OR FACILITY ID NUMBER: 13000356

STREET ADDRESS: 218 North Eaton Street

CITY: Albion ZIP: 49224 COUNTY: Calhoun

NAME OF PARTY PROPOSING ROW AIC: SEMCO ENERGY Gas Company EMAIL ADDRESS: Elisabeth.Barr@semcoenergy.com

STREET ADDRESS: 1411 Third Street, Suite A CITY: Port Huron STATE: MI ZIP: 48060

CONTACT PERSON: Elisabeth Barr PHONE: (810) 667-3061 FAX:

DEQ District Office:  Cadillac  Gaylord  Grand Rapids  Jackson  Kalamazoo  Lansing  Saginaw Bay  St. Ignace  Upper Peninsula

### SECTION 2. AFFECTED ROAD RIGHT-OF-WAY INFORMATION

1. Name of affected road ROW(s) and nearest intersection: N. Eaton Street ROW between Michigan and Cass

2. Known or Suspected Contaminant(s) Type (Check all that apply):  Petroleum  Volatile Organic Compounds  Metals  Other PAHs

3. Is residual/mobile NAPL present in the affected road ROW:  YES  NO

4. Media Contaminated:

a.  Soil Depth to contaminated soil: 0.5 feet

b.  Groundwater Depth to contaminated groundwater: ~7 feet Predominant groundwater flow direction: Southwest

5. Contamination present within affected road ROW construction zone as defined by road ROW authority for maintaining road ROW:  YES  NO

If yes, depth of construction zone in feet: 10 feet

6. Presence of utilities in the affected road ROW:  YES  NO

If present, show the location, depth and cross section of each utility on a Scaled Drawing (see #10)

Impact to stormwater system:  YES  NO

Impact to stormwater permit and discharge limits:  YES  NO

Is the stormwater system classified as a Municipal Separate Storm Sewer System (MS4):  YES  NO

7. a. Are there easement holders in the road ROW:  YES  NO

b. If yes, are those easement holders affected by the contamination present:  YES  NO

c. Have all affected easement holders in the road ROW received notification of existing conditions as part of a corrective action plan or pursuant to the due care requirements:  YES  NO

8. Does the affected road ROW have any underlying fee simple title ownership interests:  YES  NO

If yes, was consent of underlying fee title holders obtained (see Section 3) to the use of this AIC:  YES  NO

9. Exposure risks present:  Drinking Water  Direct Contact  Groundwater  Soil Ingestion/Inhalation

a. Based on the exposure risks identified above, insert a paragraph below which describes the affected media, the nature and extent of the hazardous substances, the cleanup criteria exceeded, the routes of potential exposure, any response activities or corrective actions that have been taken to address the contamination, and any activities that could result in exposure to hazardous substances that would cause this alternate institutional control to not be

9.a. (continued)

protective of public health, safety, and welfare (e.g. use of the groundwater for consumption, irrigation, or any other use; any excavation or intrusive activity that would result in contaminated soils to be placed at the ground surface or otherwise exacerbate the extent of contamination).

Soil and groundwater in the ROW are affected by manufactured gas plant (MGP) chemicals of concern including benzene, toluene, ethylbenzene, xylene, polynuclear aromatic hydrocarbons, metals, cyanide and ammonia. Additionally, residual non-aqueous phase liquid (NAPL) is present in the ROW. Cleanup criteria are exceeded for groundwater surface-water interface criteria, drinking water criteria, and direct contact criteria for samples collected in proximity to the roadway and ROW. Response activities have been conducted since 2005 in the areas near the ROW and have consisted of soil removal and disposal. If construction, utility work, or other intrusive activities are conducted, they must be completed in accordance with the following:

- Management and disposal of the groundwater for short-term dewatering for construction purposes should be conducted in accordance with all applicable local state, and federal laws and regulations and in a manner that does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, and federal environmental laws and regulations.
- Management of all contaminated soils, media and/or debris located in the road right-of-way shall be in accordance with the applicable requirements of Section 20120c or Section 21304b of the NREPA; Part 111, Hazardous Waste Management, of the NREPA; Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq; the administrative rules promulgated thereunder; and all other relevant state and federal laws.

10. Provide a Scaled Drawing and Property Description, or survey if available, that describes the source property, obtained from a title commitment or existing deed. At a minimum, the Scaled Drawing should include:

- A north arrow.
- A graphical scale bar and scale statement (e.g. 1"=50').
- The limits of the source property plotted, to scale, showing the relationship to the LUG or other authority ROW and other affected parcels.
- The roadway(s) name identified.
- A statement identifying the Township, Range, Section, and Quarter Section where the parcel is located.
- The limits of the affected road ROW plotted to scale. This area should be hatched and labeled appropriately.
- The location of significant site features such as buildings, drives, parking lots, and road surface.
- Cross section illustrating depth of construction zone, affected road ROW, media, utilities and distribution of contaminated media.
- Most recent analytical data illustrating contaminant compounds and concentrations within the contaminated media.

11. Is the LUG, tribal government, or authority (purchasing permanent marker(s)) placed within affected ROW:  YES  NO

### SECTION 3. CONSENT OF FEE SIMPLE TITLE OWNER, IF APPLICABLE:

I, as the underlying fee simple title owner, do hereby consent to the use of this alternate institutional control and acknowledge: 1) that there are hazardous substances within the affected road ROW that may present exposure risks as described in this document; 2) that there are controls to address these risks; and 3) the LUG, tribal government, or other authority is exercising its authority to control activities within the ROW to prevent these exposure risks.

Signature	Print	Property Identification #	Date

### SECTION 4. SUBMITTER SIGNATURE:

I, as the submitter identified in Section 1, or the qualified consultant authorized to complete this document on the submitter's behalf, hereby attest to the accuracy of the statements in this document and all attachments. I further certify that the language on this document has not been modified.

<i>Elisabeth Barr</i> Signature	<i>Elisabeth Barr</i> Print	<i>12/9/14</i> Date
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# Albion Former MGP Site

**SECTION 5. LUG OR OTHER AUTHORITY CONFIRMATION OF ROAD RIGHT-OF-WAY INSTITUTIONAL CONTROL:**

Name of Local Unit of Government or other Authority: City of Albion Michigan

The aforementioned LUG, tribal government, or other authority attests that the current use of the affected road right-of-way is for public transportation. The LUG, tribal government, or other authority has no current plans to relocate, vacate, or abandon the portion of the affected road right-of-way. The LUG, tribal government, or other authority understands that the submitter intends to rely upon the existence of said road right-of-way to prevent unacceptable exposure to hazardous substances that may be present in the soil and/or groundwater within the affected road right-of-way. The LUG, tribal government, or other authority understands that there may be additional costs to the LUG, tribal government, or other authority when disturbing the area of impact in the future. The LUG, tribal government, or other authority has a reliable mechanism to track the location and will provide notification of the contamination in the affected road right-of-way to parties requesting access.

The LUG, tribal government, or other authority executing this alternate institutional control certifies that EITHER of the following conditions has been met:

- a. Based on representations of the submitter, all any persons with ownership interests in the property/properties underlying the affected road right-of-way described in this document have been notified regarding the conditions that are known at the time this alternate institutional control is executed, and consent for use of this alternate institutional control from fee simple title ownership interests has been obtained where necessary.

-OR-

- b. The LUG, tribal government, or other authority exercises exclusive control over the affected road right-of-way and the portions of the properties underlying the affected road right-of-way identified in this alternate institutional control and is exercising its authority to assure the reliability of this alternate institutional control to prevent exposure to hazardous or regulated substances located below the road surface.

If the affected road right-of-way is proposed to be relocated, vacated or abandoned, or other conditions that result in revocation of this alternate institutional control, the LUG, tribal government, or other authority agrees to notify the appropriate Michigan Department of Environmental Quality District Office, identified in Section 1, and any adjacent/underlying property owners no less than 90 days prior to the road being relocated, vacated, or abandoned. With my signature below, I certify that I am legally authorized to sign on behalf of the LUG, tribal government, or other authority.

Signature of Authorized LUG or Authority Official		Print Authorized LUG or Authority Official	
<i>Joseph V. Domingo</i>		JOSEPH DOMINGO, Mayor	
Title of Authorized LUG or Authority Official		Date	
City of Albion Michigan		112 Cass Street Albion, MI 49224	
Name of Local Unit of Government		Address, City, State, Zip	
(517) 629-5535			
Phone Number	Fax Number	Email Address	



# Albion Former MGP Site

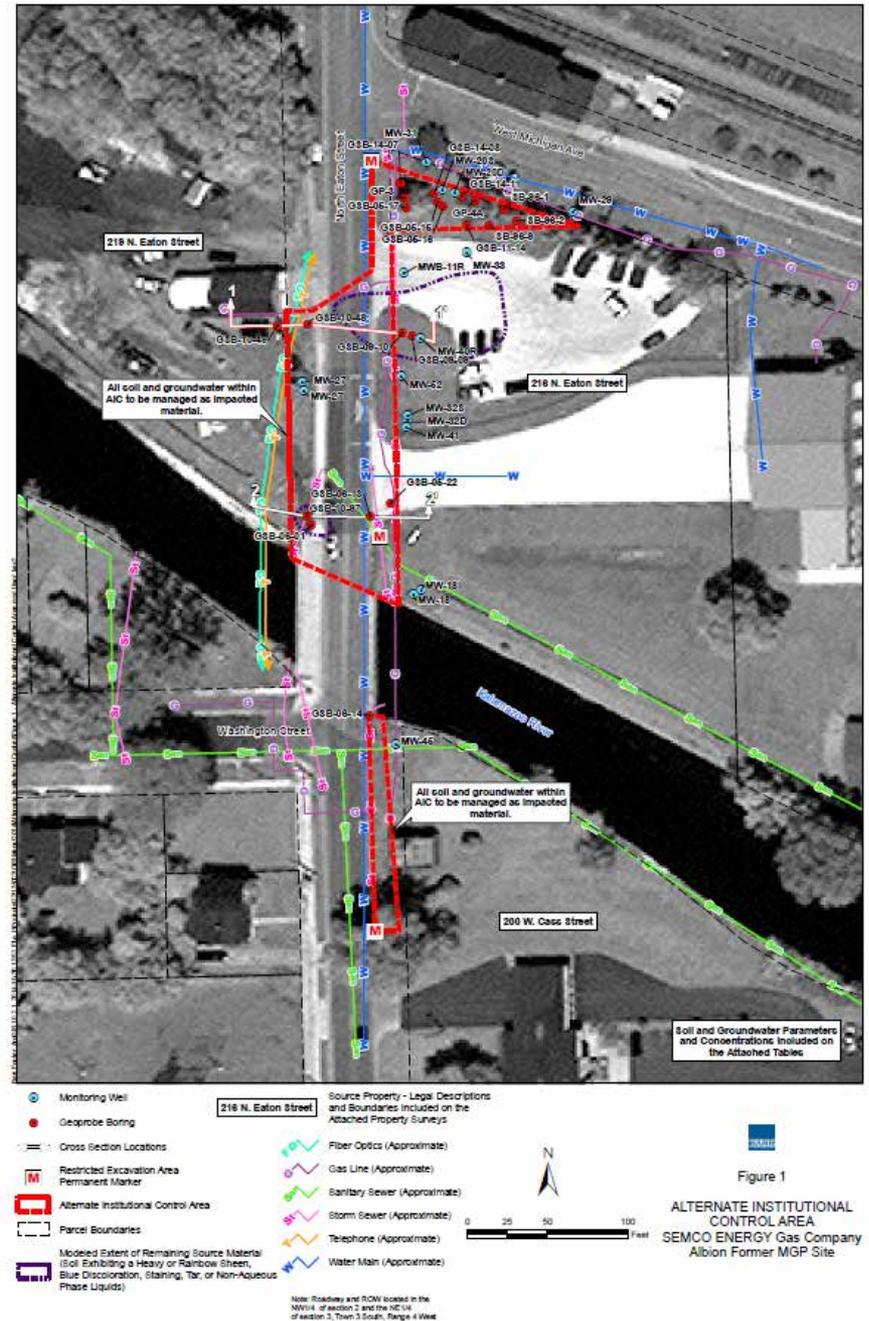


Figure 1

ALTERNATE INSTITUTIONAL CONTROL AREA  
SEMCO ENERGY Gas Company  
Albion Former MGP Site





# Albion Former MGP Site Cross Section

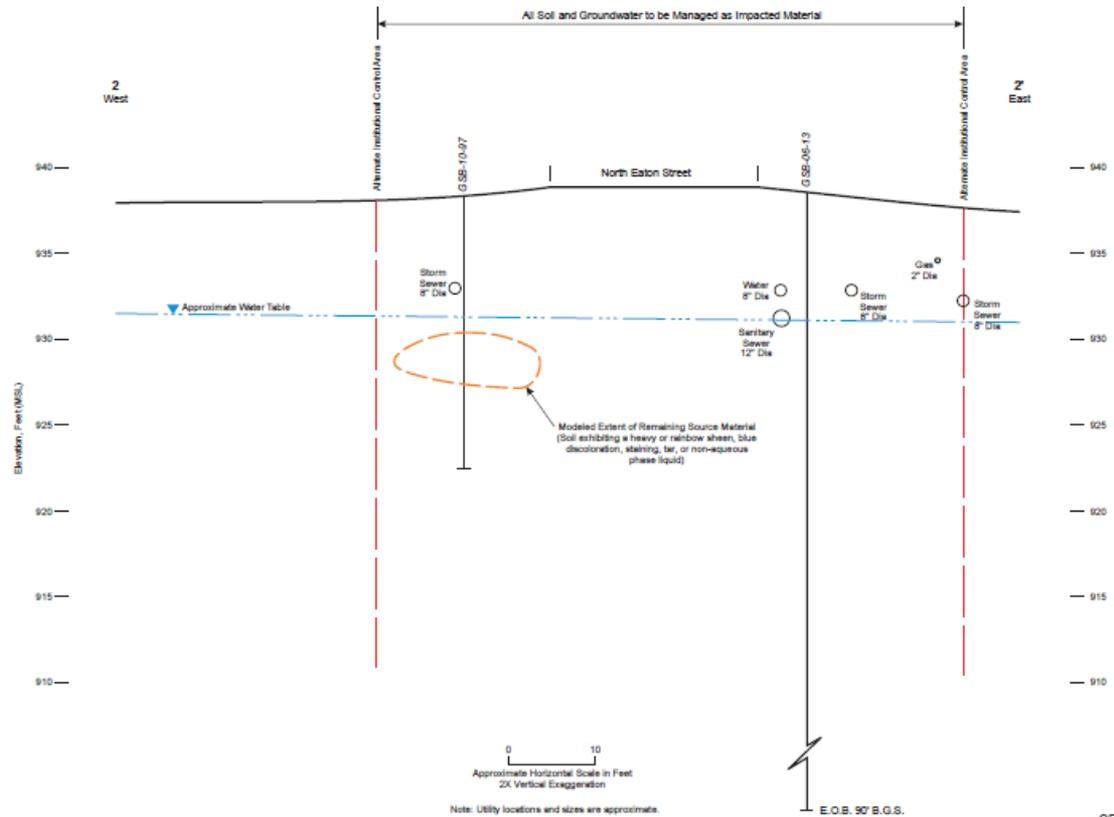


Figure 1b

CROSS SECTION 2-2'  
Altimate Institutional Control Area  
SEMCO Energy Gas Company  
Albion Former MGP Site

P:\A\102148\102148.dwg 10/21/2010 10:00:00 AM 10/21/2010 10:00:00 AM



# Albion Former MGP Site Permanent Marker



# Part 213 Executed ROW AIC City of Adrian



# Adrian Shell Station

 MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY - REMEDIATION AND REDEVELOPMENT DIVISION PO BOX 30426, LANSING, MI 48209-7526, Phone 517-284-9087, Fax 517-241-9551	
<b>ROAD RIGHT-OF-WAY ALTERNATE INSTITUTIONAL CONTROL</b>	
<p>When environmental contamination is proposed to remain in place within a road right-of-way (ROW) owned or controlled by a local unit of government (LUG), tribal government, or other authority, except the Michigan Department of Transportation, the "Road Right-of-Way Alternate Institutional Control" may serve as an alternate institutional control pursuant to Section 20114(2)(a) of Part 201, Environmental Remediation, or Section 21304(4) of Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). Acceptance of this institutional control by the LUG or other road ROW authority is discretionary and voluntary. Furthermore, the LUG or other road ROW authority may require approval of certain permits, license agreements, or financial bonding that may be necessary for the road ROW as a condition of their authorization of this alternate institutional control mechanism. The party proposing to use the road ROW alternate institutional control (AIC) shall complete Sections 1 through 4. If any underlying fee simple title ownership interests exist in the affected road ROW, the submitter shall obtain consent, as appropriate, of all parties in Section 3. The LUG, tribal government, or other authority that owns or controls the affected road ROW, except the Michigan Department of Transportation, shall complete Section 5. The party proposing this AIC shall submit the completed form and all attachments with a No Further Action Report pursuant to Part 201 or a Final Assessment Report or Closure Report pursuant to Part 213 to the appropriate District Office. The MDEQ Reference Number can be obtained by contacting the Remediation and Redevelopment Division at <a href="mailto:deq-rod@michigan.gov">deq-rod@michigan.gov</a> or by calling 517-284-5163.</p>	
<b>SECTION 1. SUBMITTER INFORMATION:</b>	MDEQ REFERENCE NUMBER: LROW-RRD-213-14-005
SITE OR FACILITY NAME: Adrian Shell	SITE OR FACILITY ID NUMBER: 00009963
STREET ADDRESS: 711 S. Main Street	
CITY: Adrian	ZIP: 49221 COUNTY: Lenawee
NAME OF PARTY PROPOSING ROW AIC: Walters-Dimmick Petroleum, Inc.	EMAIL ADDRESS: <a href="mailto:ldale@waltersdimmik.com">ldale@waltersdimmik.com</a>
STREET ADDRESS: 1820 S. Kalamazoo Avenue	CITY: Marshall STATE: MI ZIP: 49068
CONTACT PERSON: Mr. Terry Dale	PHONE: (269) 781-4654 FAX: (269) 789-2553
DEQ District Office: <input type="checkbox"/> Cadillac <input type="checkbox"/> Gaylord <input type="checkbox"/> Grand Rapids <input checked="" type="checkbox"/> Jackson <input type="checkbox"/> Kalamazoo <input type="checkbox"/> Lansing <input type="checkbox"/> Saginaw Bay <input checked="" type="checkbox"/> SE Michigan <input type="checkbox"/> Upper Peninsula	
<b>SECTION 2. AFFECTED ROAD RIGHT-OF-WAY INFORMATION:</b>	
1. Name of affected road ROW(s) and nearest intersection: W. Beecher St. ROW E of intersection with S. Main Street	
2. Known or Suspected Contaminant(s) Type (Check all that apply): <input checked="" type="checkbox"/> Petroleum <input checked="" type="checkbox"/> Volatile Organic Compounds <input type="checkbox"/> Metals <input type="checkbox"/> Other	
3. Is residual/mobile NAPL present in the affected road ROW: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
4. Media Contaminated: a. <input checked="" type="checkbox"/> Soil Depth to contaminated soil: 12 feet b. <input checked="" type="checkbox"/> Groundwater Depth to contaminated groundwater: 14 feet Predominant groundwater flow direction: West	
5. Contamination present within affected road ROW construction zone as defined by road ROW authority for maintaining road ROW: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If yes, depth of construction zone in feet: 12-feet	
6. Presence of utilities in the affected road ROW: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If present, show the location, depth and cross section of each utility on a Scaled Drawing (see #10) Impact to stormwater system: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Impact to stormwater permit and discharge limits: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Is the stormwater system classified as a Municipal Separate Storm Sewer System (MS4): <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
7. a. Are there easement holders in the road ROW: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO b. If yes, are those easement holders affected by the contamination present: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO c. Have all affected easement holders in the road ROW received notification of existing conditions as part of a corrective action plan or pursuant to the due care requirements: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
8. Does the affected road ROW have any underlying fee simple title ownership interests: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If yes, was consent of underlying fee title holders obtained (see Section 3) to the use of this AIC: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
9. Exposure risks present: <input checked="" type="checkbox"/> Drinking Water <input type="checkbox"/> Direct Contact <input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Soil Excavation/Relocation	

Remediation and Redevelopment Division  
Phone: 517-284-9087

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TCP-606 (02/2014)

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MDEQ - RRD  
JACKSON DISTRICT OFFICE

During removal of four underground storage tanks (USTs) in May 2009, a release of unleaded gasoline was discovered based on staining and petroleum odors in soils surrounding the USTs. A total of 878 cubic yards of soil was excavated and disposed off-site in a landfill. On behalf of Walters-Dimmick Petroleum, Inc., environmental investigations and groundwater monitoring were conducted between 2009 and 2011.

Results of soil and groundwater sampling and analysis indicate remaining soil and groundwater contamination is essentially confined to within the site boundaries. At a sampling point designated SB-4MW-8, located approximately 5 feet from the northern site boundary, contaminated soils were detected at a depth of 12 feet below the ground surface and contaminated groundwater was detected at a depth of approximately 14 feet below the ground surface. These results indicate soil and groundwater contamination could extend into the W. Beecher Street right-of-way. Considering the westward direction of groundwater flow, northward migration of groundwater contamination into the right of way appears to be minimal. Contaminants were not detected in soil and groundwater samples collected from soil borings and monitoring wells on the north side of W. Beecher Street. Contaminated groundwater and soils are below the depths of utilities in the W. Beecher Street right-of-way.

Detected concentrations of contaminants in groundwater exceed Tier I Risk Based Screening Levels (RBSL) for Drinking Water (DW) and Groundwater/Surface Water Interface (GSI). Detected concentrations of contaminants in soils exceed GRCC for Drinking Water Protection (DWP) and Groundwater/Surface Water Interface Protection (GSIP).

In the unlikely event of construction or maintenance below the water table, management and disposal of the groundwater for short-term dewatering for construction purposes should be conducted in accordance with all applicable local, state, and federal laws and regulations and in a manner that does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, and federal environmental laws and regulations.

Costs for transporting and disposal of contaminated soil (i.e., soil containing gasoline constituents at concentrations above their respective current Tier I RBSLs) excavated from depths greater than 12 feet below ground surface within the described portion of the West Beecher Street right-of-way will be paid for as described in the **AGREEMENT CONCERNING THE WEST BEECHER STREET RIGHT-OF-WAY, ADRIAN, MICHIGAN**, document.

Management of all contaminated soils, media and/or debris located in the road right-of-way shall be in accordance with the applicable requirements of Section 20120c or Section 21304b of the NREPA; Part 111, Hazardous Waste Management, of the NREPA; Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the administrative rules promulgated thereunder; and all other relevant state and federal laws.

10. Provide a Scaled Drawing and Property Description, or survey if available, that describes the source property, obtained from a title commitment or vesting deed. At a minimum, the Scaled Drawing should include:

- A north arrow.
- A graphical scale bar and scale statement (e.g. 1"=50').
- The limits of the source property plotted, to scale, showing the relationship to the LUG or other authority ROW and other affected parcels.
- The roadway(s) name identified.
- A statement identifying the Township, Range, Section, and Quarter Section where the parcel is located.
- The limits of the affected road ROW plotted to scale. This area should be hatched and labeled appropriately.
- The location of significant site features such as buildings, drives, parking lots, and road surface.
- Cross section illustrating depth of construction zone, affected road ROW, media, utilities and distribution of contaminated media.
- Most recent analytical data illustrating contaminant compounds and concentrations within the contaminated media.

11. Is the LUG, tribal government, or authority requiring permanent marker(s) placed within affected ROW:  YES  NO

**SECTION 3. CONSENT OF FEE SIMPLE TITLE OWNER, IF APPLICABLE:**

I, as the underlying fee simple title owner, do hereby consent to the use of this alternate institutional control and acknowledge: 1) that there are hazardous substances within the affected road ROW that may present exposure risks as described in this document; 2) that there are controls to address these risks; and 3) the LUG, tribal government, or other authority is exercising its authority to control activities within the ROW to prevent these exposure risks.

Signature	Print	Property Identification #	Date

Remediation and Redevelopment Division  
Phone: 517-284-9087

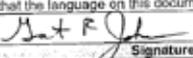
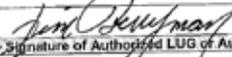
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www.michigan.gov/deq  
TCP-606 (02/2014)

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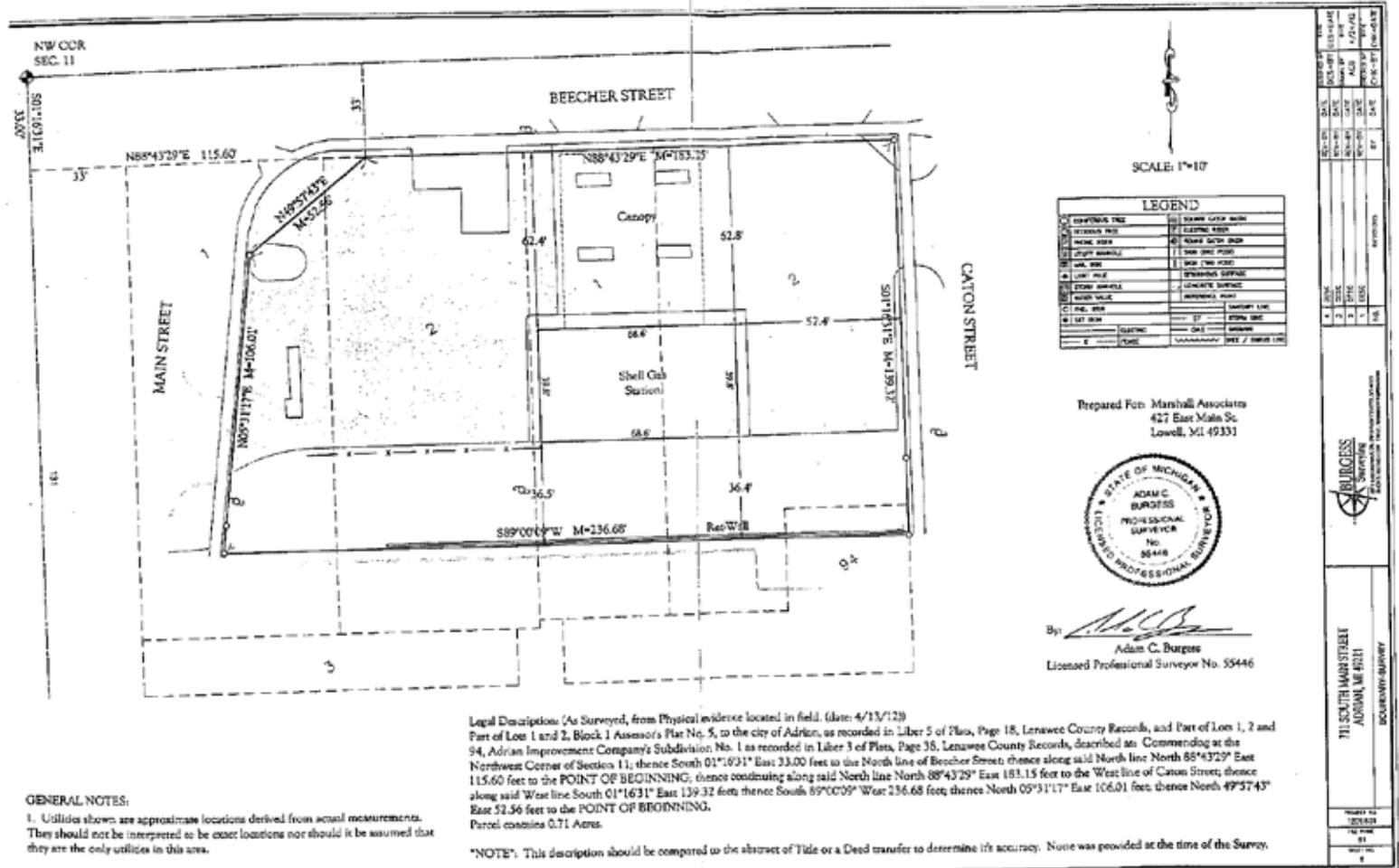


# Adrian Shell Station

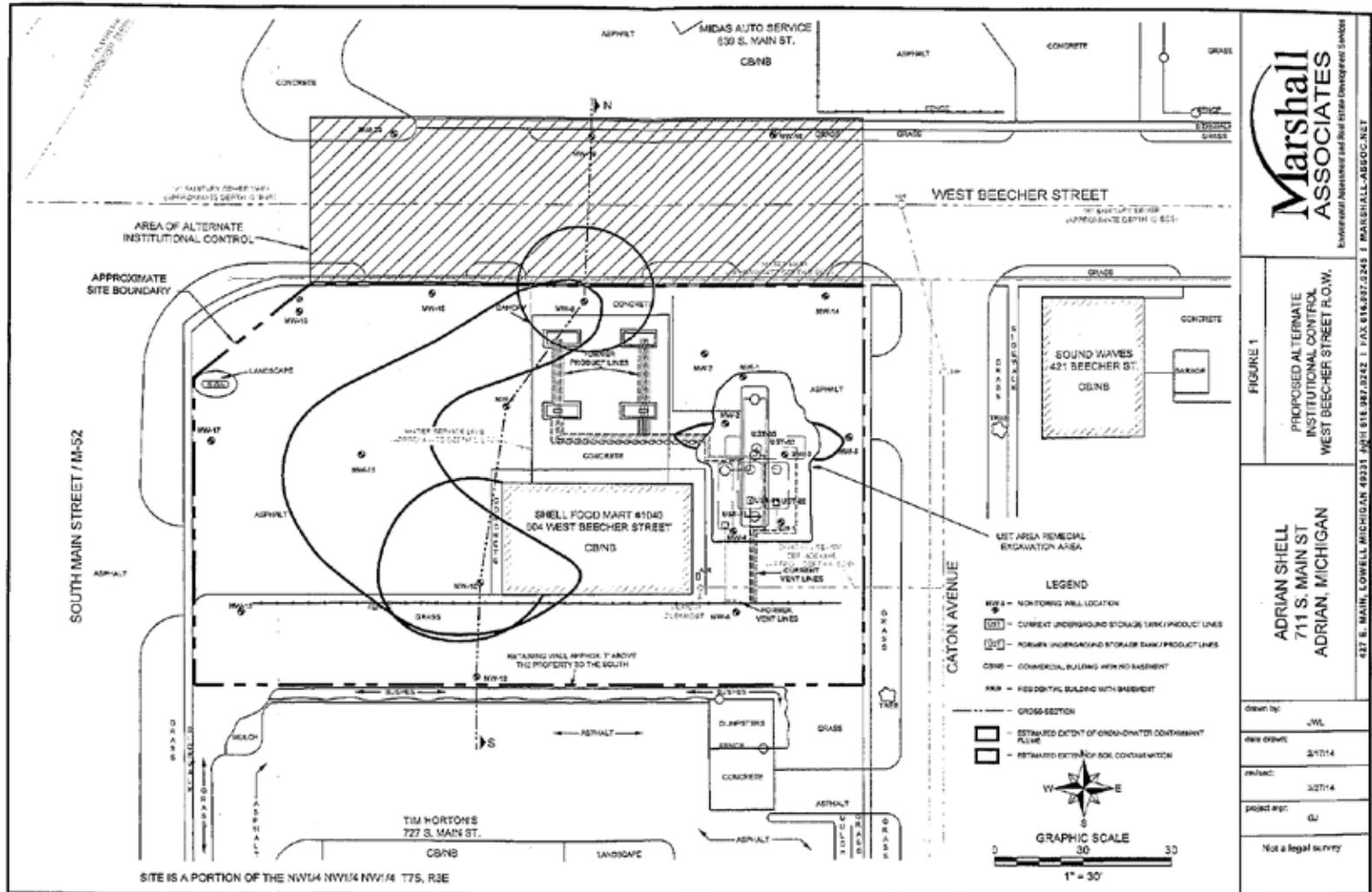
Signature	Print	Property Identification #	Date
Signature	Print	Property Identification #	Date
<b>SECTION 4. SUBMITTER SIGNATURE:</b>			
I, as the submitter identified in Section 1, or the qualified consultant authorized to complete this document on the submitter's behalf, hereby attest to the accuracy of the statements in this document and all attachments. I further certify that the language on this document has not been modified.			
	Garnet R. Johnson		3-1-16
Signature	Print		Date
<b>SECTION 5. LUG OR OTHER AUTHORITY CONFIRMATION OF ROAD RIGHT-OF-WAY INSTITUTIONAL CONTROL:</b>			
Name of Local Unit of Government or other Authority: City of Adrian			
The aforementioned LUG, tribal government, or other authority attests that the current use of the affected road right-of-way is for public transportation. The LUG, tribal government, or other authority has no current plans to relocate, vacate, or abandon the portion of the affected road right-of-way. The LUG, tribal government, or other authority understands that the submitter intends to rely upon the existence of said road right-of-way to prevent unacceptable exposure to hazardous substances that may be present in the soil and/or groundwater within the affected road right-of-way. The LUG, tribal government, or other authority understands that there may be additional costs to the LUG, tribal government, or other authority when disturbing the area of impact in the future. The LUG, tribal government, or other authority has a reliable mechanism to track the location and will provide notification of the contamination in the affected road right-of-way to parties requesting access.			
The LUG, tribal government, or other authority executing this alternate institutional control certifies that EITHER of the following conditions has been met:			
a. Based on representations of the submitter, all any persons with ownership interests in the property/properties underlying the affected road right-of-way described in this document have been notified regarding the conditions that are known at the time this alternate institutional control is executed, and consent for use of this alternate institutional control from fee simple title ownership interests has been obtained where necessary.			
-OR-			
b. The LUG, tribal government, or other authority exercises exclusive control over the affected road right-of-way and the portions of the properties underlying the affected road right-of-way identified in this alternate institutional control and is exercising its authority to assure the reliability of this alternate institutional control to prevent exposure to hazardous or regulated substances located below the road surface.			
If the affected road right-of-way is proposed to be relocated, vacated or abandoned, or other conditions that result in revocation of this alternate institutional control, the LUG, tribal government, or other authority agrees to notify the appropriate Michigan Department of Environmental Quality District Office, identified in Section 1, and any adjacent/underlying property owners no less than 90 days prior to the road being relocated, vacated, or abandoned. With my signature below, I certify that I am legally authorized to sign on behalf of the LUG, tribal government, or other authority.			
	JIM BERRYMAN		
Signature of Authorized LUG or Authority Official	Print Authorized LUG or Authority Official		
Mayor		4-28-15	Date
Title of Authorized LUG or Authority Official		135 E MAUHEE ADRIAN MI 49221	Address, City, State, Zip
CITY OF ADRIAN			
Name of Local Unit of Government			
517 264 4829		TBerryman@AdrianMI.GOV	Email Address
Phone Number	Fax Number		



# Adrian Shell Station



# Adrian Shell Station



# Adrian Shell Station

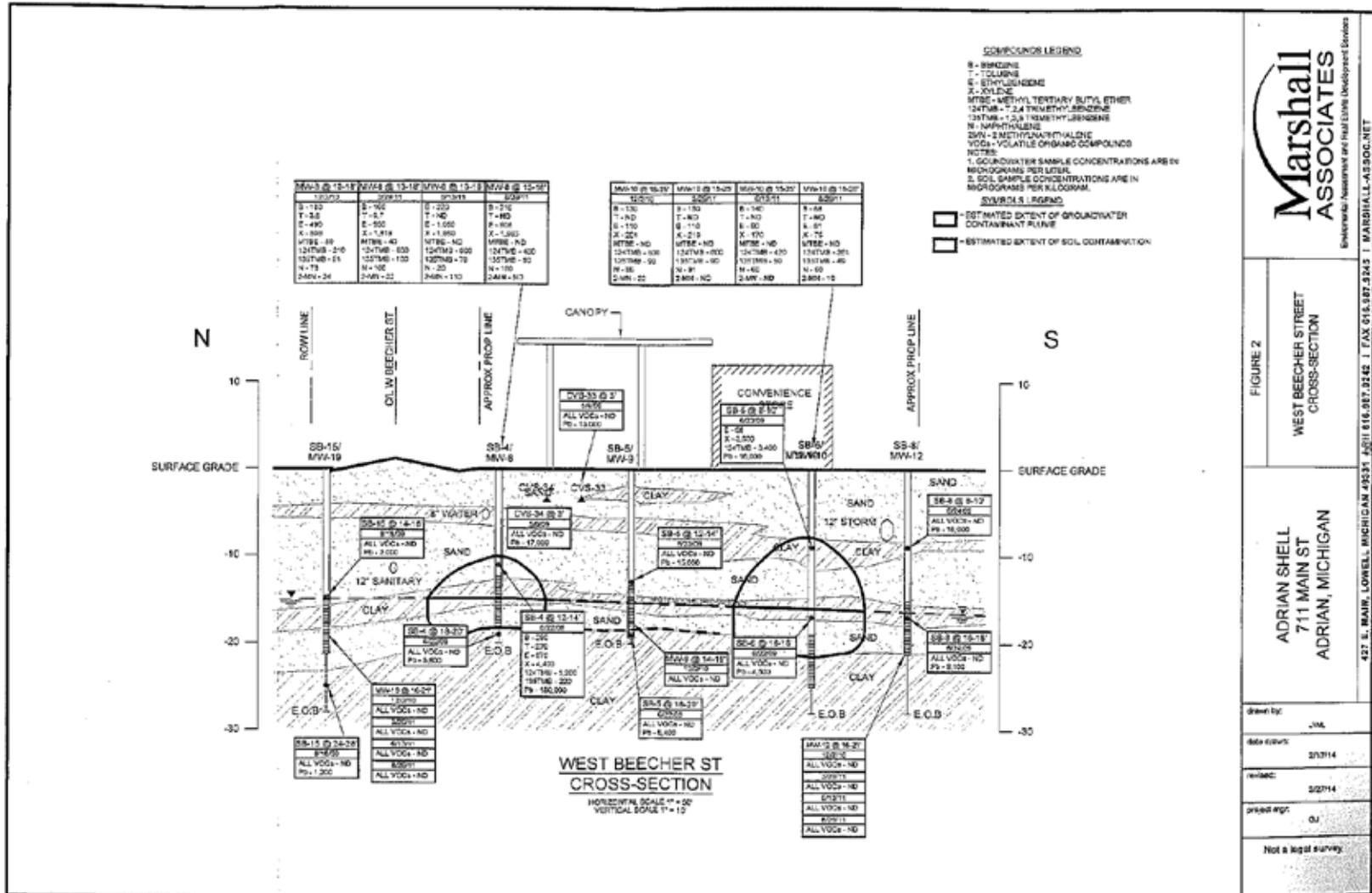


FIGURE 2  
WEST BEECHER STREET  
CROSS-SECTION

ADRIAN SHELL  
711 MAIN ST  
ADRIAN, MICHIGAN

Drawn by: JMA  
Date drawn: 2/27/14  
Revised: 2/27/14  
Project #P: 03  
Not a legal survey

427 S. MAIN, LONELL, MICHIGAN 49331 PH: 616.867.3143 FAX: 616.867.3243 | MARSHALL-ASSOC.NET



# Adrian Shell Station

## One Final Note

- Agreement between Walters-Dimmick Petroleum, Inc. (WDP) and City of Adrian
  - Limited to Area of AIC
  - WDP will reimburse City for reasonable costs
  - City will notify WDP no less than 90 days
  - WDP has no responsibility to contamination not inferred to have originated from WDP
  - Contamination below RBSLs = agreement terminates

# Senate Bill 717

Introduced 1/21/2016 by Senator Casperson

- Defines public highways
- Specifically allows reliance on existence of public highway as alternate mechanism to prevent unacceptable exposure
- 2 methods described – State (MDOT) or Local
  1. MDOT License Agreement Process
    - Effective so long as MDOT issues Agreement w/in 120 days
    - If not issued, liable O/O can rely on LUG notice process as alternate mechanism

# Senate Bill 717

Introduced 1/21/2016 by Senator Casperson

## 2. LUG Notice Process

- Liable O/O will provide notice of environmental conditions to owner or operator of public highway
- Liable O/O will certify that there is not an illicit discharge to MS4 storm sewer or will provide required information regarding the illicit discharge
- Liable O/O will confirm that there are no current plans to relocate, vacate, or abandon the public highway
- Since State or LUG have exemption to some due care requirement's if contamination is result of migration, Liable O/O responsible for due care w/in public highway
  - For regulated substances for which they are liable

# Senate Bill 717

Introduced 1/21/2016 by Senator Casperson

## 2. LUG Notice Process - continued

- Person who owns or operates public highway will provide notice to liable O/O when performing activities that may encounter/expose contamination
- Liable O/O will be liable for additional corrective action if a public highway that serves as an IC is relocated, vacated or abandoned, and must notify the DEQ.

\*\*\*Note - person that owns or operates public highway will be responsible for managing contamination consistent with Section 23104b (Removal or Relocation of Soil) when performing excavation or other activities – this statutory requirement did not change.

**Questions?**