



## 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, except the Michigan Department of Transportation, the "Road Right-of-Way Alternate Institutional Control" may serve as an alternate institutional control pursuant to Section 20114d(5)(a) of Part 201, Environmental Remediation, or Section 21310a(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 [deq-rrd@michigan.gov](mailto:deq-rrd@michigan.gov) or by calling 517-284-5153.*

<b>SECTION 1. SUBMITTER INFORMATION:</b>		MDEQ REFERENCE NUMBER:	
SITE OR FACILITY NAME:		SITE OR FACILITY ID NUMBER:	
STREET ADDRESS:			
CITY:		ZIP:	COUNTY:
NAME OF PARTY PROPOSING ROW AIC:		EMAIL ADDRESS:	
STREET ADDRESS:		CITY:	STATE:      ZIP:
CONTACT PERSON:		PHONE:	FAX:
DEQ District Office: <input type="checkbox"/> Cadillac <input type="checkbox"/> Gaylor <input type="checkbox"/> Grand Rapids <input type="checkbox"/> Jackson <input type="checkbox"/> Kalamazoo <input type="checkbox"/> Lansing <input type="checkbox"/> Saginaw Bay <input 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:			
2. Known or Suspected Contaminant(s) Type (Check all that apply): <input type="checkbox"/> Petroleum <input 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 type="checkbox"/> NO			
4. Media Contaminated: a. <input type="checkbox"/> Soil    Depth to contaminated soil: b. <input type="checkbox"/> Groundwater    Depth to contaminated groundwater:      Predominant groundwater flow direction:			
5. Contamination present within affected road ROW construction zone as defined by road ROW authority for maintaining road ROW: <input type="checkbox"/> YES <input type="checkbox"/> NO If yes, depth of construction zone in feet:			
6. Presence of utilities in the affected road ROW: <input 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 type="checkbox"/> NO Impact to stormwater permit and discharge limits: <input type="checkbox"/> YES <input type="checkbox"/> NO Is the stormwater system classified as a Municipal Separate Storm Sewer System (MS4): <input type="checkbox"/> YES <input type="checkbox"/> NO			
7. a. Are there easement holders in the road ROW: <input type="checkbox"/> YES <input type="checkbox"/> NO b. If yes, are those easement holders affected by the contamination present: <input type="checkbox"/> YES <input 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 type="checkbox"/> NO			
8. Does the affected road ROW have any underlying fee simple title ownership interests: <input type="checkbox"/> YES <input 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 type="checkbox"/> NO			
9. Exposure risks present: <input type="checkbox"/> Drinking Water <input type="checkbox"/> Direct Contact <input type="checkbox"/> Groundwater <input type="checkbox"/> Soil Excavation/Relocation 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). See example language below.

Example language if contaminated groundwater is an exposure risk and construction activities would require dewatering or management of groundwater:

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.

Example language if contaminated soil is an exposure risk and construction activities would require soil excavation, relocation and/or disposal:

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.

<b>Signature</b>	<b>Print</b>	<b>Property Identification #</b>	<b>Date</b>
<b>Signature</b>	<b>Print</b>	<b>Property Identification #</b>	<b>Date</b>
<b>Signature</b>	<b>Print</b>	<b>Property Identification #</b>	<b>Date</b>
<b>Signature</b>	<b>Print</b>	<b>Property Identification #</b>	<b>Date</b>

**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.

<b>Signature</b>	<b>Print</b>	<b>Date</b>

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

Name of Local Unit of Government or other Authority:

*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.*

<b>Signature of Authorized LUG or Authority Official</b>		<b>Print Authorized LUG or Authority Official</b>	
<b>Title of Authorized LUG or Authority Official</b>		<b>Date</b>	
<b>Name of Local Unit of Government</b>		<b>Address, City, State, Zip</b>	
<b>Phone Number</b>	<b>Fax Number</b>	<b>Email Address</b>	