

**BEFORE THE
ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION**

**IN THE MATTER OF AN
EMERGENCY ORDER ISSUED TO:**

Docket No. _____

**MENA SHORT STOP, LLC
420 HIGHWAY 71 SOUTH
MENA, ARKANSAS
Facility ID NO. 57000053
AFIN No. 57-00350
LUST Case No. 57-0032**

REQUEST FOR HEARING

Comes Mena Short Stop, LLC (“Short Stop”), a limited liability company organized and existing under the laws of the State of Arkansas, with its principal address at 420 Highway 71 South, Mena, Arkansas, by its attorney, Richard H. Mays of Richard Mays Law Firm PLLC, and for its Request for Hearing on the merits of an Emergency Order No. LIS:22-068 issued to Short Stop by the Chief Administrator of the Arkansas Department of Energy and Environment, Division of Environmental Quality (“DEQ”) on June 14, 2022, states:

1. Short Stop operates a convenience store/gasoline retail sales station at 420 Highway 71 South, Mena, Arkansas. Short Stop has operated that store/station since approximately February 2019. As part of its gasoline sales operation, the store/station has underground storage tanks that contain gasoline. The gasoline sold

at the store/station by Short Stop, has, since the initial inception of Short Stop's operations at that site, contained the constituent MTBE, and has not contained lead.

2. On or about April 20, 2022, a sudden loss alarm on the Veeder-Root automatic monitoring system in Observation Well 2 (OW-2) on Short Stop's property was activated. See Initial Response/Abatement Report prepared by Environmental Pollution Consultants, Inc. dated April 29, 2022, attached hereto as **Exhibit No. 1.**

3. The petroleum pump/dispensing system was shut-down and all components of the system were visually inspected, which resulted in the detection of a leak in an unleaded sub-pump functional element and approximately six (6) inches of free product in OW-2. The free product was removed. (Ibid)

4. A regional representative of DEQ relative to underground storage tanks was notified by telephone and came to the site. Under his observation, the functional element was replaced and all components of the system that could be visually observed were again inspected. All lines had passed tightness testing conducted by a contractor to Short Stop on or about April 19, 2022. (Ibid)

5. On April 21, 2022, approximately two (2) inches of weathered free product was observed in OW-2. On April 27, 2022, free product was not detected in OW-2. (Ibid)

6. Upon the detection of a leak in the sub-pump functional element, Short Stop retained the services of EPC to take charge of investigation of the leak from the gasoline dispensing system, and of the existence of gasoline product off of the Short Stop site.

7. Subsequently, weathered free product was observed in a crawl space of the building containing a Pony Express Printing and Engraving shop located approximately 200 feet south of the Short Stop station¹, and in a water meter housing located at the back of that building. The area was ventilated, and absorbent pads were placed on the visible product. DEQ and the Mena Fire Chief were notified and on site. (Ibid)

8. On April 27, 2022, the owner of the Pony Express shop again detected gasoline vapors in the building. A contractor of Short Stop, Environmental Pollution Control Inc. (“EPC”), installed a negative pressure venting fan in the building to remove vapors from the crawl space and the building, which reduced the vapor levels, and continued to monitor the presence of vapors in and around the building. EPC developed a response and remediation plan for the removal of the free product and investigation of the off-site free product, and implemented the

¹ An aerial photo of the area including the Short Stop property and the Pony Express property is attached to this Motion as **Exhibit No. 2**. The Short Stop property is in the upper left portion of the photo (labeled “420 U.S. 71”) and the Pony Express property is in the bottom central portion of the photo.

plan, including the removal of contaminated soil and free product from the Short Stop site and the area around the building housing the Pony Express shop (also referred to as “the Corner Shoppe”). Those efforts extended into mid-May, 2022.

9. On or about May 16, DEQ declared that EPC’s efforts to abate vapor intrusion onto the Pony Express property were inadequate, primarily because it did not include excavation of the tanks on the property, and requested services from its on-call contractor AECOM Technical Services (“AECOM”).

10. Also on or about May 16, 2022, soil samples contaminated with the free gasoline product from the Short Stop site and the Pony Express site were collected and submitted to Arkansas Analytical, Inc., an independent laboratory used by DEQ and other entities for analysis of contaminants in soil and other matrices. Arkansas Analytical issued an original report dated May 23, 2022, that is attached hereto as **Exhibit No. 3** to this Motion. That analysis did not include an analysis of the samples for the constituent of lead.

11. EPC requested that the analysis of the samples include lead and TCLP Benzene in the components of the analysis. Arkansas Analytical conducted the analysis on June 1, 2022, and issued a revised report on June 2, 2022, attached hereto as **Exhibit No. 4**, that states that lead was present in the sample at a level of 13.0 parts per million (mg/kg wet).

12. The U.S. began phasing out leaded gasoline in 1975, in part for health reasons, and in part because it fouled catalytic converters, which were then being mandated to reduce emissions. Leaded gas could be sold in the U.S. until January 1996. Effective January 1, 1996, leaded gasoline was banned by the Clean Air Act for use in new vehicles other than aircraft, racing cars, farm equipment, and marine engines.

13. Short Stop has not sold leaded gasoline, and to its knowledge, leaded gasoline has not been sold at the location that it occupies. However, on information and belief, leaded gasoline was, or could have been sold at a former gasoline outlet on property near the Short Stop location in Mena, Arkansas, which was reportedly in operation for many years during the mid-1900s. That area is now covered by a concrete pad, and Short Stop believes that the underground storage tanks that were located on the property were not removed and may still be located there.

14. Further, Short Stop's computerized inventory system indicates that, during the mid-to-late part of April 2022, a small amount of gasoline product (approx. 104 gallons) could not be accounted for, which is attributable to the relatively small quantity of product believed to have escaped from the leak in the gasoline dispensing system described above, that was detected in OW-2, and that was promptly repaired. That quantity is not believed to be adequate to support the

quantity of free product detected at and around the Pony Express building, the analysis of which contained lead.

15. Further, the analysis of samples from the site containing the Pony Express shop did not contain the chemical MTBE, further supporting the conclusion that the gasoline product at that site was not a gasoline sold by Short Stop.

16. Without ample investigation of the source of the free gasoline product on the Pony Express property, and without a full and comprehensive analysis of the samples of that product from the Pony Express property, and without adequate investigation to determine the presence of other USTs in the area that might be the source of such product, DEQ leaped to the assumption that the Short Stop property was the source of such product and, on June 14, 2022, issued an Emergency Order to Short Stop. A copy of the Emergency Order is attached hereto as **Exhibit No. 5** to this Motion.

17. The UST systems, including the tanks, on the Short Stop property have been tested for leaks both before and after the leak in the sub-pump functional element described above was discovered and repaired, and have been found to be tight. DEQ disregarded such tests, and together with its failure to conduct adequate analysis of the product found on or about the Pony Express building, or to determine the location of any other USTs in the vicinity, DEQ and its contractor are currently breaking up the concrete covering the USTs at the Short Stop

property and will commence excavation of the USTs on that property, unless ordered to cease and desist such actions until further investigation can be conducted of the source of the product found in the various locations in the affected area.

18. Further, because of the haste and failure to fully investigate the source of the product found at and around the Pony Express building, and the issuance of the Emergency Order, Short Stop's business has been interrupted and terminated, and Short Stop will incur severe economic loss, business interruption, and expense in replacing the USTs that DEQ proposes to remove.

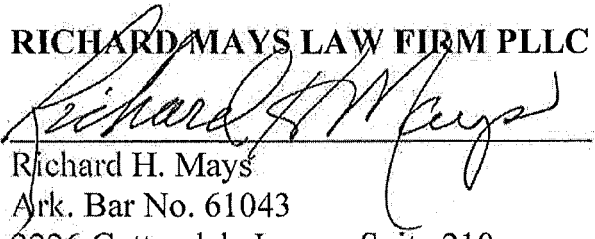
WHEREFORE, Petitioner prays that the Administrative Law Judge:

- (a) Order DEQ and its contractor to cease and desist from further excavation of USTs at the Short Stop site until a hearing on this Motion is held and the Commission acts on any recommendations that the Administrative Law Judge may make regarding this matter;
- (b) Schedule a hearing on this Motion within ten (10) calendar days of the date of the filing of this Motion in accordance with Regulation 8.503(B), unless otherwise agreed between Short Stop and DEQ;
- (c) Determine that the UST located on the Short Stop property was not the cause or source of the gasoline contamination located off the Short Stop property;

- (d) Rescind the Emergency Order issued by DEQ, and allow Short Stop and its contractors to submit a plan for the conduct of further investigation into the extent of contamination on the Short Stop property and, if appropriate, off the Short Stop property, resulting from the leak in the sub-pump functional element on the Short Stop tank system; and
- (e) Issue all other orders necessary and appropriate as the facts may dictate.

Respectfully submitted,

RICHARD MAYS LAW FIRM PLLC



Richard H. Mays

Ark. Bar No. 61043

2226 Cottdale Lane – Suite 210

Little Rock, AR 72202

Tel: 501-891-6116

Email: rmays@richmayslaw.com

njackson@richmayslaw.com

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date set forth below, he served a copy of the above and foregoing Motion on the Arkansas Department of Energy and Environment, Division of Environmental Quality (“DEQ”), by forwarding the same via email and by mailing a copy, postage pre-paid to:

Michael McAlister, Esq.
Deputy Chief Counsel
Office of Chief Counsel
Arkansas Department of Energy &
Environment
5301 Northshore Drive
North Little Rock, AR 72118
mcalister@adeq.state.ar.us

Dated: June 23, 2022.

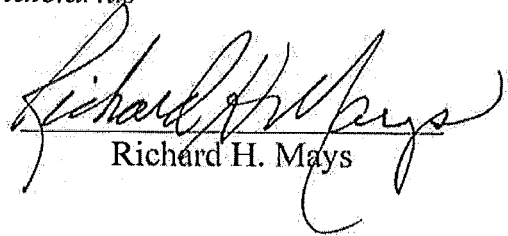

Richard H. Mays

EXHIBIT 1

INITIAL RESPONSE/ABATEMENT REPORT
(40 CFR Subpart F §280.61/280.62)

Mena Short Stop

1420 Highway 71 South
Mena, Arkansas
71953

Facility ID # 57000053
LUST Case # 57-0032
AFIN # 57-00350

Date:

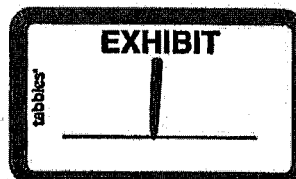
April 29, 2022

Prepared For:

Ms Saraswati Bhandari
24179 Dalmilla Drive
Wister, Oklahoma
74966

Prepared by:

Environmental Pollution Consultants, Inc.
P.O. Box 8782, Hot Springs Village, Arkansas 71910
epc.inc@suddenlink.net
501-922-7156





April 29, 2022

Mr. Jeff Tyler
ADEQ - Office of Land Resources
Assessment and Remediation - Regulated Storage Tanks
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

RE: INITIAL RESPONSE TO A RELEASE REPORT
Mena Short Stop
1420 Highway 71 South
Mena, Arkansas 71953
Facility ID # 57000053, LUST Case # 57-0032, AFIN # 57-00350

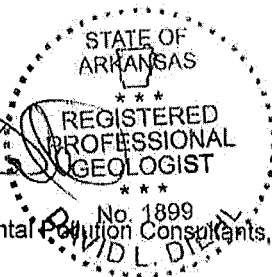
Dear Mr. Tyler:

Enclosed for your files is the report entitled "*Initial Response/Abatement Report (IRR)*, Mena Short Stop, LUST Case file #57-0032. This report outlines the activities in response to the discovery and report of a suspected/confirmed release at the above referenced facility.

If you have any questions please call 501-922-7156.

Sincerely,

David L. Diehl, PG
President/Environmental Pollution Consultants, Inc.



C: Sara Bhandari
file - Mena Short Stop

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INITIAL RESPONSE TO A RELEASE REPORT FORM

The following information shall be provided within twenty (20) calendar days of a confirmed release in accordance with 40 CFR 280.63(b). Each item shall be addressed in a type written report.

1. Facility ID#: **57000032**
2. Facility Name: **Mena Short Stop, 1420 Highway 71 South, Mena, Arkansas 71953**
3. System test failure, laboratory confirmation of petroleum contamination, or discovery of free product was reported to ADEQ within 24 hours of discovery, or another reasonable time period?
Yes X No

Suspected/Confirmed Release

A sudden loss alarm on the Veeder-Root auto monitoring system prompted reporting of a suspected release. Free product (~6") in tank pit (TP) observation well (OW).

Method of Notification: **Personal - Jeff Tyler - (ADEQ)**
(If by telephone, provide the name of the person contacted).

Field Office: **District 7 Area Inspector**

Date: **April 20, 2022**

Reported by: **Lonny Goodwin**

4. Date release confirmed: **April 20, 2022. (Visual Observation of free product in TP-OW-2)**
5. Describe how the release was discovered?: **Sudden loss alarm on the Veeder-Root auto monitoring system and TP-OW inspection. Found ~ 6" of free product in OW (TP OW-2). Found unleaded functional element leaking (crack). Replaced functional element. ADEQ was on site.**
6. Describe actions taken to prevent further release to the environment (removal of product from tank, etc.) and prevent further migration of the petroleum (removal of free product, contaminated soil, etc.). **System was shut down. All components of the system were visually inspected. Found cracked in the unleaded sub-pump functional element, subsequently replace. ADEQ was on site. All lines passed tightness testing conducted on April 19, 2022.**

INITIAL RESPONSE TO A RELEASE REPORT

Mena Short Stop
Facility ID # 57000053
LUST Case # 57-0032
AFIN # 57-00350

7. Describe the observations from the visual inspection of all aboveground releases and exposed belowground releases. **Free product was observed in TP OW-2. Weathered free product was observed in a crawl space of the Pony Express Printing and Engraving building approximately 200 feet south of the release location. Owner reported smell of gasoline, doors were opened to ventilate. ADEQ and the Mena Fire Chief were on site. Absorbent pads were placed on visible product.**
8. Provide all data resulting from the monitoring of vapors or free product. **The crawl space was monitored with an Eagle RKI LEL meter. No recordable explosive vapor levels were detected. ADEQ and the Mena Fire Chief were on site. Absorbent pads were placed on visible product.**

However, the owner of the Pony Express printing contacted EPC, Inc., on April 27, 2022, about vapors in the building again. Upon arrival a strong smell was noticed. (Smelled like Toluene). The doors were opened to ventilate the building. EPC installed a negative pressure venting fan to remove vapors from the crawl space and the building. The owner said the odor was significantly less the next morning. PID readings were collected within and around the building with a MiniRAE 3000 PID at the end of the day.

Store - 5.0 ppm

Crawl Space - 24.7ppm

Vent Fan - 17.9ppm

Water meter housing at back of building - 248.6ppm

9. Describe all actions taken to mitigate fire and safety hazards posed by vapors or free product that have migrated from the UST excavated zone, AST containment and entered into subsurface structures (such as sewers or basements). **Absorbent pads were placed on the weathered free product within the crawl space. EPC installed a negative pressure venting fan to remove vapors from the crawl space and the building. The owner said the odor was significantly less the next morning.**
10. Describe the amount of contaminated soil removed and the management (storage, treatment, and/or disposal) of contaminated soil. (NOTE: The owner and/or operator shall comply with all applicable State and local requirements.) **No soil was removed from the site.**
11. If applicable, provide the following: Date free product was discovered, amount removed, and the way it was managed (storage, treatment, and/or disposal). **Approximately, 6" of weathered free product was observed on April 20, 2022 (TP OW-2) (ADEQ - onsite) - On April 21, 2022, approximately, 2" of weathered free product was observed in TP OW-2. On April 27, 2022, free product was not detected in TP OW-2.**

INITIAL RESPONSE TO A RELEASE REPORT

Mena Short Stop
Facility ID # 57000053
LUST Case # 57-0032
AFIN # 57-00350

ATTACHMENT I

Maps & Photos

INITIAL RESPONSE TO A RELEASE REPORT

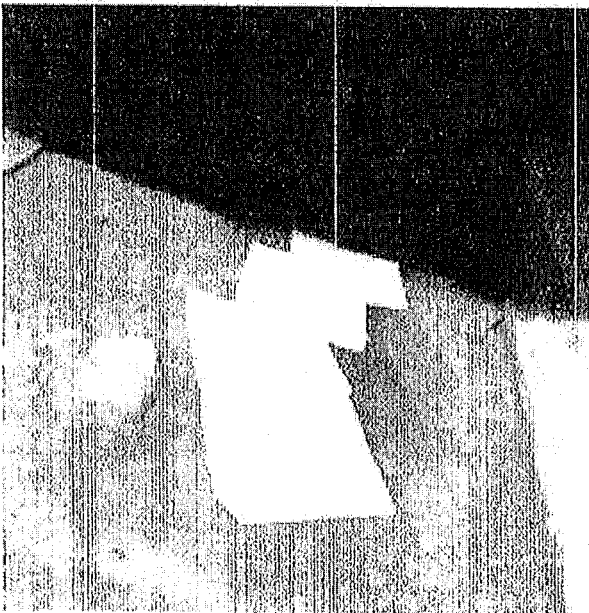
Mena Short Stop
Facility ID # 57000053
LUST Case # 57-0032
AFIN # 57-00350



Free product on water in crawl space .



Free Product Seeping from soil.



Absorbent Pads placed on product.

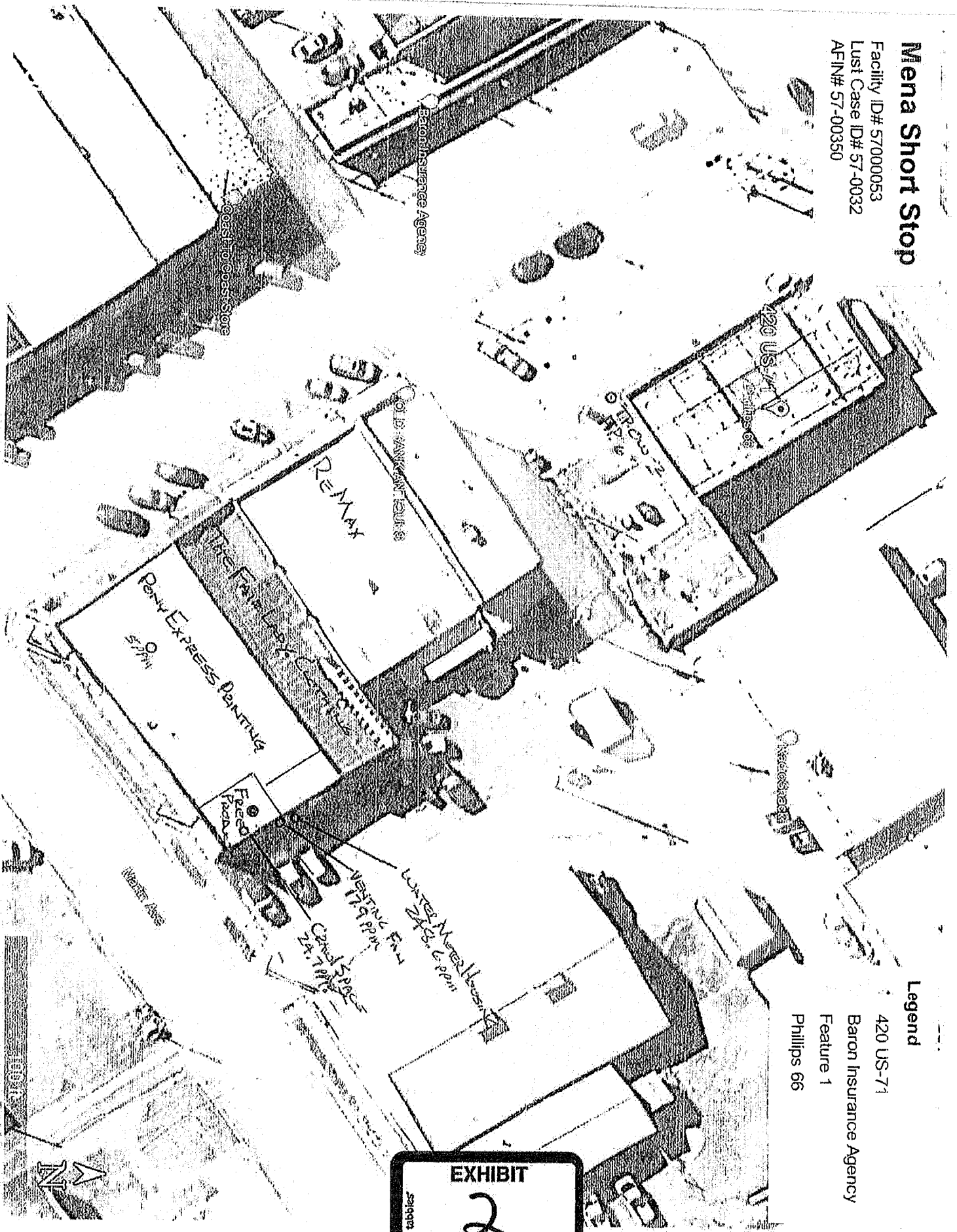


Crawl Space Vent fan.

EXHIBIT 2

Mena Short Stop

Facility ID# 57000053
Lust Case ID# 57-0032
AFIN# 57-00350



Legend

- 420 US-71
- Baron Insurance Agency
- Feature 1
- Phillips 66

EXHIBIT
2
tabbles

EXHIBIT 3



8100 National Dr. - Little Rock, AR 72209
501-455-3233 Fax 501-455-6118

23 May 2022

David Diehl
E.P.C.
P.O. Box 8782
Hot Springs Village, AR 71910

Project: Soil Sample(s)
Project Number: May 2022 -- Mena Short Stop-ER-Excavate
SDG Number: 2205243

Enclosed are the results of analyses for samples received by the laboratory on 16-May-22 09:53. If you have any questions concerning this report, please feel free to contact me.

Sample Receipt Information:

Custody Seals	✓
Containers Correct	✓
COC/Labels Agree	✓
Received On Ice	✓
Temperature on Receipt	3.0°C

Sincerely,

A handwritten signature in cursive script that reads "Norma James".

Norma James
Technical Director

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23 May 2022

David Diehl

E.P.C.

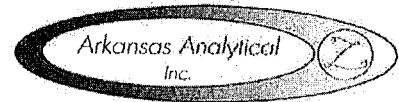
P.O. Box 8782

Hot Springs Village, AR 71910

Project: Soil Sample(s)

Project Number: May 2022 -- Mena Short Stop-ER-Excavate

Date Received: 16-May-22 09:53



CASE NARRATIVE

Sample Delivery Group – 2205243

One OR more of the qualifiers described below may appear in this report. Qualifiers in RED apply to this SDG (Sample Delivery Group).

ANALYTICAL QUALIFIERS:

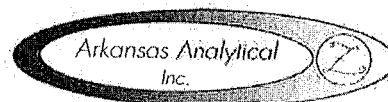
<u>Qualifier</u>	<u>Description</u>
EDL	Result was non-detect at an elevated detection limit due to one or more of the following: Sample Matrix, Sample Dilution, or Limited Sample Volume.
EX	Result exceeds DAILY MAXIMUM and/or MONTHLY AVERAGE.
EX2	The result exceeds the TCLP limit.
J	At client request, J-Values are reported. J-Values are considered "estimated" results as they are below the limit of quantitation yet above the method detection limit (MDL).
N	Insufficient Sample Weight as Required by Method.
T40	The ambient temperature exceeded 23 +/- 2°C during the TCLP rotation process
TCLP-1	TCLP extraction done in alternate ZHE due to sample matrix.

23 May 2022

David Diehl
E.P.C.

P.O. Box 8782
Hot Springs Village, AR 71910
Project: Soil Sample(s)

Project Number: May 2022 -- Mena Short Stop-ER-Excavate
Date Received: 16-May-22 09:53



ANALYTICAL RESULTS

Lab Number: 2205243-01
Sample Name: S-1 -- 3'
Date/Time Collected: 5/14/22 0:00
Sample Matrix: Soil

<u>8021B Analytes</u>	<u>Units</u>	<u>Result</u>	<u>Qualifier(s)</u>	<u>Date/Time Analyzed</u>	<u>Batch</u>	<u>Method</u>
Benzene	mg/kg	5.65	EDL	5/18/22 17:23	B205294	SW 8021B, Rev 2 1996
Methyl t-Butyl Ether	mg/kg	< 1.00		5/18/22 17:23	B205294	SW 8021B, Rev 2 1996
Toluene	mg/kg	119		5/18/22 17:23	B205294	SW 8021B, Rev 2 1996
Ethylbenzene	mg/kg	25.2		5/18/22 17:23	B205294	SW 8021B, Rev 2 1996
Naphthalene	mg/kg	6.15		5/18/22 17:23	B205294	SW 8021B, Rev 2 1996
m,p-Xylene	mg/kg	265		5/18/22 17:23	B205294	SW 8021B, Rev 2 1996
o-Xylene	mg/kg	114		5/18/22 17:23	B205294	SW 8021B, Rev 2 1996
Fluorobenzene [surr]	%	98.8		5/18/22 17:23	B205294	SW 8021B, Rev 2 1996
4-Bromochlorobenzene [surr]	%	99.9		5/18/22 17:23	B205294	SW 8021B, Rev 2 1996

<u>TPH-DRO by 8015D</u>	<u>Units</u>	<u>Result</u>	<u>Qualifier(s)</u>	<u>Date/Time Analyzed</u>	<u>Batch</u>	<u>Method</u>
TPH-DRO	mg/kg	221		5/17/22 17:20	B205278	SW 8015D, Rev 4 2003 (Mod)
o-Terphenyl [surr]	%	97.2		5/17/22 17:20	B205278	SW 8015D, Rev 4 2003 (Mod)

<u>TPH-GRO by 8015D</u>	<u>Units</u>	<u>Result</u>	<u>Qualifier(s)</u>	<u>Date/Time Analyzed</u>	<u>Batch</u>	<u>Method</u>
TPH-GRO	mg/kg	2200		5/18/22 17:23	B205294	SW 8015D, Rev 4 2003 (Mod)
Fluorobenzene [surr]	%	98.8		5/18/22 17:23	B205294	SW 8015D, Rev 4 2003 (Mod)
4-Bromochlorobenzene [surr]	%	99.9		5/18/22 17:23	B205294	SW 8015D, Rev 4 2003 (Mod)

ANALYTICAL RESULTS

Lab Number: 2205243-02
Sample Name: S-2 -- 4'
Date/Time Collected: 5/14/22 0:00
Sample Matrix: Soil

<u>8021B Analytes</u>	<u>Units</u>	<u>Result</u>	<u>Qualifier(s)</u>	<u>Date/Time Analyzed</u>	<u>Batch</u>	<u>Method</u>
Benzene	mg/kg	47.9	EDL	5/18/22 17:51	B205294	SW 8021B, Rev 2 1996
Methyl t-Butyl Ether	mg/kg	< 2.00		5/18/22 17:51	B205294	SW 8021B, Rev 2 1996
Naphthalene	mg/kg	16.7		5/18/22 17:51	B205294	SW 8021B, Rev 2 1996
Fluorobenzene [surr]	%	97.2		5/18/22 17:51	B205294	SW 8021B, Rev 2 1996
4-Bromochlorobenzene [surr]	%	98.6		5/18/22 17:51	B205294	SW 8021B, Rev 2 1996

<u>TPH-DRO by 8015D</u>	<u>Units</u>	<u>Result</u>	<u>Qualifier(s)</u>	<u>Date/Time Analyzed</u>	<u>Batch</u>	<u>Method</u>
TPH-DRO	mg/kg	716		5/17/22 17:52	B205278	SW 8015D, Rev 4 2003 (Mod)
o-Terphenyl [surr]	%	96.8		5/17/22 17:52	B205278	SW 8015D, Rev 4 2003 (Mod)

23 May 2022

David Diehl
E.P.C.

P.O. Box 8782
Hot Springs Village, AR 71910
Project: Soil Sample(s)

Project Number: May 2022 -- Mena Short Stop-ER-Excavate
Date Received: 16-May-22 09:53



ANALYTICAL RESULTS

Lab Number: 2205243-02RE1
Sample Name: S-2 -- 4'
Date/Time Collected: 5/14/22 0:00
Sample Matrix: Soil

<u>8021B Analytes</u>	<u>Units</u>	<u>Result</u>	<u>Qualifier(s)</u>	<u>Date/Time Analyzed</u>	<u>Batch</u>	<u>Method</u>
Toluene	mg/kg	558		5/19/22 10:54	B205294	SW 8021B, Rev 2 1996
Ethylbenzene	mg/kg	151		5/19/22 10:54	B205294	SW 8021B, Rev 2 1996
m,p-Xylene	mg/kg	686		5/19/22 10:54	B205294	SW 8021B, Rev 2 1996
o-Xylene	mg/kg	266		5/19/22 10:54	B205294	SW 8021B, Rev 2 1996
Fluorobenzene [surr]	%	98.2		5/19/22 10:54	B205294	SW 8021B, Rev 2 1996
4-Bromochlorobenzene [surr]	%	97.5		5/19/22 10:54	B205294	SW 8021B, Rev 2 1996
<u>TPH-GRO by 8015D</u>	<u>Units</u>	<u>Result</u>	<u>Qualifier(s)</u>	<u>Date/Time Analyzed</u>	<u>Batch</u>	<u>Method</u>
TPH-GRO	mg/kg	6440		5/19/22 10:54	B205294	SW 8015D, Rev 4 2003 (Mod)
Fluorobenzene [surr]	%	98.2		5/19/22 10:54	B205294	SW 8015D, Rev 4 2003 (Mod)
4-Bromochlorobenzene [surr]	%	97.5		5/19/22 10:54	B205294	SW 8015D, Rev 4 2003 (Mod)

QUALITY CONTROL RESULTS

TPH-DRO by 8015D -- Batch: B205278 (Soil)
Prepared: 17-May-22 08:28 By: TB -- Analyzed: 17-May-22 10:33 By: TB

<u>Analyte</u>	<u>BLK</u>	<u>LCS / LCSD</u>	<u>MS / MSD</u>	<u>Dup</u>	<u>RPD</u>	<u>Qualifiers</u>
TPH-DRO	<10.0 mg/kg	93.3% / NA	81.9% / 79.6%		2.86%	
o-Terphenyl [surr]	94.4 %	104% / NA	87.2% / 88.5%		NA	

8021B Analytes -- Batch: B205294 (Soil)
Prepared: 17-May-22 11:47 By: CT -- Analyzed: 17-May-22 18:11 By: ct

<u>Analyte</u>	<u>BLK</u>	<u>LCS / LCSD</u>	<u>MS / MSD</u>	<u>Dup</u>	<u>RPD</u>	<u>Qualifiers</u>
Benzene	<0.100 mg/kg	96.2% / NA	89.9% / 95.0%		1.36%	
Ethylbenzene	<0.100 mg/kg	120% / NA	120% / 127%		1.31%	
m,p-Xylene	<0.200 mg/kg	118% / NA	121% / 127%		0.773%	
Methyl t-Butyl Ether	<0.100 mg/kg	87.3% / NA	77.5% / 82.7%		2.29%	
Naphthalene	<0.300 mg/kg	93.3% / NA	83.8% / 90.0%		3.03%	
o-Xylene	<0.100 mg/kg	114% / NA	114% / 120%		0.896%	
Toluene	<0.100 mg/kg	101% / NA	98.5% / 103%		0.502%	
TPH-GRO	<2.00 mg/kg	110% / NA	111% / 116%		0.0135%	
4-Bromochlorobenzene [surr]	95.8 %	98.4% / NA	97.8% / 96.5%		NA	
Fluorobenzene [surr]	97.1 %	100% / NA	100% / 100%		NA	

QUALIFIER(S)

*EDL: Elevated Detection Limit Due to one or more of the following: Sample Matrix, Sample Dilution, or Limited Sample Volume

23 May 2022

David Diehl

E.P.C.

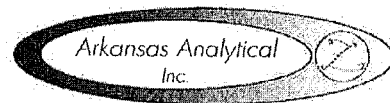
P.O. Box 8782

Hot Springs Village, AR 71910

Project: Soil Sample(s)

Project Number: May 2022 -- Mena Short Stop-ER-Excavate

Date Received: 16-May-22 09:53



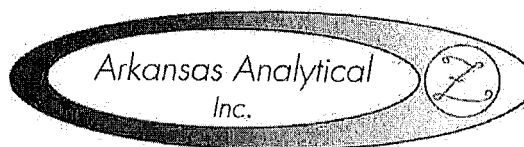
All Analysis performed according to EPA approved methodology when available:
SW 846, Revised December, 1996; EPA 600/4-79-020, Revised March, 1983; Standard Methods.
Instrument calibration and quality control samples performed at or above frequency specified in analytical method.

A handwritten signature in cursive script that reads "Norma James". The signature is written in dark ink and is positioned above a horizontal line.

Reviewed by:

Norma James
Technical Director

REVISED REPORT



8100 National Dr. - Little Rock, AR 72209
501-455-3233 Fax 501-455-6118

31 May 2022

David Diehl
E.P.C.
P.O. Box 8782
Hot Springs Village, AR 71910

RE: Soil Sample(s)
Project Number: May 2022 -- Mena Short Stop-ER-Excavate
SDG Number: 2205243

Enclosed are the results of analyses for samples received by the laboratory on 16-May-22 09:53. If you have any questions concerning this report, please feel free to contact me.

Sample Receipt Information:

Custody Seals	✓
Containers Correct	✓
COC/Labels Agree	✓
Received On Ice	✓
Temperature on Receipt	3.0°C

Sincerely,

A handwritten signature in cursive script that reads "Norma James".

Norma James
Technical Director

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31 May 2022

David Diehl

E.P.C.

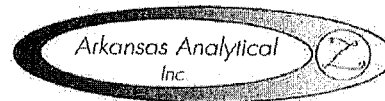
P.O. Box 8782

Hot Springs Village, AR 71910

Project: Soil Sample(s)

Project Number: May 2022 -- Mena Short Stop-ER-Excavate

Date Received: 16-May-22 09:53



REVISED REPORT

CASE NARRATIVE

Sample Delivery Group – 2205243

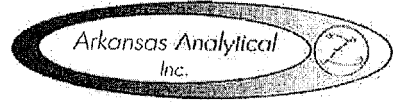
Original Report Sent – 23-May-22

Revised Analytical and/or Quality Control Results are Discussed Below:

At client request, a composite sample was created from samples -01 and -02. TCLP Benzene and TCLP Lead were added to the composite sample 2205243-03. The added analysis/results are on the following revised report page(s).

31 May 2022

David Diehl
E.P.C.
P.O. Box 8782
Hot Springs Village, AR 71910
Project: Soil Sample(s)



Project Number: May 2022 -- Mena Short Stop-ER-Excavate
Date Received: 16-May-22 09:53

REVISED REPORT

ANALYTICAL RESULTS

Lab Number: 2205243-03
Sample Name: Composite of S1 & S2
Date/Time Collected: 5/14/22 0:00
Sample Matrix: Soil

TCLP Volatiles	Units	Result	Qualifier(s)	Date/Time Analyzed	Batch	Method
1,2-Dichloroethane-d4 [surr]	%	102		5/27/22 11:19	B205483	SW 1311,8260C
4-Bromofluorobenzene [surr]	%	102		5/27/22 11:19	B205483	SW 1311,8260C
Toluene-d8 [surr]	%	98.6		5/27/22 11:19	B205483	SW 1311,8260C
Benzene	mg/L	0.413		5/27/22 11:19	B205483	SW 1311,8260C

ANALYTICAL RESULTS

Lab Number: 2205243-03RE1
Sample Name: Composite of S1 & S2
Date/Time Collected: 5/14/22 0:00
Sample Matrix: Soil

TCLP Metals	Units	Result	Qualifier(s)	Date/Time Analyzed	Batch	Method
Lead	mg/L	< 0.016		5/27/22 12:07	B205515	SW 1311,6010C

QUALITY CONTROL RESULTS

TCLP Volatiles -- Batch: B205483 (Water)

Prepared: 26-May-22 08:36 By: CT -- Analyzed: 26-May-22 12:16 By: ct

Analyte	BLK	LCS / LCSD	MS / MSD	Dup	RPD	Qualifiers
Benzene	<0.0200 mg/L	103% / NA	118% / 117%		0.599%	
1,2-Dichloroethane-d4 [surr]	104 %	100% / NA	101% / 102%		NA	
4-Bromofluorobenzene [surr]	103 %	102% / NA	102% / 101%		NA	
Toluene-d8 [surr]	99.5 %	102% / NA	100% / 101%		NA	

TCLP Metals -- Batch: B205515 (Water)

Prepared: 27-May-22 08:26 By: CF -- Analyzed: 27-May-22 11:48 By: CF

Analyte	BLK	LCS / LCSD	MS / MSD	Dup	RPD	Qualifiers
Lead	<0.016 mg/L	104% / NA	105% / 102%		3.31%	

31 May 2022

David Diehl

E.P.C.

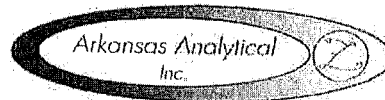
P.O. Box 8782

Hot Springs Village, AR 71910

Project: Soil Sample(s)

Project Number: May 2022 -- Mena Short Stop-ER-Excavate

Date Received: 16-May-22 09:53



REVISED REPORT

All Analysis performed according to EPA approved methodology when available:
SW 846, Revised December, 1996; EPA 600/4-79-020, Revised March, 1983; Standard Methods.
Instrument calibration and quality control samples performed at or above frequency specified in analytical method.

A handwritten signature in cursive script that reads "Norma James".

Reviewed by:

Norma James
Technical Director



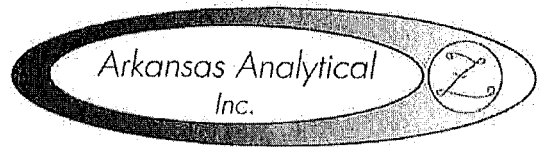
8100 NATIONAL DRIVE
 Little Rock, AR 72209
 PHONE: 501-455-3233
 FAX: 501-455-6118

CHAIN OF CUSTODY RECORD

CLIENT INFORMATION			Project Description			Turnaround Time			Preservation Codes:						
E.P.C.	ER - Excavate - Pint Shop		24 Hour	1. Cool 4 Degree Centigrade		4. Thiosulfate for Dechlorination									
P.O. Box 8782	Mena Short Stop		48 Hour	2. Sulfuric Acid (H ₂ SO ₄), pH < 2		5. Hydrochloric Acid (HCl)									
Hot Springs Village, AR 71910	Facility ID#57000053; LUST Case#57-0032		72 Hour	3. Nitric Acid (HNO ₃), pH < 2		6. Sodium Hydroxide (NaOH), pH > 12									
Attr: David Diehl	Reporting Information		(Routine 6 Day)	TEST PARAMETERS		Bottle Type Code									
	Telephone: 501-922-7156		Recovery Code:			G = Glass, P = Plastic									
	e-mail: epc.inc@studentink.net		Bottle Type:			V = Sealed, A = Airtight									
Sampler(s) Signature			Sampler(s) Printed			Arkansas Analytical Work Order Number:									
<i>[Signature]</i>			David L. Diehl			2205243									
Field Number	SAMPLE COLLECTION Dates	Time/s	Grab	Composite	Number of Bottles	Sample Matrix	IDENTIFICATION/ DESCRIPTION	BTEX	MTBE	Naphthalene	TPH-GRO	TPH-DRO	TCUP Benzene	TCUP Pb	Bottle Type Code
	5/14/2022		X		1	soil	S-1 - 3'	X	X	X	X	X	X	X	01
	5/14/2022		X		1	soil	S-2 - 4'	X	X	X	X	X	X	X	02
	5-14-22			X		soil	Composite of S-1 + S-2.								03
* Per David Diehl - Composite S1 + S2 to one sample - Analyze for TOLU / Benzene + Pb															
1. Relinquished by: (Signature)			Date/Time			2. Received by: (Signature)			SAMPLE CONDITION UPON RECEIPT IN LAB			REMARKS / SAMPLE COMMENTS			
<i>[Signature]</i>			5/16/22 953			<i>[Signature]</i>			1. CUSTODY SEALS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 2. CONTAINERS CORRECT: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 3. COOLABELS AGREE: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 4. PRESERVATION CONTAINER: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 5. RECEIVED ON ICE: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 6. TEMPERATURE ON RECEIPT: 3.0 C - 11 F #5			* Add Tolu Benzene + TCUP Pb to 02 Sample per David Diehl 5/25/22 (3)			
3. Relinquished by: (Signature)			Date/Time			4. Received by Lab: (Signature)			FOR COMPLETION BY LAB ONLY						
<i>[Signature]</i>						<i>[Signature]</i>									

EXHIBIT 4

REVISED REPORT



8100 National Dr. - Little Rock, AR 72209
501-455-3233 Fax 501-455-6118

02 June 2022

David Diehl
E.P.C.
P.O. Box 8782
Hot Springs Village, AR 71910

RE: Soil Sample(s)
Project Number: May 2022 -- Mena Short Stop-ER-Excavate
SDG Number: 2205243

Enclosed are the results of analyses for samples received by the laboratory on 16-May-22 09:53. If you have any questions concerning this report, please feel free to contact me.

Sample Receipt Information:

Custody Seals	✓
Containers Correct	✓
COC/Labels Agree	✓
Received On Ice	✓
Temperature on Receipt	3.0°C

Sincerely,

A handwritten signature in cursive script that reads "Norma James".

Norma James
Technical Director

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02 June 2022

David Diehl

E.P.C.

P.O. Box 8782

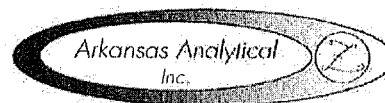
Hot Springs Village, AR 71910

Project: Soil Sample(s)

Project Number: May 2022 -- Mena Short Stop-ER-Excavate

Date Received: 16-May-22 09:53

REVISED REPORT



CASE NARRATIVE

Sample Delivery Group – 2205243

Original Report Sent – 23-May-22

Revised Analytical and/or Quality Control Results are Discussed Below:

At client request, Lead was added to sample 2205243-02. The added analysis/results are on the following revised report page(s).

02 June 2022

David Diehl

E.P.C.

P.O. Box 8782

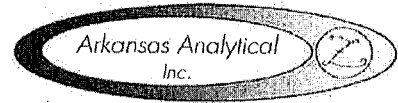
Hot Springs Village, AR 71910

Project: Soil Sample(s)

Project Number: May 2022 -- Mena Short Stop-ER-Excavate

Date Received: 16-May-22 09:53

REVISED REPORT



ANALYTICAL RESULTS

Lab Number: 2205243-02
 Sample Name: S-2 -- 4'
 Date/Time Collected: 5/14/22 0:00
 Sample Matrix: Soil

Total Metals	Units	Result	Qualifier(s)	Date/Time Analyzed	Batch	Method
Lead	mg/kg dry	13.0		6/1/22 14:56	B206005	SW 6010C Rev 3 (2007)

QUALITY CONTROL RESULTS

Total Metals -- Batch: B206005 (Soil)

Prepared: 01-Jun-22 08:32 By: CF -- Analyzed: 01-Jun-22 14:20 By: CF

Analyte	BLK	LCS / LCSD	MS / MSD	Dup	RPD	Qualifiers
Lead	<5.00 mg/kg wet	98.2% / NA	125% / 122%		3.64%	

All Analysis performed according to EPA approved methodology when available:
 SW 846, Revised December, 1996; EPA 600/4-79-020, Revised March, 1983; Standard Methods.
 Instrument calibration and quality control samples performed at or above frequency specified in analytical method.

Reviewed by:

Norma James
Technical Director



8100 NATIONAL DRIVE
 Little Rock, AR 72209
 PHONE: 501-455-3233
 FAX: 501-455-8118

CHAIN OF CUSTODY RECORD

CLIENT INFORMATION			Project Description			Turnaround Time			Preservation Codes:					
E.P.C. P.O. Box 8782 Hot Springs Village, AR 71910			ER - Excavate - Print Shop Mena Short Stop Facility ID#57000053; LUST Cases#7-0032			24 Hour 48 Hour 72 Hour			1. Cool, 4 Degrees Centigrade 2. Sulfuric Acid (H ₂ SO ₄), pH < 2 3. Nitric Acid (HNO ₃), pH < 2					
Attn: David Diehl			Telephone: 501-922-7156 e-mail: epd@studenlink.net			Reporting Information (Routine 15 Day) Preserving Code Bottle Type			4. Thiocyanate for Deschlorination 5. Hydrochloric Acid(HCl) 6. Sodium Hydroxide (NaOH), pH > 12					
Sampler(s) Signature 			Sampler(s) Printed David L. Diehl			BTEX MTBE Naphthalene TPH-GRO TPH-DRO TCUP Benzene TCUP Pb Total Pb			Arkansas Analytical Work Order Number: 2205243					
Field Number	SAMPLE COLLECTION Dates	Time/s	Cont	Number of Sample Batches	Sample Matrix	IDENTIFICATION DESCRIPTION	BTEX	MTBE	Naphthalene	TPH-GRO	TPH-DRO	TCUP Benzene	TCUP Pb	Total Pb
	5/14/2022		X	1	SOIL	S-1 -- 3'	X	X	X	X	X	X	X	X
	5/14/2022		X	1	SOIL	S-2 -- 4'	X	X	X	X	X	X	X	X
	5-14-22				SOIL	COMPOSITE OF S-1 + S-2								
* Per David Diehl - Composite S1 + S2 TO ONE SAMPLE - ANALYZE FOR TOXIC/Benzene + Pb														
1. Relinquished by: (Signature)			2. Received by: (Signature)			SAMPLE CONDITION UPON RECEIPT IN LAB			REMARKS / SAMPLE COMMENTS					
						1. CUSTODY SEALS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 2. CONTAINERS CORRECT: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 3. COOL LABELS AGREE: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No PRESERVATION CONFIRMED: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 5. RECEIVED ON ICE: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 6. TEMPERATURE ON RECEIPT: 3 C-111#5			* Add TCUP Benzene TCUP Pb TO -02 Sample per David Diehl 5/25/22 (8) * Add Total Pb TO -02 - PER David Diehl - 5/29/22 - (8)					
3. Relinquished by: (Signature)			4. Received by Lab: (Signature)			FOR COMPLETION BY LAB ONLY								

EXHIBIT 5

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LIS: 22-068

MENA SHORT STOP, LLC.
420 HWY. 71 SOUTH
MENA, AR 71953

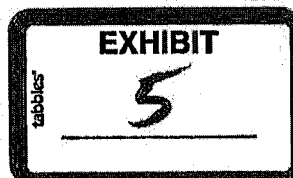
EMERGENCY ORDER

The Chief Administrator of the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) has determined that emergency conditions exist due to a release of a regulated substance and that said release presents an imminent hazard and an emergency requiring immediate action to protect the public health, safety, and welfare, and the environment.

Therefore, pursuant to authority provided as set forth in Ark. Code Ann. § 8-7-809, and the rules promulgated thereunder; the Chief Administrator makes the following Findings of Fact and orders the following remedial actions to be taken immediately to remedy the emergency conditions.

FINDINGS OF FACT

1. On April 20, 2022, a regulated storage tank inspector from the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) was contacted by the Polk County ADEM about petroleum odors in the Corner Shoppe and Pony Express Printing (The Corner Shoppe), located at 822 Mena Street, approximately 200 feet south of the Mena Short Stop fueling station and convenience store located at 420 Highway 71 South, Mena, Polk County, Arkansas (the Site). The Lonny Goodwin Company, Inc., the equipment contractor at the Site, confirmed a fuel release on behalf of the responsible party (RP), Mena Short Stop, LLC. Mr. Goodwin contacted the RST inspector and reported a leak under a dispenser and 6 inches of free product gasoline in the tank pit monitoring well MW-2. The unleaded gasoline fuel tank was removed from service.
2. On April 21, 2022, the DEQ RST inspector conducted a follow-up inspection at the Site. Repairs were made to the pump and the unleaded tank was put back into service. Mena Short Stop hired Environmental Pollution Consultants, Inc. (EPC) to assist in the remediation activities at the Site.



3. The leaking underground storage tank (LUST) case was referred to DEQ RST Inspector Supervisor Randy Beard on April 22, 2022, and on April 25, 2022, the LUST case was referred to the RST Assessment and Remediation staff of DEQ for further review.
4. Emergency response activities at the Site were authorized by DEQ on April 30, 2022.
5. On May 1, 2022, an 8-hour Mobile Dual Phase Extraction (MDPE) event was conducted to remove leaked fuel from the UST basin.
6. On May 3-4, 2022 a 48-hour MDPE event was conducted to remove additional leaked fuel from the UST basin. Between May 1 and May 4, an estimated 1,031 vapor-equivalent gallons of petroleum was removed from the UST basin.
7. On May 10, 2022, DEQ received an updated report from EPC on the emergency response actions and results.
8. On May 11, 2022, DEQ requested additional emergency response activities.
9. On May 14, 2022, EPC excavated soil around the water meter behind The Corner Shoppe. The free product in the excavated area behind The Corner Shoppe measured 1.2 inches deep. Approximately 75 gallons of free product gasoline was removed.
10. On May 16, 2022, citing the inadequacy of EPC's efforts to abate acute vapor intrusion into the off-site property at The Corner Shoppe, DEQ staff requested services from its on-call contractor AECOM Technical Services. Requested actions were limited to the elimination of acute vapors into that commercial structure.
11. In response to the presence of petroleum contamination in soil and groundwater on the Site property, as well as on adjacent properties (including The Corner Shoppe), DEQ requested an Interim Remediation Work Plan to "remove as much contamination as possible, as quickly as possible" commencing with a underground storage tank (UST) system removal and over-excavation of contaminated soils. DEQ made this determination based upon the threat of continued migration of contamination onto adjacent properties, the age of the tanks, (33 years), and evidence of previously unreported spills. Under the direction of the Mena Short Stop, EPC instead submitted a work plan to only excavate contaminated soils on the adjacent impacted properties.
12. EPC's remediation work plan failed to address DEQ's request for removal of petroleum-contaminated soil or groundwater from the facility Site and

offered no alternate plan for remediation of the facility Site. Subsequent to submission of their limited work plan, Saraswati Bhandari of Mena Short Stop communicated the desire to take a "phased" approach to remediating the property and did not want to remove the UST system because it would "put us out of business". Neither Bhandari for Mena Short Stop nor the consultant EPC offered an alternative plan to meet DEQ's requested objective of removing "as much contamination as possible as quickly as possible".

Based on the facts and nature of this situation, the Chief Administrator determines that an emergency exists and issues this Order pursuant to Ark. Code Ann. § 8-7-809.

ORDER of REMEDIAL ACTION

The Chief Administrator orders the following:

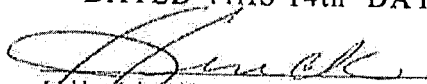
1. Immediate cessation of operation of the UST system at Mena Short Stop fueling station and convenience store located at 420 Highway 71 South, Mena, Polk County, Arkansas (the Site).
2. The RP immediately initiate the necessary corrective action at the facility Site for removal of the UST system and surrounding contamination, including but not limited to removal of all existing product from the UST system, contracting with a licensed contractor with a date of commencement, and submission of an acceptable work plan demonstrating the technical capability and commitment of necessary financial resources adequate for the scope of the work.
3. If the RP fails to comply as ordered within the next 24 hours from issuance of this order, DEQ shall take immediate corrective action to protect the public health, welfare and the environment by removing the UST system and removing the petroleum contamination that surrounds the UST system as quickly as possible to eliminate further migration of fuel onto the adjacent properties.

To prevent endangerment to public health, safety, and welfare and to the environment, DEQ shall take necessary actions to include hiring and paying for personnel and equipment to properly abate the endangerments with such costs being billed to the responsible party, if identified, along with applicable charges as allowed by law, in accordance with Ark. Code Ann. § 8-7-801 *et seq.* and § 8-7-901 *et seq.*

Nothing in this Order shall limit the rights of DEQ to issue further orders to pursue any further enforcement actions for remediation, penalties, and costs from any party.

This Order is effective immediately upon issuance and is confirmed by signature of the Chief Administrator.

DATED THIS 14th DAY of JUNE, 2022, at 8:03 a.m.



Julie Linek,
Chief Administrator, Division of Environmental Quality