

Mr. Mostafa Mehran  
Arkansas Department of Environmental Quality  
5301 Northshore Drive  
North Little Rock, Arkansas 72118

**Re: Response to ADEQ Correspondence Dated December 10, 2015  
Third Quarter 2015 Progress Report – November 2015  
Whirlpool Facility - Fort Smith, Arkansas  
EPA No. ARD042755389  
AFIN No. 66-00048  
CAO LIS 13-202**

Dear Mr. Mehran:

Date January 13, 2016

Ramboll Environ US Corporation (Ramboll Environ), on behalf of Whirlpool Corporation, is submitting this response to Arkansas Department of Environmental Quality's (ADEQ) December 10, 2015, comment letter on Ramboll Environ's Third Quarter 2015 Progress Report dated November 13, 2015 (the ADEQ comment letter was received on December 14, 2015). ADEQ comments are provided in italics below and the respective Whirlpool response follows.

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## **GROUNDWATER MONITORING REPORT**

**3.3.2.1 Chemical Lines of Evidence:** *The sampling of the MNA parameters at the locations where trichloroethene (TCE) concentrations are below 5 micrograms per liter ( $\mu\text{g/L}$ ) provides valuable background information about the unaffected aquifer geochemical nature. This information is useful as background information in comparison to the affected portions of the aquifer. Please continue to sample all new monitoring wells, including plume boundary wells with TCE concentration less than 5  $\mu\text{g/L}$ , for natural attenuation (NA) parameters until trends are established for these wells.*

**Ramboll Environ Response:** Agree. NA parameters have been monitored eight times at 23 boundary well locations during the last two years (these wells are also being monitored again during the week of January 11, 2016). Trends for these boundary wells have been established.

**Attachment D, Deed Restrictions:** *The deed restriction for the property located at 1400 Jacobs Avenue is not included. The filed deed restriction should be included in the report. It is also noted that the deed restrictions for the properties located at 5919 Ferguson Street and 1410 Jacobs Avenue have not been filed. Please provide an update*

*regarding the status of the properties located at 5919 Ferguson Street and 1410 Jacobs Avenue.*

**Ramboll Environ Response:** The deed restriction for the property located at 1400 Jacobs Avenue is included as an attachment to this response letter.

Whirlpool agreed to a settlement with the 1410 Jacobs Avenue property owner on December 23, 2015, and is in the process of obtaining signed documents and filing the deed restriction (identical deed restriction used for all properties precluding the use of groundwater). The deed restriction for the 1410 Jacobs Avenue is expected to be filed with Sebastian County by late January 2016. The executed copy will be forwarded to ADEQ under separate cover.

Whirlpool has met with officials of the not for profit organization that owns the 5919 Ferguson Street property. These discussions have been very productive regarding a parcel that is vacant and used for outdoor parking. The settlement negotiation process has been slowed for reasons wholly unrelated to the negotiations themselves and internal to the non-profit organization. Whirlpool is confident a settlement agreement will be executed soon. The 5919 Ferguson Street property is 300 feet northwest and cross-gradient from the western boundary of the north plume; therefore, has never been impacted by the groundwater plume. There are no complete exposure pathways for this property, therefore no health risks exist associated with the continued and future use of this property.

-ooOoo-

Yours sincerely,



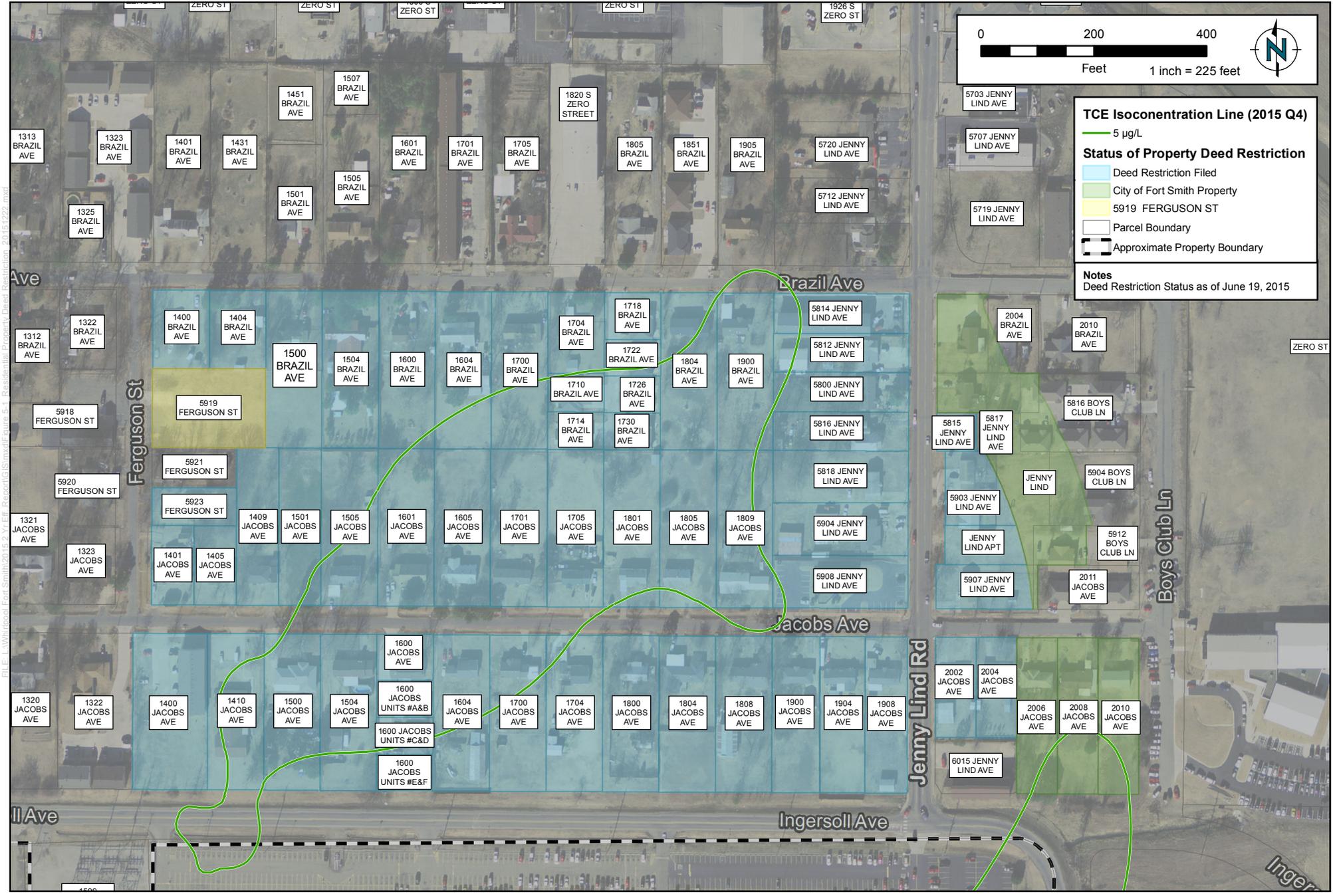
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## **LIST OF ATTACHMENTS**

Figure 5-1: Status of Residential Property Deed Restrictions  
Appendix A: Residential Property Deed Restriction for 1400 Jacobs Avenue

## FIGURE



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**STATUS OF RESIDENTIAL PROPERTY DEED RESTRICTION**

Whirlpool Facility - Fort Smith, Arkansas

**APPENDIX A**

Residential Property Deed Restriction for 1400 Jacobs Avenue

STATE OF ARKANSAS )  
 )  
 ) **DECLARATION OF COVENANTS,**  
 ) **CONDITIONS AND RESTRICTIONS**  
COUNTY OF SEBASTIAN )

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made as of the date set forth on the signature page hereof by Larry Denton, as Administrator (a/k/a Personal Representative) of the Estate of Otis C. Denton (the "Declarant").

WITNESSETH

WHEREAS, Declarant is the owner of the real property described on Exhibit A ("Property") and desires to restrict the Property as provided herein.

NOW THEREFORE, Declarant hereby declares that all of the Property shall be held, sold, used, and conveyed subject to the following restrictions, covenants, and conditions, which shall run with the title to the Property. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Property, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of the owner of the Property.

**BY THE RECORDING OF A DEED OR THE ACCEPTANCE OF TITLE TO THE PROPERTY OR ANY INTEREST THEREIN, THE PERSON TO WHOM SUCH PARCEL OR INTEREST THEREIN IS CONVEYED AND SUCH PERSON'S HEIRS, LEGAL REPRESENTATIVES, SUCCESSORS, LESSEES, GRANTEEES, ASSIGNS AND BENEFICIARIES SHALL BE DEEMED TO HAVE AGREED TO BE BOUND BY THIS DECLARATION.**

1. The Property has groundwater within or beneath it that has been determined by the Arkansas Department of Environmental Quality (the "Department") to be contaminated with trichloroethylene ("TCE"), making it unsafe for consumptive uses.
2. Contaminated groundwater under the Property shall not be extracted, disturbed, or utilized in any way, except for:
  - (a) extracting, treating and monitoring groundwater in accordance with a monitoring plan approved by the Department;
  - (b) dewatering or excavating beneath the water table, if incidental to normal construction activities, with prior written approval of the Department; or,
  - (c) incidental passive collection of groundwater that may enter any structures or trenches constructed below the ground surface, provided that said groundwater is managed in accordance with applicable law.
3. With the exception of personal injury claims, all claims for damages related to TCE contamination of the property by Whirlpool Corporation have been released.
4. The covenants, conditions and restrictions set forth herein shall run with the title to the Property and shall be binding upon Declarant and his/her successors and assign shall

include the following notice on all deeds, mortgages, plats, or any legal instruments used to convey any interest in the Property (failure to comply with this paragraph does not impair the validity or enforceability of this Declaration):

NOTICE: This Property is subject to Declaration of Covenants, Conditions and Restrictions recorded at the Register of Deeds of Sebastian County in Book \_\_\_\_, Page \_\_\_\_.

- 5. This Declaration shall bind and restrict the Property for a period of years extending until the clean up goals established by the Department or a successor governmental agency are met and the Department determines that the restrictions set forth herein are no longer required, at which time this Declaration shall be null and void and the restrictions contained herein shall have no force or effect.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration, this 24 day of SEP, 2015.

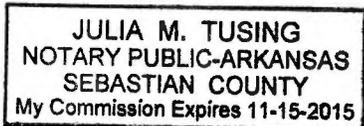
[Signature]  
LARRY DENTON, AS ADMINISTRATOR (A/K/A PERSONAL REPRESENTATIVE) OF THE ESTATE OF OTIS C. DENTON

STATE OF ARKANSAS )  
 )  
COUNTY OF Sebastian )

ACKNOWLEDGMENT

I, Julia M. Tusing (Notary Public for the State of Arkansas), do hereby certify that Larry Denton personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 24th day of September, 2015.



[Signature]  
Notary Public of Sebastian County  
My Commission Expires: 11-15-2015

[Notary Seal]

**EXHIBIT A**  
Legal Description

Lot 1, and that part of Ferguson Street as closed by City Ordinance, Block H, of Brazil and Jacob's Homesite Acres, as shown by plat filed May 31, 1947, being a part of the North half of Section 4, Township 7, Range 32 W, now an addition to the City of Fort Smith, Sebastian County, Arkansas, bearing Parcel ID 10741-0001-00008-00.