

STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

Southwest Region Office PO Box 47775 Olympia, Washington 98504-7775 360-407-6300

October 14, 2024

Keum Woo 6730 Troon Ln SE Olympia, WA 98501 <u>keumwoo@hotmail.com</u>

Re: No Further Action Opinion for the following contaminated Site:

- Site Name: Lacey Urban Center
- Site Address: 7131-7239 Martin Way E, Olympia, Thurston County, WA 98516
- Facility/Site ID: 67913
- Cleanup Site ID: 15414
- VCP Project ID: SW1745

Dear Keum Woo:

The Washington State Department of Ecology (Ecology) received your request for a No Further Action opinion regarding the sufficiency of your independent cleanup of the Lacey Urban Center facility (Site). This letter provides our analysis and opinion. We are providing this opinion under the authority of the <u>Model Toxics Control Act (MTCA)</u>,¹ <u>chapter 70A.305 Revised Code of Washington (RCW)</u>.²

Opinion

Ecology has determined that no further remedial action is necessary to clean up contamination at the Site. Based on the remedial investigative work that has been completed to date, **Ecology concurs with your proposed cleanup action for the Site based on installation of the vapor mitigation system and an environmental covenant (EC) which is supported by various institutional controls (IC) related to contaminated soil being left in place and long-term soil vapor/indoor air monitoring.** Further, if the property is ever re-developed in the future, and

¹ https://apps.ecology.wa.gov/publications/SummaryPages/9406.html

² https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305

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the adjacent dry cleaner cleanup is ongoing, Ecology recommends that a contaminated media management plan (CMMP) be developed to manage any potentially contaminated soils encountered during any property re-development.

This opinion depends on the continued performance and effectiveness of the post-cleanup controls and monitoring specified in this letter and in the EC in **Enclosure A**.

Ecology bases this opinion on an analysis of whether the completed remedial action meets the substantive requirements of MTCA, Chapter 70A.305 RCW, and its implementing regulations, which are specified in chapter 70A.305 RCW and Chapter <u>173-340</u> WAC³ (collectively called "MTCA").

Site Description

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the release of the following contaminants of concern (COC):

- Tetrachloroethylene (PCE) into the soil, groundwater, and sub-slab soil vapor.
- Trichloroethylene (TCE) and vinyl chloride (VC) into sub-slab soil vapor.

Enclosure B includes a detailed description, history, and diagram of the Site.

Please note the parcel(s) of real property associated with this Site are also located within the projected boundaries of the Asarco Tacoma Smelter Site (FSID: 89267963). At this time, we have no information that these parcel(s) are actually affected and as a result, this opinion does not apply to any contamination associated with the Asarco Tacoma Smelter Site facility.

Basis for the Opinion

All independent remedial action plans and reports submitted for our review, and all written opinions that we provided, are part of this VCP project.

Ecology bases this opinion on the information contained in the documents listed in Enclosure C.

You can request these documents by filing a <u>records request</u>.⁴ For help making a request, contact the Public Records Officer at <u>recordsofficer@ecy.wa.gov</u> or call (360) 407-6040. Before making a request, check if the documents are available on the <u>cleanup site search page</u>.⁵

³ https://app.leg.wa.gov/RCW/default.aspx?cite=173-340

⁴ https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests

⁵ https://apps.ecology.wa.gov/cleanupsearch/site/15414

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This opinion is void, if information in any of the listed documents is materially false or misleading.

Analysis of the Cleanup

Ecology concurs with the cleanup levels (CULs) and the standard points of compliance you established for the Site for the contaminants of concern (COC). Ecology also concludes that no ARARs are currently impacting the cleanup standards.

1. Characterizing the Site.

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards and select a cleanup action. **Enclosure B** describes the Site.

AEG has defined the Site for all environmental media and demonstrated that exposure pathways for said environmental media are incomplete, including subslab vapor and indoor air. The soil vapor and indoor air pathways were being mitigated using engineering controls in the form of the building slab and the sub-slab depressurization system (SSDS), the operation of which has been discontinued since early October 2023. Halogenated volatile organic compounds (HVOCs) are present in soil and soil vapor beneath the building with PCE and TCE migrating to indoor air within the building but not at concentrations in excess of the MTCA Method B CULs.

Site Data into EIM

All of the historical and most recent Site data from March 9, 2023 through October 13, 2023 were reviewed, accepted, and approved on September 27, 2024.

2. Setting Cleanup Standards.

Ecology has determined the cleanup levels (CULs) and points of compliance you set for the Site meet the substantive requirements of MTCA. Ecology also concludes that no applicable local, state, and federal laws which currently impact the cleanup standards.

Cleanup Standards: Under MTCA, cleanup standards consist of three primary components; (a) points of compliance,⁶ (b) CULs,⁷ and (c) applicable state and federal laws.⁸ Ecology concurs with the following proposed CULs:

(a) Points of Compliance. Standard points of compliance listed below are being applied to the Site. Points of compliance are the specific locations at the Site where CULs have been attained.

⁶ WAC 173-340-200 "Point of Compliance."

⁷ WAC 173-340-200 "Cleanup level."

⁸ WAC 173-340-200 "Applicable state and federal laws," WAC 173-340-700(3)(c).

Media	Points of Compliance
Soil-Direct Contact	Based on human exposure via direct contact, the standard point of compliance is throughout the Site from ground surface to fifteen feet below the ground surface. ⁹
	Not met; but presence of concrete slab foundation and institutional controls (IC) in EC to maintain protectiveness.
Soil - Protection of Groundwater	Based on the protection of groundwater, the standard point of compliance is throughout the Site. ¹⁰
	Standard met via empirical demonstration from groundwater data and ICs in the EC
Soil-Protection of Plants, Animals, and Soil Biota	Based on ecological protection, the standard point of compliance is throughout the Site from ground surface to fifteen feet below the ground surface. ¹¹
	Standard met by exemption.
Groundwater	Based on the protection of groundwater quality, the standard point of compliance is throughout the site from the uppermost level of the saturated zone extending vertically to the lowest most depth which could potentially be affected by the site. ¹²
	Standard met with shallow and deep groundwater data to date.
Air Quality	Based on the protection of air quality, the point of compliance is indoor and ambient air throughout the Site. ¹³
	Standard currently met without SSDS operation and IC as long-term monitoring in the EC. With statement of soil vapor and indoor air concentrations as remediation levels protective of commercial workers, this predicates maintaining commercial use in the area as an IC which the EC will restrict.

¹⁰ WAC 173-340-747

⁹ WAC 173-340-740(6)(d)

¹¹ WAC 173-340-7490(4)(b)

¹² WAC 173-340-720(8)(b)

¹³ WAC 173-340-750(6)

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The exposure pathways for the Site as Ecology currently understands them are:

Soil-Direct Contact: Ecology concurs that there is an incomplete pathway to receptors of concern by direct contact with HVOC-impacted subsurface soil beneath the concrete building floor slab. While the subsurface soil remaining on the Site contains contaminants that are above the MTCA Method A CUL for unrestricted land use, they occurred below the selected MTCA Method B CUL for direct contact exposure. As these data were based on a finite soil sample dataset, the potential exists for unsampled subsurface soil to contain contaminants above the Method B CUL. Further, the disposition of these soils would need to be addressed via implementation of a Contaminated Media Management Plan (CMMP) should the slab and/or building ever be removed.

Soil-Vapor: Current 2023 sub-slab soil vapor and indoor air data collected with SSDS operation suspended indicated PCE less than the MTCA Method B CUL for Commercial Worker (CW). The indoor air sample data also indicated the recent presence of TCE although the level was also below the MTCA B CUL-CW. Based on the presence of similar concentrations of TCE in 2020 and 2023, additional long-term data under the EC will provide a better understanding of potentially chronic vapor intrusion risk.

Soil-Leaching to Groundwater/Groundwater: Ecology concurs that there are incomplete pathways of soil leaching to groundwater and to receptors of concern by groundwater. Shallow groundwater in wells MW-1 through MW-3 has not been impacted by PCE since October 2021 and then at levels less than both the MTCA Method B and CW CULs. In addition, deep wells MW-4 and MW-5 have not exhibited HVOC at or above the laboratory method reporting limits during sampling events conducted in January, April, and July 2021. Additionally, although in-situ soil PCE concentrations in soil beneath the concrete slab exceed the Soil Protective of Groundwater CUL, the area directly above the contaminated soil is covered by a building and most of the property is covered by buildings and asphalt. Ecology thereby concurs that the pathway as incomplete as met by empirical demonstration.

As a result, Ecology acknowledges that long-term groundwater monitoring at the Site is not necessary.

Ecological: Ecology concurs that there is an incomplete pathway to ecological receptors of concern. No further evaluation is necessary under WAC 173-340-7492(2)(c), "no

contaminant listed in MTCA Table 749-2 is, or will be present in the upper 15 feet at concentrations that exceed the values listed in the MTCA Table 749-2."¹⁴

(b) Cleanup Levels. CULs are the concentrations of a hazardous substance in soil, water, air, or sediment that are determined to be protective of human health and the environment.

At this site, MTCA A and B CULs are appropriate for the direct contact soil, sub-slab vapor, and indoor air exposure pathways. However, in-situ soil exceeds the groundwater protection standards. For air and of note, it has been demonstrated that the HVOCs present in soil vapor have not migrated into indoor air within the building at levels above the MTCA B CUL/CW. Cleanup levels are met for groundwater at the Site and the MTCA A and B CULs for all media are included for reference. Of note, MTCA B CULs are included for the COCs under the MTCA A soil and groundwater columns where no MTCA A CULs are present and are designated as either ^ for cancer or ^^ for noncancer. They are similarly so designated under the column for MTCA B CULs for indoor air. These cleanup levels are based on the most stringent values for each exposure pathway and are considered appropriate for the Site COCs. The proposed MTCA CULs and screening levels (SL) for the Site COCs for the matrices of concern at the Site include:

Hazardous Substance	MTCA A Soil CUL (mg/kg)	MTCA A GW CUL (μg/l)	Sub-Slab Soil Gas Commercial Worker SL (µg/m ³)	MTCA B Indoor Air CUL (μg/m ³)	Indoor Air Commercial Worker SL (µg/m³)
Tetrachloroethylene (PCE)	0.05	5	1,500*	9.62^	44.9*
Trichloroethylene (TCE)	0.03	5	95*	0.334^	2.85*
Cis-1,2-dichloroethene (cDCE)	160^^	16^^	5,200**	18.3^^	156**
Trans-1,2-dichloroethene (tDCE)	1,600^^	160^^	5,200**	18.3^^	156**
Vinyl chloride (VC)	0.67^	0.2	44*	0.284^	1.33*

mg/kg = milligrams per kilogram.

 $\mu g/m^3$ = micrograms per cubic meter.

GW = Groundwater

NL = Not Listed; no cleanup/screening levels have been promulgated for these constituents.

SL = Screening Level (Vapor Intrusion Worker).

CUL = Cleanup Level

^ = MTCA B CUL (cancer). No MTCA A CUL.

^^ = MTCA B CUL (noncancer). No MTCA A CUL.

* = Cancer screening level [SL].

** = Noncancer SL (Cancer SL not established).

(c) Applicable Laws and Regulations. Applicable local, state, and federal laws were evaluated within the *AEG 2021 Remedial Investigation / Feasibility Study Report*. Ecology concurs that these requirements have been correctly identified and are legally applicable or relevant and appropriate.^{15,16}

3. Selecting the Cleanup Action.

Ecology has determined the cleanup action you selected for the Site meets the substantive requirements of MTCA.

Based on the Disproportionate Cost Analysis (DCA) in AEG's April 1, 2021, Remedial Investigation and Feasibility Study RI/FS¹⁷ report, AEG proposed Alternative 3 Closure with Vapor Mitigation Installation and EC was proposed as the least costly and equally beneficial alternative. To that end, with the subsequent installation of the sub-slab depressurization system (SSDS) and presentation of sufficient analytical data from sub-slab vapor and indoor air samples collected from November 2019 through October 2023, Ecology concurs that the preferred remedial alternative is sufficient to meet the requirements of MTCA and is protective of human health and the environment. Ecology would concur with cessation of the SSDS operation with long-term monitoring of indoor air for a period of 5 years.

Environmental Covenant. The Environmental Covenant (EC), attached as **Enclosure A**, has been completed according to Ecology specifications and filed with Thurston County, Washington under recording number 5023466. As such, the Site is considered to have achieved cleanup standards for all media, and no further remedial action will be warranted, with the exception of the Post-Cleanup Controls and Monitoring requirements noted below.

The EC places a deed restriction on the Site that restricts certain uses of the Site (such as excavation of impacted sub-slab soil and groundwater usage) and exclusive commercial usage. The EC only restricts those portions of the Property identified, and not the entire Property.

¹⁵ WAC 173-340-710(2)

¹⁶ Note – MTCA Method A includes ARARs and concentration-based tables (WAC 173-340-700(5)(a)) If MTCA Method A remains in use as proposed Site cleanup levels, identify non-concentration based technical and procedural requirements. If Method B or C cleanup levels are proposed, also include concentration-based requirements.

¹⁷ AEG, Remedial Investigation/Feasibility Study Report, April 1, 2021.

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4. Cleanup

Ecology has determined that the cleanup you completed meets the substantive requirements of MTCA. It is Ecology's opinion that the existing soil vapor pin network provides for sufficient evaluation of boundary conditions and are appropriately placed to intercept any contaminated vapor that may occur within the subsurface at the Site.

As a result, please note that the existing vapor pin network will need to be preserved during the EC period of performance to allow for confirmational soil vapor monitoring. If any monitoring pin is damaged, the EC will have specific requirements for repair and/or replacement, and reporting. Failure to maintain a sufficient vapor pin network at the Site may result in any NFA determination issued to be rescinded by Ecology.

Unencumbered "clean" NFA.

To remove the need for the EC and receive a "clean" NFA for the Site, you will need to provide sufficient soil and soil vapor/indoor air data which demonstrates compliance with your selected cleanup standards. Currently, no soil confirmatory data have been submitted to Ecology to show that Site hazardous substances in soil have been reduced to less than Site cleanup levels. Site cleanup levels would need to be met at standard points of compliance.

Please ensure that any environmental data generated for this cleanup is submitted pursuant to Ecology Toxics Cleanup Program Policy 840.¹⁸ Please upload Site data to Ecology's Environmental Information Management (EIM) database each time a report is submitted as required by the EC and supporting long-term monitoring plans. Be sure to submit all data collected to date, as well as any future data, in this format.

Post-Cleanup Controls and Monitoring

Post-cleanup controls and monitoring are remedial actions performed to ensure compliance with cleanup standards. Ecology is issuing this No Further Action opinion based on the continued performance and effectiveness of the following post-cleanup remedial actions at the Site. Ecology may rescind this opinion if these remedial actions are not performed or do not effectively maintain the cleanup standards.

¹⁸ https://fortress.wa.gov/ecy/publications/SummaryPages/1609050.html

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This opinion is dependent on the continued performance and effectiveness of the following:

1. Compliance with Institutional Controls (IC).

IC's prohibit or limit activities that may interfere with the integrity of IC's or result in exposure to hazardous substances. The following IC's are needed at the Site:

- Restrictions on groundwater use.
- Land use restrictions, such as modifying the existing building footprint/surface without prior approval from Ecology.
- Future building usage/application shall provide for vapor intrusion protection.

To implement the IC's, you recorded an EC on the following parcel(s) of real property in Thurston County:

• Tax parcel 78801200000

Ecology approved the recorded EC (see **Enclosure A**). To amend or terminate the EC, you must request additional review under the VCP.

2. Performance of confirmational monitoring.

If and/or during suspensions of SSDS operation, Ecology concurs that the Confirmation and Contingency Plan submitted by the customer is in place to confirm the long-term effectiveness of the cleanup action and continued attainment of the cleanup standards.¹⁹ The soil vapor monitoring data will be used by Ecology during periodic reviews of post-cleanup conditions. Said monitoring data will be collected at 18-month intervals over a period of 54 months.

As the VCP customer, you are responsible for ensuring the integrity of these controls over the long term. As part of future Periodic Reviews (see below), Ecology may inspect these areas and require you to conduct any needed maintenance to ensure protection to human health and the environment.

¹⁹ WAC 173-340-410(1)(c)

Periodic Review of Post-Cleanup Conditions

Ecology will conduct periodic reviews of post-cleanup conditions at the Site to ensure that they remain protective of human health and the environment. If Ecology determines, based on a periodic review, that further remedial action is necessary at the Site, then Ecology will withdraw this opinion.

Listing of the Site

Based on this opinion, Ecology will initiate the process of removing the Site from the Contaminated Sites List. The Site will be added to the No Further Action sites list.

Limitations of the Opinion

1. Opinion Does Not Settle Liability with the State.

Liable persons are strictly liable, jointly, and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion **does not**:

- Resolve or alter a person's liability to the state.
- Protect liable persons from contribution claims by third parties.

To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70A.305.040(4).

2. Opinion Does Not Constitute a Determination of Substantial Equivalence.

To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you performed is substantially equivalent. Courts make that determination. *See* RCW 70A.305.080 and WAC 173-340-545.

3. State is Immune from Liability.

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The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70A.305.170(6).

Termination of Agreement

Thank you for cleaning up the Site under the VCP. This opinion terminates the VCP Agreement governing VCP Project SW1745.

Questions

If you have any questions about this opinion, please contact me at (360) 489-5347 or joe.hunt@ecy.wa.gov.

Sincerely,

Joseph B. Hunt, LHG Toxics Cleanup Program Southwest Region Office

JBH/at

Enclosure A: Environmental Covenant Enclosure B: Site Description Enclosure C: Documents List

cc: Scott Rose, AEG, <u>srose@aegwa.com</u>
 Tim Mullin, LHG, Ecology; <u>tim.mullin@ecy.wa.gov</u>
 Marian Abbett, PE, Ecology; <u>marian.abbett@ecy.wa.gov</u>
 Ecology Site File

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Enclosure A

Environmental Covenant

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RETURN ADDRESS

Document Title(s)

Environmental Covenant

Reference Numbers(s) of related documents

Grantor(s) (Last, First and Middle Initial)

Gold Cattle LLC

Grantee(s) (Last, First and Middle Initial)

State of Wa, Dept of Ecology

Additional grantees on page

Additional grantors on page

Additional Reference #=s on page

Legal Description (abbreviated form: i.e. lot, block, plat or section, township, range,

quarter/quarter)

Commercial Area A of Tanglewilde Div 6 recorded Vol 13, Pg 4 and 5

Additional legal is on page Exhibit A

Pages: 15

Assessor's Property Tax Parcel/Account Number

78801200000

Additional parcel #=s on page

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein. I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

5023466

7/30/2024

30/2024 10.52 AM Covenant ston County Washington ATLAS: LLC

gnature of Reques ing Party

After Recording Return Original Signed Covenant to: Joseph B. Hunt, LHG Toxics Cleanup Program Department of Ecology P.O. Box 47775, Olympia, WA 98504-7775

Environmental Covenant

Grantor: GOLD CATTLE LLC Grantee: State of Washington, Department of Ecology (hereafter "Ecology") Brief Legal Description: See Exhibit A Tax Parcel Nos.: 78801200000

RECITALS

a. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70A.305 RCW, and Uniform Environmental Covenants Act ("UECA"), chapter 64.70 RCW.

b. The Property that is the subject of this Covenant is part or all of a site commonly known as Lacey Urban Center, Clean-up Site ID# 15414, Facility Site ID# 67913. The Property is legally described in Exhibit A, and illustrated in Exhibit B, both of which are attached (hereafter "Property"). If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.

c. The Property is the subject of remedial action conducted under MTCA. This Covenant is required because residual contamination remains on the Property after completion of remedial actions. Specifically, the following principal contaminants remain on the Property:

Medium	Principal Contaminants Present		
Soil	Tetrachloroethene (PCE), trichloroethene (TCE), cis-1,2- dichloroethene (cDCE), trans-1,2-DCE (tDCE), and vinyl chloride (VC)		
Sub-Slab Vapor	PCE, TCE, cDCE, tDCE, and VC		
Groundwater	None		

d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of remedial actions conducted at the site. Records describing the extent of residual contamination and remedial actions conducted are available through Ecology. These documents include the following:

i. April 1, 2021 Remedial Investigation and Feasibility Study Report;
ii. November 13, 2023 Technical Memorandum–Vapor Assessment; and
iii. April 2, 2024 Compliance Monitoring and Contingency Plan.

e. This Covenant grants Ecology certain rights under the UECA and as specified in this Covenant. As Holder of this Covenant under the UECA, Ecology has an interest in real property; however, this is not an ownership interest which equates to liability under MTCA or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42

U.S.C. § 9601 *et seq*. The rights of Ecology as an "agency" under the UECA, other than its right as a holder, are not an interest in real property.

COVENANT

GOLD CATTLE LLC, as Grantor and fee simple owner of the Property, hereby grants to the Washington State Department of Ecology, and its successors and assignees, the following covenants. Furthermore, it is the intent of Grantor that such covenants shall supersede any prior interests GRANTOR has in the property and run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

Section 1. General Restrictions and Requirements.

The following general restrictions and requirements shall apply to the Property:

a. Interference with Remedial Action. Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection or monitoring of that remedial action without prior written approval from Ecology.

b. Protection of Human Health and the Environment. Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.

c. Continued Compliance Required. Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance and monitoring of remedial actions and continued compliance with this Covenant.

d. Leases. Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.

e. **Preservation of Reference Monuments.** Grantor shall make a good faith effort to preserve any reference monuments and boundary markers used to define the areal extent of coverage of this Covenant. Should a monument or marker be damaged or destroyed, Grantor shall have it replaced by a licensed professional surveyor within 30 days of discovery of the damage or destruction.

Section 2. Specific Prohibitions and Requirements.

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

a. Land use.

The remedial action for the Property is based on a clean-up designed for commercial property. As such, the Property shall be used in perpetuity only for commercial land uses as that term is defined in the rules promulgated under Chapter 70A.305 RCW. Prohibited uses on the Property include but are not limited to residential uses, childcare facilities, K-12 public or private schools, parks, grazing of animals, and growing of food crops.

b. Containment of soil/waste materials.

The remedial action for the Property is based on containing contaminated soil under a cap consisting of the existing commercial building, located as illustrated in Exhibit C. The primary purpose of this cap is to prevent stormwater from potentially mobilizing soil impacts into groundwater (the soil impacts themselves meet MTCA Method B cleanup levels protective of direct contact exposure). As such, the following restrictions shall apply within the area illustrated in Exhibit C:

The Grantor shall not alter or remove the existing structures on the Property in any manner that would expose contaminated soil, result in a release to the environment of contaminants, or create a new exposure pathway, without prior written approval of Ecology. Should the Grantor propose to remove all or a portion of the existing structures illustrated in Exhibit C so that access to the underlying contamination is feasible, Ecology may require treatment or removal of the underlying contaminated soil.

c. Groundwater use.

The groundwater beneath the area of the Property illustrated in Exhibit C shall not be extracted for any purpose other than temporary construction dewatering, investigation, monitoring, or remediation. Drilling of a well for any water supply purpose is strictly prohibited. Groundwater extracted within this area for any purpose shall be considered potentially contaminated, and any discharge and/or disposal of this water shall be done in accordance with state and federal law.

d. Monitoring.

Several sub-slab vapor probes are located on the Property to monitor the performance of the remedial action. The Grantor shall maintain clear access to these devices and protect them from damage. The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of any damage to any monitoring device. Unless Ecology approves of an alternative plan in writing, the Grantor shall promptly repair the damage within 14 days and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.

Section 3. Access.

a. The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor, and maintain the remedial action.

b. The Grantor freely and voluntarily grants Ecology and its authorized representatives, upon reasonable notice, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated remedial actions, and enforce compliance with this Covenant and those actions, including the right to take samples, inspect any remedial actions conducted on the Property, and to inspect related records.

c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

Section 4. Notice Requirements.

a. Conveyance of Any Interest. The Grantor, when conveying any interest within the area of the Property described and illustrated in Exhibits B and C, including but not limited to title, easement, leases, and security or other interests, must:

- i. Provide written notice to Ecology of the intended conveyance at least thirty (30) days in advance of the conveyance.
- **ii**. Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON ______ AND RECORDED WITH THE THURSTON COUNTY AUDITOR UNDER RECORDING NUMBER ______. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.

iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.

b. Reporting Violations. Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation in writing to Ecology.

c. Emergencies. For any emergency or significant change in site conditions due to Acts of Nature (for example, flood or fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology in writing of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.

d. Notification procedure. Any required written notice, approval, reporting or other communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant. Upon mutual agreement of the parties to this Covenant, an alternative to personal delivery or first-class mail, such as e-mail or other electronic means, may be used for these communications.

Ms. Keum Woo	Environmental Covenants Coordinator
6730 Troon Lane SE	Washington State Department of Ecology
Olympia, Washington 98501-5179	Toxics Cleanup Program
360.923.4136	P.O. Box 47600
keumwoo@hotmail.com	Olympia, WA 98504 – 7600
	(360) 407-6000
	ToxicsCleanupProgramHQ@ecy.wa.gov

Section 5. Modification or Termination.

a. Grantor must provide written notice and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant. For any proposal that is inconsistent with this Covenant and permanently modifies an activity or use restriction at the site:

i. Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal; and

ii. If Ecology approves of the proposal, the Covenant must be amended to reflect the change before the activity or use can proceed.

b. If the conditions at the site requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated. Any amendment or termination of this Covenant must follow the procedures in MTCA and UECA and any rules promulgated under these chapters.

Publication Number: 15-09-054

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Revised: December 22, 2016

Section 6. Enforcement and Construction.

a. This Covenant is being freely and voluntarily granted by the Grantor.

b. Within ten (10) days of execution of this Covenant, Grantor shall provide Ecology with an original signed Covenant and proof of recording and a copy of the Covenant and proof of recording to others required by RCW 64.70.070.

c. Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including MTCA and UECA. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay, or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.

d. The Grantor shall be responsible for all costs associated with implementation of this Covenant. Furthermore, the Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.

e. This Covenant shall be liberally construed to meet the intent of MTCA and UECA.

f. The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.

g. A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

The undersigned Grantor warrants he/she holds the title to the Property and has authority to execute this Covenant.

EXECUTED this <u>25</u> day of <u>June</u>, 20<u>24</u>.

GOLD CATTLE LLC

Ms. Keum Woo Forn WEr Property Owner

STATE OF Washington COUNTY OF MUSTON

On this <u>25</u> day of <u>June</u>, 20<u>24</u> I certify that <u>Heum-Soon Woo</u> personally appeared before me, acknowledged that **he/she** is the individual described herein and who executed the within and foregoing instrument and signed the same at his/her free and voluntary act and deed for the uses and purposes therein mentioned.



CHONTISAN L

Notary Public in and for the State of Washington

Residing at Chehalis

My appointment expires 4/19/2028

Toxics Cleanup Program Procedure 440A

Washington State Department of Ecology

The Department of Ecology hereby accepts the status as GRANTEE and HOLDER of the above Environmental Covenant.

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

mlinite me

By: Jerome Lambiotte, CPG Section Manager Toxics Cleanup Program Southwest Regional Office

3 July 2024 Dated:

Attachment C page 8

Exhibit A

LEGAL DESCRIPTION

COMMERCIAL AREA A OF TANGLEWILDE DIVISION #6, SUBDIVISION A, AS RECORDED IN VOLUME 13 OF PLATS, PAGES 4 AND 5;

EXCEPTING THEREFROM THE NORTHERLY 296.09 FEET OF THE WESTERLY 200 FEET;

ALSO EXCEPTING THEREFROM THAT PART CONVEYED TO THE STATE OF WASHINGTON BY INSTRUMENT RECORDED MAY 29, 1959 UNDER AUDITOR'S FILE NO. 611950;

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT TH NORTHEAST CORNER OF SAID AREA A; THENCE SOUTHWESTERLY ALONG THE NORTHERLY BOUNDARY THEREOF 175 FEET; THENCE SOUTHEASTERLY AT RIGHT ANGLES TO THE NORTH LINE OF SAID AREA A; 125 FEE; THENCE NORTHEASTERLY, PARALLEL WITH PRIMARY STATE HIGHWAY NO. 1 TO THE WESTERLY LINE OF RANGER DRIVE; THENCE NORTHERLY ALONG RANGER DRIVE TO THE POINT OF BEGINNING;

IN THURSTON COUNTY, WASHINGTON.

Toxics Cleanup Program Procedure 440A

Exhibit B

PROPERTY MAP

Publication Number: 15-09-054 Attachment C page 10 Rev

Revised: December 22, 2016

Exhibit Figures on File With the Washington State Department of Ecology and Can Be Accessed Here:

https://apps.ecology.wa.gov/cleanupsearch/site/15414

Publication Number: 15-09-054 Attachment C page 11

Revised: December 22, 2016

Exhibit C

MAP ILLUSTRATING LOCATION OF RESTRICTIONS

Publication Number: 15-09-054Attachment C page 12Revised: December 22, 2016

Exhibit Figures on File With the Washington State Department of Ecology and

Can Be Accessed Here:

https://apps.ecology.wa.gov/cleanupsearch/site/15414

Revised: December 22, 2016

Publication Number: 15-09-054 Attachment C page 14 Revised: December 22, 2016

Enclosure B

Site Description

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The Site is located within Thurston County Tax Parcel 78801200000, a 4.66-acre lot improved with the Lacey Urban Shopping Center. A former dry cleaner operated from 1965 to 1997, in a slab-on-grade, single-story masonry building located in the western portion of the shopping center. The former dry cleaner space is now operated as Lacey Laundry, a coin-operated laundromat. Occupancy of the current multi-tenant shopping center has primarily been for retail, office, and service tenants, and have included a bank, barber shop, post office, donut shop, drapery shop, hair salon, drug store, restaurants, shoe repair, floral and gift shops, nail shops, bakery, dentist, and chiropractic center.

Site Geology/Hydrogeology

The Site is situated at the southern end of the Puget Sound Lowlands physiographic province of the State of Washington. During the Quaternary, the Puget Lowland was covered a number of times by continental ice sheets. The most recent glaciation (Fraser) reached its peak about 14,000 years ago. The uppermost geologic formation underlying the soils at the subject property parcel is Pleistocene continental glacial drift, mostly Vashon Shade recessional outwash. The unit consists mostly of recessional and proglacial stratified, moderately to well-rounded, poorly to moderately sorted outwash sand and gravel of northern or mixed northern and Cascade source.

According to the information obtained from the USDA Natural Resources Conservation Service Web Soil Survey online database, the Site is mapped as Spanaway gravelly sandy loam. The Spanaway series consists of deep and moderately deep, moderately well and well drained soils with moderately coarse textures that formed on outwash plains and terraces from volcanic ash over gravelly outwash of Pleistocene age. Slopes range from 0 to 3 percent.

Soils encountered at the Site during subsurface investigations generally consisted of silt with gravel to approximately 35 feet bgs, underlain by dense, sandy gravel with fine- to coarse-sized gravels, and cobbles to about 85 feet bgs. Groundwater at the time of drilling was encountered at various depths from 30 to 33 feet bgs. Depth to water measured in Site wells ranges from about 17 to 25 feet bgs. Groundwater flow direction is generally to the west-southwest and varies seasonally to the north. Lake Lois is located about 5,000 feet southwest of the Site.

Depth to water measurements for the shallow Site wells on July 30, 2020, ranged from 30 to 31 feet bgs, on October 16, 2020, ranged from 21.8 to 24.2 feet bgs, and on January 7, 2021 ranged from 17.44 to 20.89 feet bgs. The groundwater flow direction for the July 2020 sampling event is primarily towards the southwest with an approximate gradient of 0.01 feet per foot (ft/ft). The groundwater flow direction for the October 2020 sampling event is primarily towards twith an approximate gradient of 0.02 ft/ft.

The groundwater flow direction for the January 2021 sampling event is primarily towards the southwest with an approximate gradient of 0.03 ft/ft.

Depth to water measurements for the deep Site wells on January 7, 2021, ranged from 23.90 to 24.82 feet bgs.

Environmental Investigations and Site Cleanup

In July 2018, Envitech advanced 18 soil borings (B-1 through B-18) and collected 11 soil gas borings (SG1 through SG11) to determine whether a release had occurred from the former drycleaning operation. Soil samples were collected from each boring, soil gas samples were collected from ten borings (B-1 through B-8, B-10, and B-11), and groundwater was sampled from one boring (B-14) at about 26 feet below ground surface (bgs). Analytical results indicated the presence of PCE in soil and soil gas samples above MTCA Method A or Method B cleanup screening levels.

In July 2020, AEG advanced additional borings to complete the remedial investigation. Two borings (B-19 and B-20) were advanced inside the laundromat adjacent to borings B-3 and B-1, respectively, to define the vertical extent of PCE in soil. Borings B-21, B-22, and B-23, and monitoring well MW-1 were advanced on the south and southwest sides of the building to laterally define the extent of PCE in soil. Three soil gas borings (SG-1, SG-2, and SG-3) were advanced west of the former leach field to laterally define soil gas impacts in this area, and soil gas samples SG-4, SG-5, and SG-6 were collected from borings B-23, B-22, and B-21, respectively, on the south side of the building to laterally define soil gas impacts in this area.

Three monitoring wells (MW-1, MW-2, and MW-3) were installed to determine potential impacts to shallow groundwater. Groundwater was encountered at about 31 feet bgs, and the monitoring wells were screened from 25 to 35 feet bgs. All samples were submitted for analysis for PCE and daughter products. Laboratory results for all constituents analyzed in soil, groundwater, and soil gas samples were either non-detect or were detected below their respective MTCA Method A/B cleanup screening levels. In October 2020, AEG installed two deep monitoring wells (MW-4 and MW-5) to evaluate the potential presence of dense non-aqueous phase liquid (DNAPL) that may not have been detected in shallow groundwater. Groundwater flow in the shallow groundwater unit was determined to be to the southwest, so the monitoring wells were installed on the south (MW-4) and west (MW-5) sides of the building. The well borings were advanced until a confining layer was encountered. A confining layer was encountered at about 75 to 80 feet bgs, and the monitoring wells were installed with 5 feet of screen. Soil samples collected and analyzed for PCE, and daughter products were non-detect for all constituents.

In October 2020, AEG also completed a Tier II Vapor Assessment, which included sampling indoor air from two locations (Indoor-1 and Indoor-2), ambient air from one location outside and upwind (ambient), and sub-slab vapor from two locations (SS-1 and SS-2). The assessment was completed to determine if the PCE detected in the soil beneath the building is present and/or has the potential to migrate into the indoor air inside the Lacey Urban Center facility. Analytical results indicated PCE, and daughter products were non-detect in the indoor and ambient air samples; however, PCE was detected above the MTCA Method B sub-slab screening level at both sampling locations (SS-1 and SS-2). All other daughter products were below the laboratory detection limits for each compound.

Concurrent with the installation of wells MW-1 through MW-3 in July 2020, AEG performed three rounds of groundwater monitoring at the site. Deep wells MW-4 and MW-5 were incorporated into the sampling during the January 2021 event. To date, neither PCE nor daughter products have been detected in the groundwater monitoring well network.

The aggregate RI/FS activities were summarized in AEG's Remedial Investigation and Feasibility Study report dated April 1, 2021. AEG proposed the following cleanup alternatives in their 2021 RI/FS:²⁰

- Alternative 1: No Action
- Alternative 2: In-Situ Soil Treatment via Vapor Extraction.
- Alternative 3: Closure with Vapor Mitigation Installation and Environmental Covenant.

Based on the results of the Disproportionate Cost Analysis (DCA), Alternative 3 Closure with Vapor Mitigation Installation and Environmental Covenant was proposed as the least costly and equally beneficial to Alternative 2. Sufficient information has been presented to Ecology for us to concur that the preferred remedial alternative is sufficient to meet the requirements of MTCA and are protective of human health and the environment.

On September 14, 2021, Ecology issued an opinion stating that upon completion of the proposed cleanup (installation of a vapor mitigation system and institutional controls memorialized by an environmental covenant), no further remedial action would likely be necessary to clean up contamination at the site. As part of the vapor mitigation system, Ecology recommended a network of sub-slab monitoring points should be installed so that differential pressure and sub-slab soil gas concentrations can be measured over time to evaluate the effectiveness of the passive system and whether an active system would be needed. If an active system was determined to be needed, then these monitoring points could also be used to monitor its effectiveness. Indoor air concentrations would also need to be measured

²⁰ AEG, *Remedial Investigation/Feasibility Study Report*, April 1, 2021.

concurrently with sub-slab soil gas concentrations.

AEG subsequently submitted a technical memo on March 1, 2022, that summarized the vapor mitigation system installation activities conducted on December 8, 2021. The objective of the system was to mitigate potential vapor intrusion risk.

The vapor mitigation system was constructed as a sub-slab depressurization system (SSDS) and was located near the southwest corner of the building. It included the installation of two 2-inchslotted, polyvinyl chloride, vapor mitigation points SSD-1 and SSD-2 to depths of 14 inches below the concrete floor within the laundromat. SSD-1 is located in the southwest corner near boring B-11, while SSD-2 is located approximately 10 feet east of the former sub-slab vapor sample location SS-1. The point sumps were backfilled with clean pea gravel followed by a concrete seal and were located to i) provide a pressure differential (vacuum) using vertical collection points installed through the concrete floor and ii) connect the points to air conveyance piping via an outlet pipe on the building roof. The conveyance piping is connected to an in-line, weatherproof radial blower equipped with a condensation bypass, explosion-proof motor and control box with status display, and electrical power. The system exhaust stack terminates approximately 3 feet above the roof line.

AEG performed a follow-up round of indoor air sampling on October 12, 2022, to determine whether sub-slab vapor conditions had changed since the previous sampling rounds and confirm that PCE and its daughter products were still below MTCA cleanup levels. In addition, AEG also collected samples from the active SSDS at points SSD-1 and SSD-2. The sample analytical results indicated PCE in the indoor air sample at a concentration below the MTCA Method B cleanup level. PCE was also detected in both SSD-1 and SSD-2 system vapor samples at concentrations exceeding the Method B cancer sub-slab screening levels, but below Method B sub-slab screening levels for commercial workers. All other constituents were non-detect.

On April 3, 2023, Ecology submitted a Further Action opinion letter that recommended installation of additional vapor pins and a follow-up vapor assessment. This was based on the presence of 1,800 ug/m³ of PCE in the sub-slab vapor at boring B-3 which may have been indicative of either PCE-impacted soil exceeding the respective CUL or a potential undiscovered body of DNAPL. Given this potential and the presence of relatively impermeable silt/clayey silt deposits that occur as depicted on Figures 6, 7, and 8 of the AEG 2021 RI/FS Report²¹, Ecology presumed that it was reasonable that such deposits could have contained such impacts.

²¹ Remedial Investigation/Feasibility Study Report – Lacey Urban Center; April 1,2021; Associated Environmental Group, LLC

Further, Ecology's prior 2021 opinion²² discussed several components that should accompany the installation of either a passive (no blower) or an active (blower-initiated) vapor mitigation system at the site. These components included:

- Installation of a network of sub-slab monitoring points to measure differential
 pressure and sub-slab soil gas concentrations over time to evaluate and monitor the
 effectiveness of the system. Indoor air concentrations would also need to be
 measured concurrently with sub-slab soil gas concentrations.
- Differential pressures should be measured using a micro-manometer that is autozeroing and has a pressure differential sensitivity to 0.001 inches of water (such as a CLK-Zephyr II+ data logging micro-manometer). Differential pressures should be recorded using a data logger for at least 48 hours (preferably one week) prior to sampling to assess fluctuations (if any) of cross-slab differential pressure.

At the time of Ecology's 2023 opinion, only two active SSDS points SSD-1 and SSD-2 had been installed to date and connected to a blower to provide both depressurization and vapor extraction. However, as Ecology suggested, no surrounding sub-slab monitoring points were installed to assess subaerial sub-slab system coverage, performance, and effectiveness across the SSDS field. Further, no manometer data has been supplied to enable assessment of differential pressure fluctuations and operational effectiveness.

In response to Ecology's 2023 Further Action opinion, AEG-Atlas conducted installation of additional vapor pins SS-3 through SS-5 and performed a follow-up round of additional vapor sampling on October 13, 2023. The additional vapor pins were installed to expand the network of sub-slab vapor points throughout the building slab to monitor for the potential build-up of vapors associated with PCE-impacted soils detected beneath the building. Concurrent with the sub-slab vapor sampling, AEG collected two indoor air samples in the employee office room and the laundry facility, and one ambient air sample collected upwind and away from any known contamination. The samples were analyzed for PCE and daughter products by Method TO-15 SIM.

The analytical results of both indoor air samples indicated the singular presence of PCE at concentrations below MTCA Method B cleanup levels. One indoor air sample indicated the presence of trichloroethylene (TCE) at a concentration below MTCA Method B cleanup levels. Analytical results of the sub-slab vapor samples indicated the presence of PCE at concentrations below MTCA Method B cleanup levels. All other constituents analyzed for were non-detect for both sample suites.

²² Ecology Opinion on Proposed Cleanup of Lacey Urban Center, September 14, 2021

AEG Conclusions and Recommendations

Vapor assessment activities performed at the Site to date have identified the presence of PCE in only one soil gas sample (in 2018) and one sub-slab vapor sample (in 2020) at concentrations exceeding the MTCA Method B screening level of 1,500 micrograms per cubic meter (μ g/m3) for commercial workers. All other results have been below the MTCA Method B screening level. Further, no exceedances were detected during the most recent October 2023 vapor assessment investigation, which was performed after the existing SSD system had been turned off for at least a week.

To date, PCE has been detected in soil above the MTCA Method A cleanup level in 6 out of 66 soil samples. The concentrations above the MTCA Method A cleanup level of 0.05 milligrams per kilogram (mg/kg) ranged from 0.06 to 0.25 mg/kg, which are well below the MTCA Method B cleanup level of 480 mg/kg for protection of direct contact.

For MTCA Method B cleanup levels to be applicable for Site closure, both the leaching to groundwater and soil to vapor pathways were evaluated. The results indicated that no HVOCs have been detected in either shallow or deep groundwater above MTCA Method A cleanup levels to date. Further, as summarized above, the limited residual soil impacts do not appear to be generating enough vapor to create a potential vapor intrusion scenario, especially under the commercial worker exposure scenario.

As such, AEG concluded that based on the work performed at the Site to date, MTCA cleanup standards have been achieved for all media, and continued operation of the SSD system does not appear to be warranted.

Enclosure C

Documents List

- 1. AEG-Atlas, *Technical Memorandum Vapor Assessment, Lacey Urban Center, 7239 Martin Way East, Olympia, Washington* 98516, November 13, 2023.
- 2. AEG, Vapor Assessment Monitoring Event & NFA Request, *Lacey Urban Center*, 7239 Martin Way East, Olympia, Washington 98516, November 8, 2022.
- 3. AEG, Lacey Urban Center Technical Memo Vapor Mitigation System Installation 0301222, addressed to Ms. Keum Woo, March 1, 2022.
- 4. AEG, July 2021 Groundwater Sampling Results Report, letter, addressed to Ms. Keum Woo, August 9, 2021.
- 5. AEG, *April 2021 Groundwater Sampling Results Report*, letter, addressed to Ms. Keum Woo, May 18, 2021.
- 6. Associated Environmental Group, LLC (AEG), *Remedial Investigation / Feasibility Study Report, Lacey Urban Center*, April 1, 2021.
- 7. Envitechnology (Envitech), Additional Phase II Subsurface Investigation, Lacey Urban Center, 7131-7269 Martin Way East, Olympia, Washington, November 30, 2018.