



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

May 28, 2015

Paul Trone
Evren Northwest
P.O. Box 14488
Portland, OR 97293

Re: No Further Action at the following Site:

- **Site Name:** United Builders
- **Site Address:** 2204 W. Nob Hill Boulevard, Yakima
- **Facility/Site No.:** 5883805
- **VCP Project No.:** CE407

Dear Mr. Trone:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the United Builders facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issue Presented and Opinion

Is further remedial action necessary to clean up contamination at the Site?

NO. Ecology has determined that no further remedial action is necessary to clean up contamination at the Site.

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

Description of the Site

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

- Diesel to heavy (lube oil) range petroleum hydrocarbons into the Soil and Ground Water associated with past operations by United Builders on tax parcel no. 8132642054, property is now owned by Argo Yakima LLC.

Enclosure A includes a detailed description and diagram of the Site, as currently known to Ecology.



Please note the Tiger Oil 24th Ave & W Nob Hill facility (#469) also affects different parts of the parcel(s) of real property associated with this Site. This opinion does not apply to any contamination associated with the Tiger Oil 24th & W Nob Hill facility.

Basis for the Opinion

This opinion is based on the information contained in the following documents:

1. *Well KMW-03 Environmental Investigation, Mercy Development Company Property, 2204 West Nob Hill Boulevard, Yakima, Washington 98902, Landau Assoc., August 27, 1999*
2. *Phase II Environmental Assessment Letter, Store No. 1235 Proposed Fueling Center, 2204-A Nob Hill Boulevard, Yakims, Washington, EPA Project No. 082132.1, 2002.*
3. *Groundwater Sampling and Testing, Vicinity of Safeway Gas Sales, Safeway Shopping Center, 2204 West Nob Hill Boulevard, Yakima, Washington: Prepared for Glacier Real Estate Finance, Report JN25092, Environmental Associates, Inc., June 27, 2005.*
4. *Supplemental Groundwater Sampling and Testing with Water Table Survey, Safeway Shopping Center, 2204 West Nob Hill Boulevard, Yakima, Washington: Prepared for Glacier Real Estate Finance, Report JN25092-2, Environmental Associates, Inc., July 25, 2005.*
5. *Focused Subsurface Investigation, Safeway Fueling Center #1235, 2204 W. Nob Hill Boulevard, Yakima, Washington, Facility Site ID No. 5883805, VCP No. CE407, EvrenNorthwest, Inc., ENW Project No. 773-13001-03, May 8, 2014.*
6. *Ground Water Monitoring, First Quarter 2015, Former United Builders, 2204 W. Nob Hill Boulevard, Yakima, Washington, Facility/Site ID No. 5883805, VCP No. CE0407, EVRENNorthwest, Inc., April 7, 2015, ENW Project No. 733-13001-03*

Those documents are kept at the Central Regional Office of Ecology (CRO) for review by appointment only. You can make an appointment by calling the CRO resource contact at (509) 454-7658.

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

Analysis of the Cleanup

Ecology has concluded that **no further remedial action** is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

1. Characterization of the Site.

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards and select a cleanup action. The Site is described above and in **Enclosure A**.

Historic site characterization and remedial action (soil removal) appeared to address most of the soil contamination at this site, but failed to properly monitor groundwater. Groundwater testing during 2014 and 2015 indicate that cleanup standards for groundwater have been met.

2. Establishment of cleanup standards.

a. Substance-specific standards.

Ecology has determined the cleanup levels and points of compliance you established for the Site meet the substantive requirements of MTCA.

MTCA Method A Cleanup Standards for unrestricted land use in soil and groundwater have been selected for the remedial action at this site. Method A Cleanup Standards are appropriate for use at simple sites with few contaminants, such as this site. The standard point of compliance throughout the site has been selected. These points of compliance have been selected to protect groundwater quality.

MTCA Method A Cleanup Standards are those determined by regulation to be protective of human health and the environment under most conditions.

b. Action and location-specific requirements.

An environmental covenant prohibiting use of groundwater at this site, and requiring maintenance of and access to monitoring wells at the property is in effect for the tax parcel on which this site is located. That environmental covenant was placed in association with the Tiger Oil Site (see above), will apply throughout the property until such time as a final NFA determination is made and must remain in effect until Ecology determines it is no longer needed. Ecology will not currently require that a new Environmental Covenant be filed for the United Builders Site.

Please note that other requirements apply to the cleanup action based on the type of the action or location of the Site. Those requirements are specified in the Mercy Consent Decree for the Tiger Oil Site and attachments thereto.

3. Selection of cleanup action.

Ecology has determined the soil removal cleanup action selected for the Site meets the substantive requirements of MTCA by removing soil identified as containing petroleum

contaminants at above MTCA Method A Cleanup Standards and disposing of those soils off-site followed by monitored natural attenuation. This cleanup is permanent to the maximum extent practicable, has a reasonable restoration timeframe and is protective of human health and the environment as required by WAC 173-340-360(2).

4. Cleanup.

Ecology has determined the cleanup performed meets the cleanup standards established for the Site.

Post-Cleanup Controls and Monitoring

Post-cleanup controls and monitoring are remedial actions performed after the cleanup to maintain compliance with cleanup standards. Confirmational monitoring was necessary at the Site to confirm the long-term effectiveness of the cleanup as protective of groundwater. The monitoring data confirmed that post-cleanup conditions are protective of groundwater at the site.

Periodic Review of Post-Cleanup Conditions

Ecology may 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 remove the Site from our Confirmed and Suspected Contaminated Sites List. Any new releases at the property will be listed as a new site.

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 70.105D.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 70.105D.080 and WAC 173-340-545.

3. State is immune from liability.

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 70.105D.030(1)(i).

Termination of Agreement

Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). This opinion terminates the VCP Agreement governing this project #CE407.

For more information about the VCP and the cleanup process, please visit our web site: www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm. If you have any questions about this opinion or the termination of the Agreement, please contact me by phone at 509-454-7837 or e-mail at nope461@ecy.wa.gov.

Sincerely,



Norman D. (Norm) Peck
Site Manager
CRO Toxics Cleanup Program

Enclosures 2: A – Description and Diagrams of the Site
 B – Restrictive (Environmental) Covenant

cc: Jon Lefferts, Chief Financial Officer, ARGO Yakima,
 Mary Monahan, Site Manager, CRO TCP
 Ms. Delores Mitchell, HQ TCP

Enclosure A

Description and Diagrams of the Site

Site Description

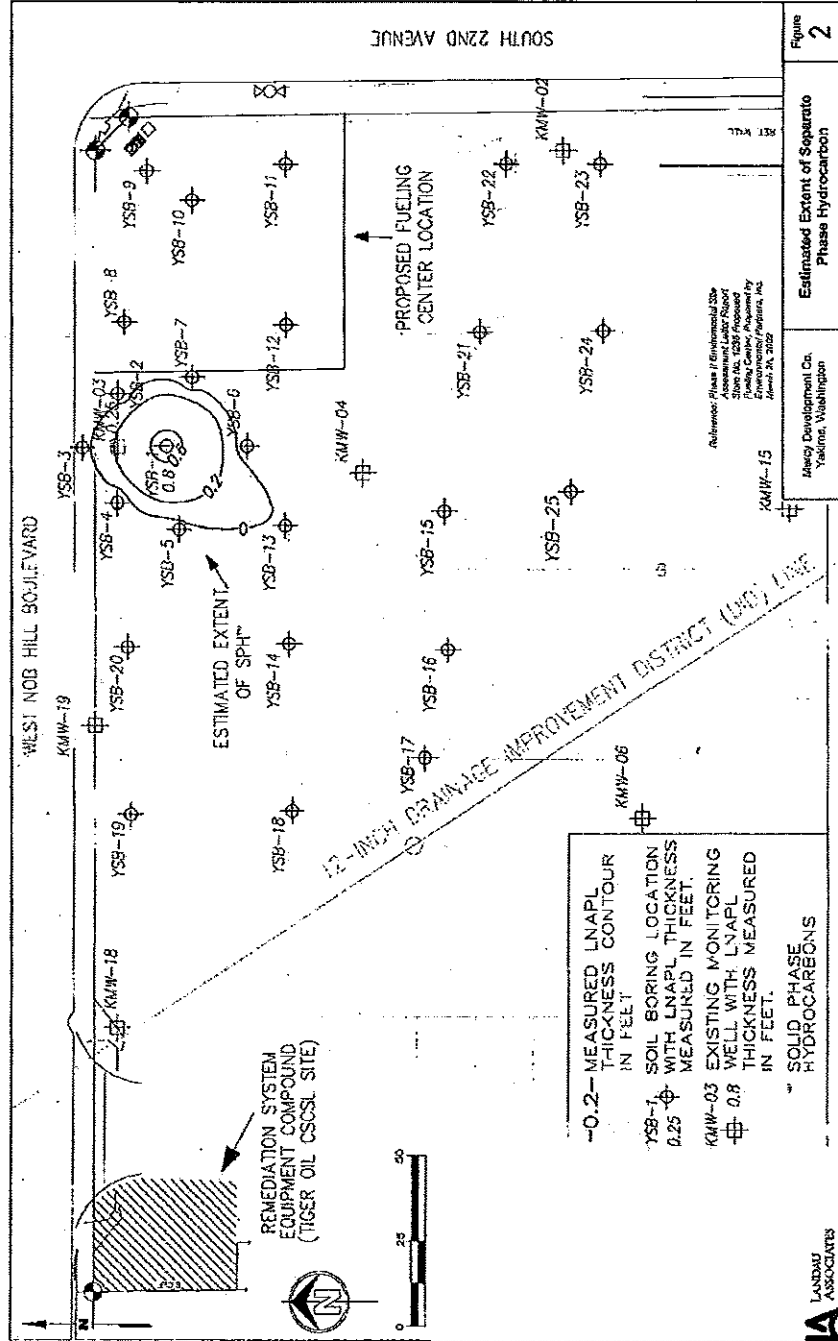
The Safeway Fuel Center #1235 is located on the south side of the 2200 block of West Nob Hill Boulevard in the City of Yakima, Yakima County, Washington. The Site is currently occupied by a Safeway grocery store, the associated Safeway fuel center and a large parking lot.

According to historical maps, the Site was occupied by orchards and a manufacturer of agricultural products prior to 1959. By 1960, two paint shops had been constructed at the Site. Later the Site was occupied by a wholesale and retail material supply company called United Builders, who installed and operated two gasoline Underground Storage Tanks (USTs) in the northeast portion of the Site. United Builders operated at the Site until 1988, when the Site was developed as a Safeway grocery store and retail center.

Contamination is present at the property in two distinct areas. At the northwest corner of the property, a documented release occurred from an adjacent former gas station. This release is addressed by Consent Decree No. 02-2-00956-2 entered into with Ecology, Tiger Oil Corporation and Federated Insurance Company, which was filed with Thurston County Court on October 29, 2004. A separate periodic review was conducted for this release by Ecology in April 2009.

At the northeast corner of the property, the two USTs operated by United Builders resulted in a release causing petroleum hydrocarbon contamination to soil and ground water. This second release is addressed by remediation conducted in 2004 and under the Environmental Covenant recorded later that year. (Second Periodic Review, United Builders, Facility Site ID # 588385, Cleanup Site ID # 5381, 2204 West Nob Hill Boulevard, Yakima, Washington, 98901, Department of Ecology, April 2015, see this review for further details)

Site Diagrams



Second Periodic Review (op. cit.)

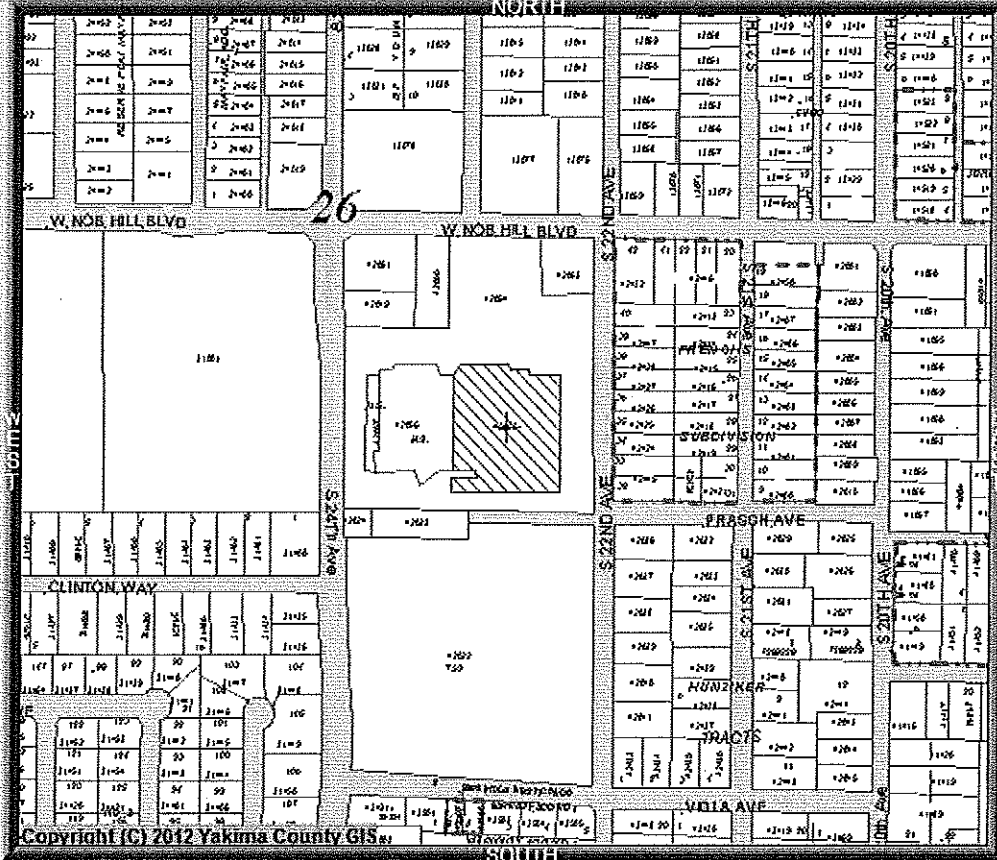
Yakima County GIS - Washington
Land Information Portal

Yakima County Assessor
 Yakima County GIS
 Yakima County



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One Inch = 400 Feet
 Feet 200 400 600

PROPERTY PHOTOS: 1 2 3	PROPERTY INFORMATION AS OF 9/3/2013 11:00:42 PM	PRINTING
	Parcel Address: 2204 W NOB HILL BLVD, WA	Printer-Friendly Page
	Parcel Owner(s): ARGO ARGO YAKIMA LLC	
	Parcel Number: 18132642055	Parcel Size: 73424 Square Feet
	Property Use: 54 Retail Food	
TAX AND ASSESSMENT INFORMATION		Detailed Report

Enclosure

**Environmental Covenants
for Institutional Controls**

FILED FOR RECORD AT REQUEST OF:

VELIKANJE, MOORE & SHORE, P.S.
ATTN: MARK E. FICKES
P. O. Box 22550
Yakima, WA 98902

DECLARATION OF RESTRICTIVE COVENANT

Reference number(s) of related document: _____

Grantor(s): Mercy Development Co., L.L.C.

Grantee(s): State of Washington Department of Ecology

Abbreviated Legal Description: NW ¼, NW ¼, SE¼, S 26, T 13 N, R 18 EWM Complete legal description is on Exhibit A of this document.

Assessor's Tax Parcel ID No.: Portion of 181326-42054

DATE: March 3, 2004

GRANTOR: MERCY DEVELOPMENT CO., L.L.C.,
a Washington limited liability company

GRANTEE: STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Mercy Development Co., LLC, ("Mercy") its successors and assigns, and the State of Washington Department of Ecology ("Ecology"), its successors and assigns.

Pursuant to a Consent Decree entered in State of Washington v. Tiger Oil Corporation, Thurston County Superior Court, Cause No. 02-2-00956-2, a remedial action involving the installation and operation of a soil vapor extraction system (the "Remedial Action") will be implemented on Mercy's property within the Tiger Oil Site ("Site") that is described in the Consent Decree. Exhibit A to the Consent Decree describes

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the Remedial Action being conducted. The Consent Decree and other documents to which it refers or otherwise relating to the Tiger Oil Site are on file at Ecology's Central Regional Office, 15 West Yakima Avenue, Yakima, WA 98902.

This Restrictive Covenant is required because the Remedial Action will address only a portion of the contamination at the Tiger Oil Site. Thus the residual concentrations of total petroleum hydrocarbons, benzene, toluene, ethylbenzene and xylenes (the "Identified Substances") within the Site may, despite the Remedial Action, still exceed the Model Toxics Control Act (MTCA) Method A Cleanup Levels for soil and groundwater established under WAC 173-340-720 and 740. The persistence of this condition will depend on the cleanup efforts by other parties at the Site.

The undersigned, Mercy Development Co., LLC, is the fee owner of real property in the County of Yakima, State of Washington, the legal description of which is set forth in Attachment A hereto (Parcel 181326-42054). The Remedial Action is to be conducted within the northern portion of Parcel 181326-42054, which portion is generally contained within an area bounded on the north by West Nob Hill Blvd., on the east by the Yakima County Drainage Irrigation District (DID) line, on the west by the property line for the Skipper's Restaurant parcel and on the south by the middle of the parking lot at monitoring well KMW-11 in front of the Rite-Aid and Safeway stores. This Restrictive Covenant pertains to the area that is shown as the cross-hatched area on Attachment B and is defined as the "Property".

Mercy makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. No groundwater may be taken for domestic or industrial uses from the Property unless the MTCA Method A Cleanup Levels for groundwater for the Identified Substances and for any other hazardous substances that have been released at the Site have been met at the Property.

Section 2. Any activity on the Property that may interfere with the integrity of either the Remedial Action or existing monitoring wells on the Property that are part of the investigation of the Site or with continued protection of human health and the environment is prohibited without the prior written approval of Ecology.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of contaminated soil or create a new exposure pathway is prohibited without the prior written approval of Ecology, which shall not be unreasonably withheld or delayed. Some activities that are prohibited on the Property where contaminated soil is known to be located or may be located include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork. Activities involving the routine repair and maintenance of the Property or existing improvements on it can be conducted without any prior written approval of Ecology to the extent that such activities otherwise comply with this Restrictive Covenant.

Section 4. At least thirty (30) days prior to transfer of any interest in the all or any portion of the Property on which the Mercy Property SVE System is located, the Owner of the Property must give advance written notice to Ecology of such transfer. The Owner shall not consummate any voluntary or involuntary conveyance or relinquishment of title, easement or other interest in the Property without provision, as necessary, for continued operation, maintenance and monitoring of the Remedial Action on the Property.

Section 5. The Owner shall allow Ecology and its authorized representatives the right to enter the Property as specified in the Consent Decree.

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Section 6. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

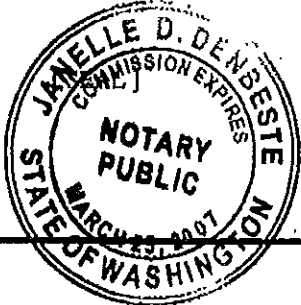
MERCY DEVELOPMENT CO., L.L.C.

By: Kathi D. Mercy
Kathi D. Mercy, Manager

STATE OF WASHINGTON)
) ss.
County of Yakima)

I certify that I know or have satisfactory evidence that **KATHI D. MERCY**, is the person who appeared before me, and said person acknowledged that she is authorized to execute this instrument as Manager of **MERCY DEVELOPMENT CO., L.L.C.**, a Washington limited liability company, and acknowledged to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 3rd day of March, 2004.



Janelle D. DenBeste
Janelle D. DenBeste
Print Name
NOTARY PUBLIC in and for the state
of Washington, residing at (Yakima).
My appointment expires 3/25/07.

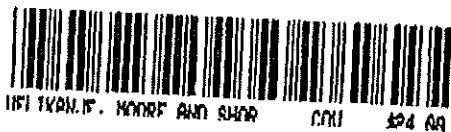


ATTACHMENT A

Parcel No. 181326-42054

The Northwest ¼ of the Northwest ¼ of the Southeast ¼ of Section 26, Township 13 North, Range 18, E.W.M.,
EXCEPT the North 242.8 feet of the West 280.5 feet thereof;
EXCEPT the North 103 feet of the East 103 feet thereof;
EXCEPT beginning 96.94 feet West and 24.99 feet North of the Southeast corner of said Subdivision;
thence North 191.07 feet;
thence West 55.65 feet;
thence North 45°02'06" West 19.74 feet;
thence West 23.89 feet;
thence North 2.07 feet;
thence West 80.01 feet;
thence North 4.31 feet;
thence North 89°54'26" West 42.04 feet;
thence South 45°09'40" West 28.76 feet;
thence West 25.93 feet;
thence North 18.55 feet;
thence West 23.75 feet;
thence North 44°56'42" West 8.54 feet;
thence West 74.5 feet;
thence South 44°50'44" West 8.52 feet;
thence West 23.92 feet;
thence South 10.54 feet;
thence West 56.05 feet;
thence South 156.51 feet;
thence East 42.51 feet;
thence South 25°25'33" East 26.04 feet;
thence North 65°01'28" East 55.6 feet;
thence East 85.47 feet;
thence South 8.87 feet;
thence West 32.92 feet;
thence South 04°48'45" East 34.92 feet;
thence East 292.1 feet to the point of beginning; and
EXCEPT right-of-way for streets.

ATTACHMENT A



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ATTACHMENT B

ATTACHMENT B



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