



OFFICE OF THE LAKE COUNTY RECORDER

LAKE COUNTY GOVERNMENT CENTER
2293 NORTH MAIN STREET
CROWN POINT, INDIANA 46307



PHONE (219) 755-3730
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MICHAEL B. BROWN
Recorder

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LAKE COUNTY INDIANA RECORDER

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2019-072466
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ENVIRONMENTAL RESTRICTIVE COVENANT

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Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT is made this 1st day of October, 2019, by Evajo, LLC ("Owner").

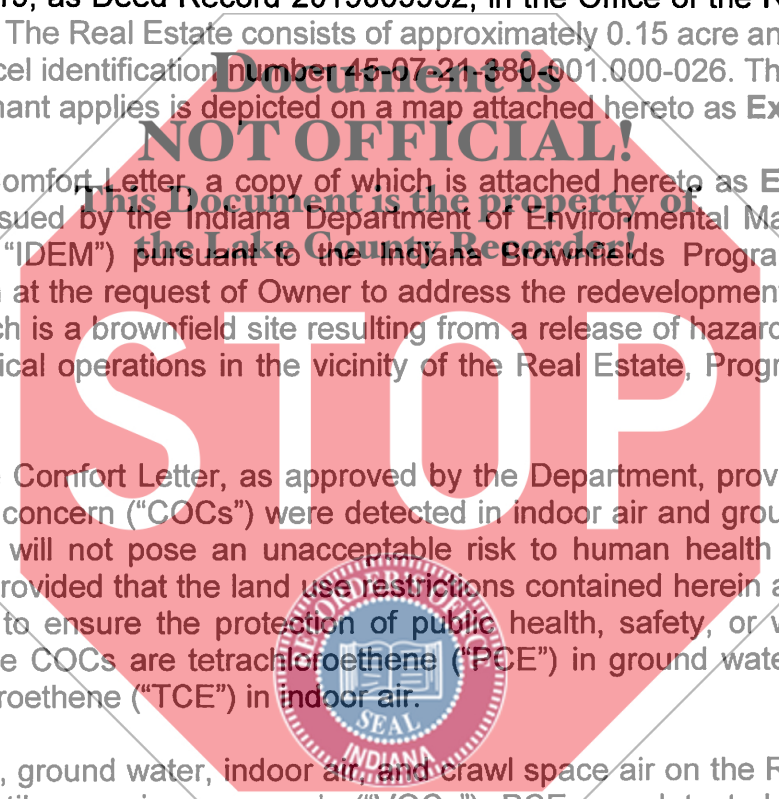
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WHEREAS: Owner is the fee owner of certain real estate in the County of Lake, Indiana, which is located at 2706 Highway Avenue in Highland and more particularly described in the attached **Exhibit "A"** ("Real Estate"), which is hereby incorporated and made a part hereof. The Real Estate was acquired by deed on February 8, 2019, and recorded on February 15, 2019, as Deed Record 2019009952, in the Office of the Recorder of Lake County, Indiana. The Real Estate consists of approximately 0.15 acre and is identified by the State by parcel identification number 45-07-21-380-001.000-026. The Real Estate to which this Covenant applies is depicted on a map attached hereto as **Exhibit "B"**.

WHEREAS: A Comfort Letter, a copy of which is attached hereto as **Exhibit "C"**, was prepared and issued by the Indiana Department of Environmental Management ("the Department" or "IDEM") pursuant to the Indiana Brownfields Program's ("Program") recommendation at the request of Owner to address the redevelopment potential of the Real Estate which is a brownfield site resulting from a release of hazardous substances relating to historical operations in the vicinity of the Real Estate, Program site number BFD #4190410.

WHEREAS: The Comfort Letter, as approved by the Department, provides that certain contaminants of concern ("COCs") were detected in indoor air and ground water on the Real Estate but will not pose an unacceptable risk to human health at the detected concentrations provided that the land use restrictions contained herein are implemented and maintained to ensure the protection of public health, safety, or welfare, and the environment. The COCs are tetrachloroethene ("PCE") in ground water and benzene, PCE, and trichloroethene ("TCE") in indoor air.

WHEREAS: Soil, ground water, indoor air, and crawl space air on the Real Estate were sampled for volatile organic compounds ("VOCs"). PCE was detected in ground water and benzene, PCE, and TCE were detected in indoor air at levels above applicable screening levels established by IDEM in the *Remediation Closure Guide* (March 22, 2012 and applicable revisions). Investigations detected levels of PCE in ground water above its residential tap ground water screening level ("Res TAP GWSL") in samples DP-5 and DP-20. Benzene was detected in indoor air sample IA-5 above its residential indoor air vapor exposure screening level ("Res IA VESL"), but below its commercial/industrial indoor air vapor exposure screening level ("Indus IA VESL"). PCE and TCE were detected at levels above their respective Res IA VESLs and TCE was detected at a level above its Indus IA VESL in sample IA-3. Ground water and indoor air analytical results above applicable PCE screening levels are summarized on Tables 1 and 2, attached hereto as **Exhibit "D"**. Also map attached hereto as "**Exhibit E**", depicts sample locations on the Real Estate at which the COCs were detected ground water and/or indoor air above



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JOHN E. PETALAS
LAKE COUNTY AUDITOR

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applicable RCG screening levels.

WHEREAS: Site investigation and remediation activities on the off-site property that is the source of the ground water and indoor air contamination found on the Real Estate are ongoing under the oversight of the Department's State Cleanup #201001012 and/or Voluntary Remediation Program site #6150304.

WHEREAS: The Department has not approved closure of environmental conditions on the Real Estate under the *Remediation Closure Guide*. However, the Department has determined that the land use restrictions contained in this Covenant will enable the Real Estate to be used safely for conditional residential use.

WHEREAS: Environmental reports and other documents related to the Real Estate are hereby incorporated by reference and may be examined at the Public File Room of the Department, which is located in the Indiana Government Center North at 100 N. Senate Avenue, 12th Floor East, Indianapolis, Indiana. The documents may also be viewed electronically by searching the Department's Virtual File Cabinet on the Web at: <http://www.in.gov/idem/74101.htm>.

NOW THEREFORE, Evajo, LLC subjects the Real Estate to the following restrictions and provisions, which shall be binding on Evajo, LLC and all future owners:

I. RESTRICTIONS

1. Restrictions. The Owner and all future owners:

- (a) Shall prohibit any activity at the Real Estate that interferes with any ongoing response activities, long-term ground water monitoring, or measures necessary to assure the effectiveness and integrity of any response action or engineering control, or component thereof, implemented at the Real Estate.
- (b) (i) Shall not occupy any residential and/or commercial/industrial building(s) constructed on the Real Estate after the effective date of this Covenant without first completing one of the following: Option 1) Evaluate and determine, or permit a third party to evaluate and determine, through a Program-approved sampling plan, the presence or absence of the intrusion of contaminated vapor into indoor air ("vapor intrusion") in any newly-constructed residential and/or commercial/industrial building(s) on the Real Estate; or, Option 2) Install, operate and maintain, or permit a third party to install, operate and maintain, a vapor mitigation system (in accordance with *U.S. EPA Brownfield Technology Primer Vapor Intrusion Considerations for Redevelopment* (EPA 542-R-08-001) (March 2008) and *IDEM Draft Interim Guidance Document: Vapor Remedy Selection and Implementation* (February 2014 and applicable revisions)) within any newly-constructed residential and/or commercial/industrial building(s) on the Real Estate, unless the Department concurs that a vapor mitigation system(s) is no longer necessary based upon achievement of the applicable IDEM RCG residential subslab soil gas

screening levels ("Res SGss SLs") or commercial/industrial subslab soil gas screening levels ("Indus SGss SLs") and/or residential indoor air vapor exposure screening levels ("Res IA VESLs") or commercial industrial indoor air vapor exposure screening levels ("Indus IA VESLs"), based upon then-current use of the Real Estate (residential and/or commercial/industrial), or site-specific action levels approved by the Department.

(ii) If Option 2 is selected from (b)(i) above, a detailed work plan must be submitted and approved by the Program outlining activities to be completed to evaluate vapor intrusion risk and to determine the effectiveness of any operating vapor mitigation system(s) after occupancy. Following Program approval, operate the vapor mitigation system(s) for the purpose of mitigating the COCs potentially impacting indoor air in any residential building on the Real Estate per the *IDEM Draft Interim Guidance Document: Vapor Remedy Selection and Implementation* (February 2014 and applicable revisions) until the Department a) concurs that a vapor mitigation system(s) is no longer necessary based upon demonstrated achievement under a Program-approved sampling work plan of the applicable IDEM RCG Res SGss SLs and/or Res IA VESLs OR Indus SGss SLs and/or Indus IA VESLs and/or site-specific action levels approved by the Department; and, b) makes a determination regarding acceptable risk under Paragraph No. 9 of this Covenant. The Department's determination shall be based upon RCG Res IA VESLs or Indus IA VESLs or site-specific action levels approved by the Department. The Department's determination in concert with Paragraph No. 9 shall not be unreasonably withheld. In the event that the vapor intrusion mitigation system(s) malfunction(s) or cease(s) operation, the Department shall afford the Owner a reasonable opportunity to repair or replace the vapor intrusion mitigation system(s) prior to the Department exercising whatever rights it may have under Paragraph No. 8.

(c) Shall not use or allow the use or extraction of ground water at the Real Estate for any purpose, including, but not limited to, human or animal consumption, gardening, industrial processes, or agriculture, without prior Department approval, except that ground water may be extracted in conjunction with environmental investigation and/or remediation activities.

II. GENERAL PROVISIONS

2. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees or their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control ("Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in all or any part of the Real Estate by any person shall limit the restrictions set forth herein. This Covenant is imposed

upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.

3. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.
4. Access for Department. The Owner shall grant to the Department and its designated representatives the right to enter upon the Real Estate at reasonable times for the purpose of determining whether the land use restrictions set forth in paragraph 1 above are being properly maintained (and operated, if applicable) in a manner that ensures the protection of public health, safety, or welfare and the environment. This right of entry includes the right to take samples, monitor compliance with the remediation work plan (if applicable), and inspect records.
5. Written Notice of the Presence of Contamination. Owner agrees to include in any instrument conveying any interest in any portion of the Real Estate, including but not limited to deeds, leases and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances) the following notice provision (with blanks to be filled in):

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED October 1st 2019, RECORDED IN THE OFFICE OF THE RECORDER OF LAKE COUNTY ON 10-23, 2019, INSTRUMENT NUMBER (or other identifying reference) 2019-07 2466 IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.
6. Notice to Department of the Conveyance of Property. Owner agrees to provide notice to the Department of any conveyance (voluntary or involuntary) of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide the Department with the notice within thirty (30) days of the conveyance and include (a) a certified copy of the instrument conveying any interest in any portion of the Real Estate, and (b) if the instrument has been recorded, its recording reference(s), and (c) the name and business address of the transferee.
7. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.

III. ENFORCEMENT

8. Enforcement. Pursuant to IC 13-14-2-6 and other applicable law, the Department may proceed in court by appropriate action to enforce this Covenant. Damages alone are insufficient to compensate the Department if any owner of the Real Estate or its Related Parties breach this Covenant or otherwise default hereunder.

As a result, if any owner of the Real Estate, or any owner's Related Parties, breach this Covenant or otherwise default hereunder, the Department shall have the right to request specific performance and/or immediate injunctive relief to enforce this Covenant in addition to any other remedies it may have at law or at equity. Owner agrees that the provisions of this Covenant are enforceable and agrees not to challenge the provisions or the appropriate court's jurisdiction.

IV. TERM, MODIFICATION AND TERMINATION

9. Term. The restrictions shall apply until the Department determines that contaminants of concern on the Real Estate no longer present an unacceptable risk to the public health, safety, or welfare, or to the environment.
10. Modification and Termination. This Covenant shall not be amended, modified, or terminated without the Department's prior written approval. Within thirty (30) days of executing an amendment, modification, or termination of the Covenant, Owner shall record such amendment, modification, or termination with the Office of the Recorder of Lake County and within thirty (30) days after recording, provide a true copy of the recorded amendment, modification, or termination to the Department.

V. MISCELLANEOUS

11. Waiver. No failure on the part of the Department at any time to require performance by any person of any term of this Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's right to enforce such term, and no waiver on the part of the Department of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof.
12. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner from complying with any other applicable laws.
13. Change in Law, Policy or Regulation. In no event shall this Covenant be rendered unenforceable if Indiana's laws, regulations, guidelines, or remediation policies (including those concerning environmental restrictive covenants, or institutional or engineering controls) change as to form or content. All statutory references include any successor provisions.
14. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other pursuant to this Covenant shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner:
Evajo. LLC
931 Ridge Road, Suite C
Munster, Indiana 46231
ATTN: Kurt E. Pramuk, DDS, PC

To Department:
Indiana Brownfields Program
100 N. Senate Avenue, Rm. 1275
Indianapolis, Indiana 46204
ATTN: Tracey Michael

Any party may change its address or the individual to whose attention a notice is to be sent by giving written notice in compliance with this paragraph.

15. Severability. If any portion of this Covenant or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.
16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.



Owner hereby attests to the accuracy of the statements in this document and all attachments.

IN WITNESS WHEREOF, Evajo, LLC, the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 1st day of OCTOBER, 2019.

[Signature] CEO.
Evajo, LLC

STATE OF Indiana)
) SS:
COUNTY OF LAKE)

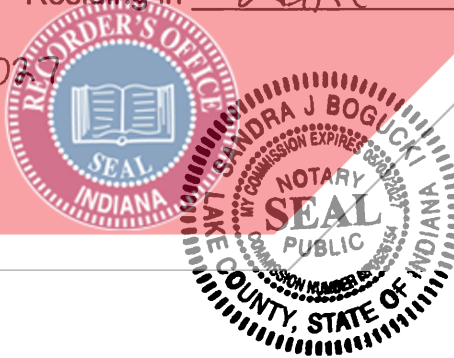
Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Kurt Pramuk, the member of the Owner, Evajo, LLC, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this 1st day of October, 2019.

[Signature]
Sandra J Bogucki, Notary Public
Residing in Lake County, IN

My Commission Expires: 5/3/2027

This instrument prepared by:



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

[Signature] Kurt Pramuk (Printed Name of Declarant)

EXHIBIT A

Warranty Deed to the Real Estate



STATE OF INDIANA
LAKE COUNTY
OFFICE FOR RECORDER

2019 FEB 15 AM 10:00

RONALD D. BROWN
RECORDER

2019 009952

WARRANTY DEED

TAX: I.D. NO. 45-07-21-380-001.000-026

THIS INDENTURE WITNESSETH, That EDGAR GIL, (GRANTOR), of LAKE County in the State of INDIANA, CONVEYS AND WARRANTS to EVAJO LLC, of LAKE County in the State of INDIANA, (GRANTEE), in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described real estate in LAKE County, in the State of Indiana:

LOT 1 IN BLOCK 10 IN THE TOWN OF HIGHLAND, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 1 PAGE 86, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

Commonly known as: 2706 HIGHWAY AVE., HIGHLAND, IN 46322

SUBJECT TO SPECIAL ASSESSMENTS, IF ANY, 2018 TAXES PAYABLE 2019, 2019 PAYABLE 2020 AND ALL REAL ESTATE TAXES DUE AND PAYABLE HEREAFTER.

SUBJECT TO EASEMENTS, RESTRICTIONS AND COVENANTS OF RECORD, IF ANY.

Dated this 8th day of February, 2019.

[Signature]
EDGAR GIL

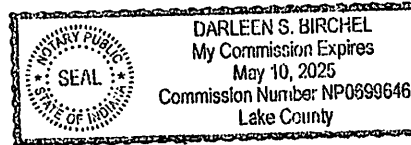
STATE OF INDIANA
COUNTY OF Lake SS:

Before me, the undersigned, a Notary Public in and for said County and State, this 8th day of February, 2019, personally appeared: EDGAR GIL and acknowledged the execution of the foregoing deed. In witness whereof, I have hereunto subscribed my name and affixed my official seal.

My commission expires: 5-10-25
Resident of Lake County

Signature: [Signature]
Printed: Darleen Birchel, Notary Public

This instrument prepared by: NATHAN D. VIS, Attorney at Law, ID No. 29535-45
VIS LAW, LLC, P.O. Box 980, Cedar Lake, IN 46303
No legal opinion given to Grantor(s) or Grantee(s) in preparation of deed or form of holding ownership. All information used supplied by title company.



RETURN DEED TO: GRANTEE
GRANTEE STREET OR RURAL ROUTE ADDRESS: 2706 HIGHWAY AVE., HIGHLAND, IN 46322
SEND TAX BILLS TO: GRANTEE

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document unless required by law.

[Signature]
Signature

Darleen Birchel
Printed Name

COMMUNITY TITLE COMPANY
FILE NO. 1817904

**BULKY ENTERED FOR TAXATION SUBJECT
FINAL ACCEPTANCE FOR TRANSFER**

FEB 15 2019

**JOHN E. PETALAS
LAKE COUNTY AUDITOR**

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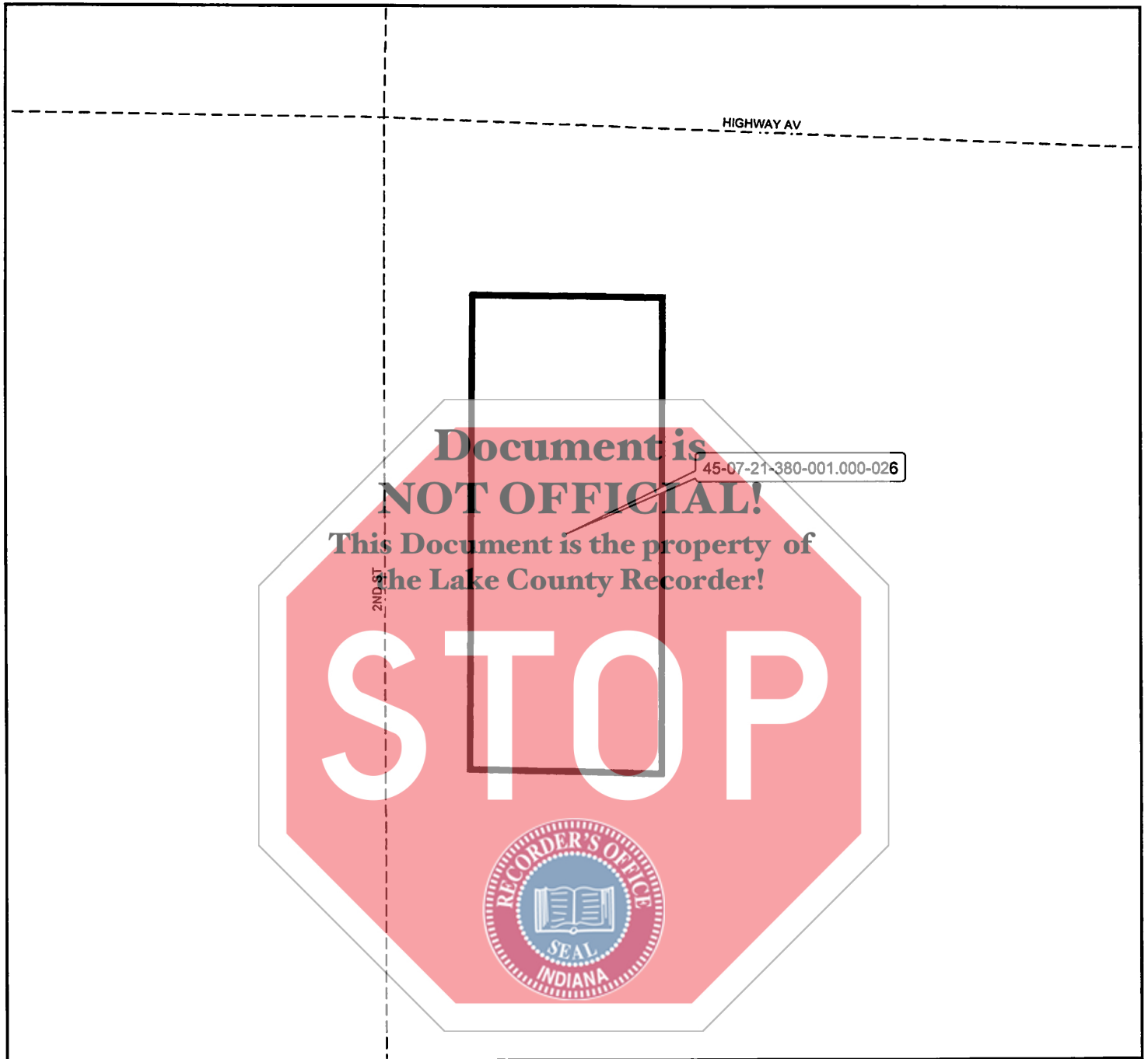


EXHIBIT B

Map of the Real Estate



Indiana Brownfields Program # 4190410 - Real Estate



Mapped By: Matthew Canale, IDEM, Office of Land Quality, Science Services Branch, Engineering & GIS Services, April 18, 2019

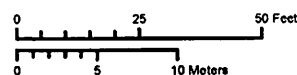
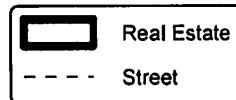
Deed Info: Deed Record 2019009952 Recorded 2/15/2019
Warranty Deed

Parcel ID: 45-07-21-380-001.000-026

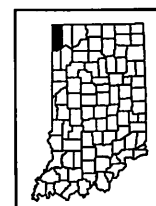
PLSS Info: Section 21, T36N, R9W
North Township
Lake County, IN

Property: 2706 Highway Ave.
Highland, IN

Disclaimer: This map is intended to serve as an aid in graphic representation only.
This information is not warranted for accuracy or other purposes.



Lake County



Project Area

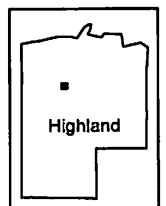


EXHIBIT C

Copy of Comfort Letter





INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

September 19, 2019

Kurt E. Pramuk, DDS, PC
Evajo, LLC
931 Ridge Road, Suite C
Munster, Indiana 46231

Re: **Comfort Letter**
Contaminated Aquifer
Highland Kiddie Shop
2706 Highway Avenue
Highland, Lake County
Brownfield #4190410

**Document is
NOT OFFICIAL!**

**This Document is the property of
the Lake County Recorder!**

Dear Dr. Pramuk:

In response to the request by Lynn Douglas, Inc. (Lynn Douglas) on behalf of Evajo, LLC (Evajo or Owner) to the Indiana Brownfields Program (Program) for assistance concerning the property located at 2706 Highway Avenue, Highland (Site), the Indiana Department of Environmental Management (IDEM) has agreed to provide this Comfort Letter to outline applicable limitations on liability for environmental conditions on the Site. This letter is not a legal release from liability. It will, however, help to establish whether environmental conditions at the Site might be a barrier to redevelopment or transfer.

In April 2019, the Owner requested a Comfort Letter based on qualification as a bona fide prospective purchaser (BFPP) under applicable statutes. To qualify as a BFPP under the federal "All Appropriate Inquiries" (AAI) rule set forth in 40 CFR Part 312, a prospective purchaser must conduct all appropriate inquiries into previous ownership and uses of the Site prior to acquisition. The Owner purchased the Site on February 8, 2019 without obtaining an AAI-compliant Phase I environmental site assessment (Phase I ESA) prior to acquisition.¹ Therefore, the Owner is ineligible to obtain a Comfort Letter for the Site from the Program based on qualification as a BFPP. However, as discussed below, there is an enforcement discretion policy that applies to environmental conditions on the Site through which the Owner can qualify for a Comfort Letter instead.

¹ A Phase I Environmental Property Assessment (February 2019 Phase I ESA) dated February 28, 2019 and prepared by Environmental Services, Inc. (Document #82764619) for Peoples Bank and the U.S. Small Business Association was submitted to the Program with the Owner's April 2019 Comfort Letter request. However, the February 2019 Phase I ESA did not authorize the Owner to rely on the report as a User and, in addition, was not issued prior to the Owner's acquisition of the Site.

Site Description and History

The 0.15-acre Site is one parcel identified by the State by parcel #45-07-21-380-001.000-026. The Site was initially developed for residential use in 1907 with a wooden one-story building constructed on wooden support beams resting on the ground surface. An addition to the building was subsequently constructed in 1948. The Site was later used for commercial purposes and was most recently a clothing store (Highland Kiddie Shop) between 1970 and 2010. A remodeling permit was issued in 2015, but a stop work order was issued due to structural issues. The Owner acquired the Site on February 8, 2019 and plans to demolish the building for the construction of a new dental office.

Surrounding properties include Highway Avenue and commercial properties to the north; a parking lot, hiking trail, and commercial properties including Thrifty Kleen Cleaners (State Cleanup Program (SCP) #201001012 and Voluntary Remediation Program (VRP) site #6150304) to the east; commercial properties to the south; and, 2nd Street and residences to the west.

Environmental Conditions

As part of the request for assistance in determining any existing environmental contamination and potential liability to undertake response activities at the Site, Program staff have reviewed the documents listed below. These documents may be viewed electronically by searching online by the noted document number in IDEM's Virtual File Cabinet (VFC) accessible through IDEM's website.

- *Phase I Environmental Property Assessment* (Phase I EPA – February 2019), dated February 28, 2019, prepared by EPS Environmental Services, Inc. (Document #82764619)
- *Comfort Letter – Bona Fide Prospective Purchaser, Thrifty Kleen Cleaners, 2716 Highway Avenue, Highland, Lake County* (2019 Comfort Letter – Thrifty Kleen Cleaners), dated May 10, 2019, prepared by IDEM (Document #82769835)

For purposes of evaluating Site conditions for closure, sample analytical results were compared to IDEM's *Remediation Closure Guide* (RCG) (March 22, 2012 and applicable revisions) screening levels as follows: soil samples collected at depths between 0 and 10 feet below ground surface (bgs) were compared to RCG residential and commercial/industrial direct contact screening levels (RD CSLs and IDC SLs, respectively), soil samples collected between 0 and 18 feet bgs were compared to the excavation worker direct contact screening levels (EX DC SLs); and, soil samples collected at depths greater than 18 feet bgs were not evaluated for purposes of closure because of the unlikely risk of exposure to soil at that depth. Ground water samples were compared to both residential tap ground water screening levels (Res TAP GW SLs), residential and commercial/industrial vapor exposure ground water screening levels (Res VE GW SLs and Indus VE GW SLs, respectively). Indoor air samples were compared to residential indoor air vapor exposure screening levels (Res IA VES Ls) and commercial/industrial indoor air vapor exposure screening levels (Indus IA VES Ls).

Subslab soil gas samples were compared to calculated RCG residential subslab soil gas screening levels (Res SGss SLs) and calculated commercial/industrial subslab soil gas screening level (Indus SGss SLs).

2019 Phase I ESA – February 2019

The February 2019 Phase I ESA identified the following recognized environmental conditions (RECs) associated with the Site:

- Thrifty Kleen Cleaners (2716 Highway Avenue), located to the east of the Site, was identified as IDEM SCP #201001012 and VRR site #6150304. According to the IDEM database, a release of various volatile organic compounds (VOCs) occurred as a result of historical dry cleaning operations and contaminated soil and ground water are migrating off-site.
- According to laboratory data from ground water samples collected from the adjoining property, concentrations of VOCs in ground water samples exceeded their respective IDEM Res VE GWSLs and/or Indus VE GWSLs. Therefore, there is a potential for vapor encroachment to occur at the Site.

May 2019 Comfort Letter and Environmental Restrictions – Thrifty Kleen Cleaners

On May 10, 2019, a Comfort Letter (May 2019 Comfort Letter) and environmental restrictive covenant (ERC) (Document #82769835) were issued by IDEM to Les Trinity Group LLC for the eastern, off-Site adjoining Thrifty Kleen Cleaners property. The May 2019 Comfort Letter summarized the field investigations completed at the Site as follows:

- Between December 2009 and October 2011, soil borings DP-5, DP-6, and DP-20 were advanced on the Site as part of a larger investigation of a release of tetrachloroethene (PCE) at the off-Site Thrifty Kleen Cleaners property. In October 2011, one subslab vapor port was installed in the Highland Kiddie Shop building for the collection of paired subslab soil gas/indoor air (SS-3/IA-3) samples. PCE was detected in ground water above its Res TAP GWSL, but below its Res VE GWSL and Indus VE GWSL in multiple samples. Refer to Table 1, below, for a summary of ground water analytical data above applicable RCG screening levels. No other constituents analyzed in ground water, subslab soil gas, and indoor air were detected at levels above their applicable RCG screening levels.
- In December 2012, paired subslab soil gas/indoor air (SS-3/IA-3) sampling was completed on-Site. Subslab soil gas analytical results did not detect any analyzed constituents above RCG screening levels. PCE and TCE were detected in indoor air at levels above their respective Res IA VESLs and TCE was detected at a level above its Indus IA VESL. Refer to Table 3, below, for a summary of ground water analytical data above applicable RCG screening levels. No other constituents analyzed in subslab soil gas or indoor air samples

were detected above applicable RCG screening levels.

- In June and August 2013, active vapor intrusion (VI) mitigation systems were installed at the Thrifty Kleen Cleaners building and one crawl space air sample (CS-1) was collected in the on-Site building. No constituents analyzed in crawl space air were detected at levels above applicable RCG screening levels.
- In March 2014, winter worst-case scenario post-mitigation VI sampling was conducted at the Site. One indoor air (IA-5) and one crawlspace sample (CS-1) were collected at the Site. Benzene was detected in indoor air sample IA-5 at levels above its Res IA VESL, but below its Indus IA VESL. No other constituents analyzed in indoor air were detected at levels above applicable RCG screening levels.
- Thrifty Kleen Cleaners submitted an application to the Voluntary Remediation Program (VRP) on March 16, 2015. A Voluntary Remediation Agreement (VRA) was signed on May 14, 2015 assigning VRP #0150304 to the Thrifty Kleen Cleaners property. A Remediation Work Plan (RWP) dated January 11, 2016 was subsequently submitted to VRP.
- In November 2016, Thrifty Kleen Cleaners discontinued its operations and in December 2016, soil under the Thrifty Kleen Cleaners portion of the building was excavated.
- In January 2017, extraction piping for a replacement subslab depressurization system (SSDS) and a ground water conveyance system were installed in the Thrifty Kleen Cleaners building.
- In May 2017, construction of the ground water conveyance system continued with the installation closed loop remediation at the Thrifty Kleen Cleaners building.
- By February 2018, the on-Site building was vacant.
- In April 2018, a Revised RWP for the Thrifty Kleen Cleaners VRP property was submitted to IDEM and proposed an additional two years ground water sampling after completion of remediation.
- In October 2018, an injection well (IW-1) and a pumping well (PW-1) were installed off-Site in the ROW of Highway Avenue to the north of the Site.
- In November 2018, ground water was pumped from PW-1 into a tote, mixed with sodium permanganate powder and injected into IW-1. Two rounds of injections and a rinse of residual permanganate from the tote (approximately 600 gallons) were injected into IW-1 and ground water conveyance system was shut down for the winter.

TABLE 1
Ground Water Concentrations Exceeding Applicable IDEM RCG Screening Levels

Sample		Contaminants and Concentrations (parts per billion (ppb))			
ID	Date	PCE	TCE	Cis-1,2-dichloroethene	Vinyl Chloride
DP-5	12/09	25	<5	<5	<2
DP-20	9/11	11.1	<5	<5	<2
DP-22*	9/11	18.5	<5	<5	<2
DP-23*	9/11	<i>72.7/74.4</i>	<i>14.3/15.1</i>	<i>47.4/52.8</i>	<2
MW-3*	10/11	55.8	<5	<5	<2
GP-2*	10/16	<u>17.1</u>	NR	NR	NR
GP-3*	10/16	<u>584</u>	<u>69.1</u>	<u>1,060</u>	30.9
MW-13*	12/18	<u>111</u>	NR	<u>90.1</u>	NR
MW-15*	12/18	<u>411</u>	<u>27.6</u>	<u>183</u>	3.69
Res TAP GWSL		5	5	70	2
Res VE GWSL		110	9.1	NE	2.1
Indus VE GWSL		470	38	NE	35

Notes: **bold** = above RCG Residential Tap Ground Water Screening Level
italics = above RCG Residential Vapor Exposure Ground Water Screening Level
underline = above RCG Commercial/Industrial Vapor Exposure Ground Water Screening Level
 ## = duplicate sample
 PCE = tetrachloroethene
 NR = not reported
 * = off-Site, but in vicinity of Site
 TCE = trichloroethene
 NE = not established

TABLE 2
Indoor Air Concentrations Exceeding Applicable IDEM RCG Screening Levels

Sample		Sample ID & Results (Micrograms per cubic meter (ug/m ³))		
ID	Date	Benzene	Tetrachloroethene	Trichloroethene
IA-3	12/2012	NR	95.8	9.4
IA-5	3/2014	5.88	9.83	<1.07
Res IA VESL		3.6	42	2.1
Indus IA VESL		16	180	8.8

Notes: **bold** = above RCG Residential Indoor Air Vapor Exposure Screening Level
italics = above RCG Commercial/Industrial Indoor Air Vapor Exposure Screening Level
 NR = not reported

Technical Conclusion

PCE, TCE, and benzene have been detected in indoor air on the Site and PCE has been detected in on-Site ground water, all at levels above their respective RCG screening levels. It has been demonstrated that ground water and indoor air contamination on the Site is emanating from the Thrifty Kleen Cleaners property located adjacent to the east of the Site. Ground water contamination on the Site will continue to be managed as part of the ongoing efforts to remediate ground water in the vicinity of the Site through the VRP project for Thrifty Kleen Cleaners.

Liability Clarification

IDEM's "*Brownfields Program Comfort and Site Status Letters*" Non-rule Policy Document, W-0051 (April 18, 2003) (Comfort and Site Status Letter Policy), provides that IDEM may issue a letter to a stakeholder involved in redevelopment of a brownfield if the stakeholder satisfies certain eligibility criteria outlined below. IDEM concludes, based in part on information provided by the Owner, that:

- (1) no state or federal enforcement action at the Site is pending;
- (2) no federal grant requires an enforcement action at the Site;
- (3) no condition on the Site constitutes an imminent and substantial threat to human health or the environment;
- (4) neither the Owner nor an agent or employee of the Owner caused, contributed to, or knowingly exacerbated the release or threat of release of any hazardous substance at the Site, and;
- (5) The Owner is eligible for application of an IDEM enforcement discretion policy, specifically IDEM's Nonrule Policy Document "*Property Containing Contaminated Aquifers*," W0047 (January 30, 1997) (Contaminated Aquifers Policy) (IC 13-23; 329 IAC 9).

Pursuant to the Contaminated Aquifers Policy, IDEM will not pursue any person for response costs related to, or require them to respond to, a release of petroleum or a hazardous substances if the person can demonstrate that the contamination at issue has come to be located on the property solely as the result of subsurface migration in an aquifer from a source outside the boundaries of the property and the landowner did not cause, contribute to, or exacerbate the release or threat of release of the contamination. Based on the information reviewed by the Program to date, IDEM has determined that:

- 1) the PCE contamination detected in ground water on the Site (and PCE, TCE and benzene in indoor air on the Site) has come to be located there solely as the result of subsurface migration in an aquifer from a source outside of the boundaries of the Site;
- 2) the Owner has neither caused, contributed to, or exacerbated the release or threat of release of PCE in ground water on the Site; and,

- 3) no direct or indirect contractual relationship exists between the Owner and the party or parties responsible for the contamination.

Therefore, under the applicable policies, IDEM will utilize its enforcement discretion to not hold the Owner responsible to investigate and remediate the PCE contamination in ground water on the Site or the PCE, TCE and benzene contamination in indoor air on the Site. However, pursuant to the applicable policies and as a condition of IDEM's exercise of its enforcement discretion, the Owner must take due care with respect to the contamination discovered on the Site. In this case, IDEM is requiring the implementation of land use restrictions through recordation of an environmental restrictive covenant (ERC) on the deed for the Site to ensure no exposure by Site occupants to the contamination above RCG residential screening levels in on-Site ground water. The land use restrictions in the ERC are summarized below.

Institutional Control

Since levels of benzene, PCE, and TCE in indoor air and PCE in ground water underlying the Site remain above applicable RCG residential screening levels, IDEM is requiring the implementation of land use restrictions through recordation of an ERC on the deed for the Site to ensure no exposure by Site occupants to the contamination above RCG residential screening levels in on-Site ground water. The land use restrictions in the ERC are summarized below:

- Not interfere with any ongoing response activities or long-term ground water monitoring implemented at the Site (VRP #6150304).
- Not occupy any existing building(s) or any newly-constructed human-occupied building(s) on the Site without first determining, or permitting a third party to determine, with IDEM concurrence that a vapor intrusion (VI) exposure is not present; or installing an IDEM-approved VI mitigation system. If a VI mitigation system(s) is installed, the VI system(s) shall be operated and maintained to ensure the VI exposure risk is mitigated, or shall be operated and maintained until such a time it is determined with IDEM concurrence that the VI exposure risk longer exists.
- Not use or allow the use or extraction of ground water at the Site.

Conclusion

IDEM encourages the commercial redevelopment of the Site. Should additional information gathered in conjunction with future Site investigations and/or remediation demonstrate that a particular restriction is no longer necessary to protect human health and the environment or that Site conditions are appropriate for unrestricted use, IDEM will, upon request, consider modification or termination of the ERC recorded on the deed for the Site pursuant to its terms and conditions. Conversely, it is also possible that new land use restrictions may be necessary in the future due to new information or changed circumstances at the Site.

This letter shall not be construed as limiting the Owner's ability to rely upon any other defenses and/or exemptions available to it under any common or environmental law, nor shall it limit any ongoing obligations of the Owner that are required to maintain the benefit of the issuance of this letter. Furthermore, the terms and conditions of this letter shall be limited in application to this letter recipient and this Site, and shall not be binding on IDEM at any other Site.

If at any time IDEM discovers that the above-mentioned reports, any representations made to IDEM, or any other information submitted to or reviewed by IDEM was inaccurate, which inaccuracy can be attributed to the Owner, then IDEM reserves the right to revoke this letter and pursue any responsible parties. Furthermore, if any activities undertaken by the Owner result in a new release or if Site conditions are later determined by IDEM to constitute an imminent and substantial threat to human health or the environment, IDEM reserves the right to revoke this decision and pursue any responsible parties. Additionally, this decision does not apply to past or present contamination that is not described in this Comfort Letter, future releases, or applicable requirements under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 or CERCLA criminal liability, or liability for natural resource damages. Furthermore, this letter does not constitute an assurance that the Site is safe for any particular use. Please be advised that any work performed at the Site must be done in accordance with all applicable environmental laws.

In order for IDEM to consider this letter effective, the enclosed ERC, which includes a copy of the Comfort Letter, must be recorded on the deed for the Site in the Lake County Recorder's Office. Enclosed are recording instructions explaining the process of how to correctly record the ERC. Please return a certified copy of the filed document to the address listed below:

Indiana Brownfields Program
100 North Senate Avenue, Room 1275
Indianapolis, Indiana 46204
ATTN: Tracey Michael

IDEM is pleased to assist Evajo, LLC with this commercial redevelopment project determination. Should you have any questions or comments, please contact Tracey Michael of the Indiana Brownfields Program at 317-232-4402 or by email at tmichael@ifa.in.gov.

Sincerely,



Peggy Dorsey
Assistant Commissioner
Office of Land Quality

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Enclosure (ERC)

**This Document is the property of
the EPA Region 5 (electronic copy)**

cc: Patricia Polston, U.S. EPA Region 5 (*electronic copy*)
Meredith Gramelspacher, Indiana Brownfields Program (*electronic copy*)
Tracey Michael, Indiana Brownfields Program (*electronic copy*)
Robin Feller, IDEM Voluntary Remediation Program (*electronic copy*)
Ray Milejczak, Lynn Douglas (*electronic copy*)

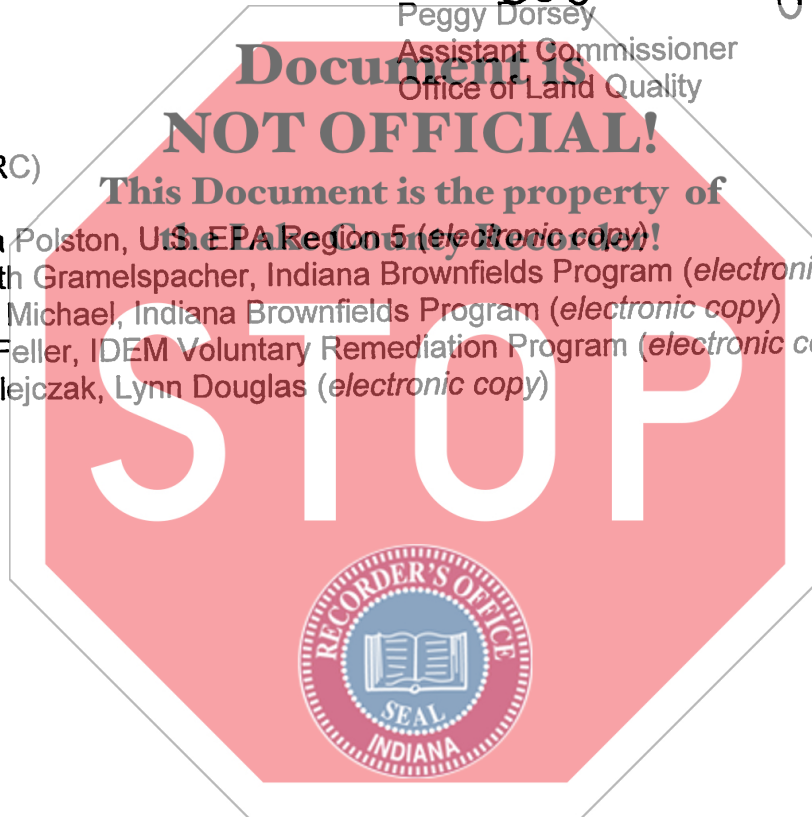


EXHIBIT D

TABLE 1

Highland Kiddie Shop, Highland - BFD #4190410
Ground Water Concentrations Exceeding Applicable IDEM RCG Screening Levels

TABLE 2

Highland Kiddie Shop, Highland - BFD #4190410
Indoor Air Concentrations
Exceeding Applicable IDEM RCG Screening Levels



TABLE 1
Highland Kiddie Shop, Highland - BFD #4190410
Ground Water Concentrations Exceeding Applicable IDEM RCG Screening Levels

Sample		Contaminants and Concentrations (parts per billion (ppb))
ID	Date	Tetrachloroethene
DP-5	12/09	25
DP-20	9/11	11.1
Res TAP GWSL		5
Res VE GWSL		110
Indus VE GWSL		470

Note: **bold** = above RCG Residential Tap Ground Water Screening Level

TABLE 2
Highland Kiddie Shop, Highland - BFD #4190410
Indoor Air Concentrations
Exceeding Applicable IDEM RCG Screening Levels

Sample		Sample ID & Results (Micrograms per cubic meter (ug/m ³))		
ID	Date	Benzene	Tetrachloroethene	Trichloroethene
IA-3	12/2012	NR	95.8	9.4
IA-5	3/2014	5.88	9.83	<1.07
Res IA VESL		3.6	42	2.1
Indus IA VESL		16	180	8.8

Notes: **bold** = above RCG Residential Indoor Air Vapor Exposure Screening Level
italics = above RCG Commercial/Industrial Indoor Air Vapor Exposure Screening Level

NR = not reported



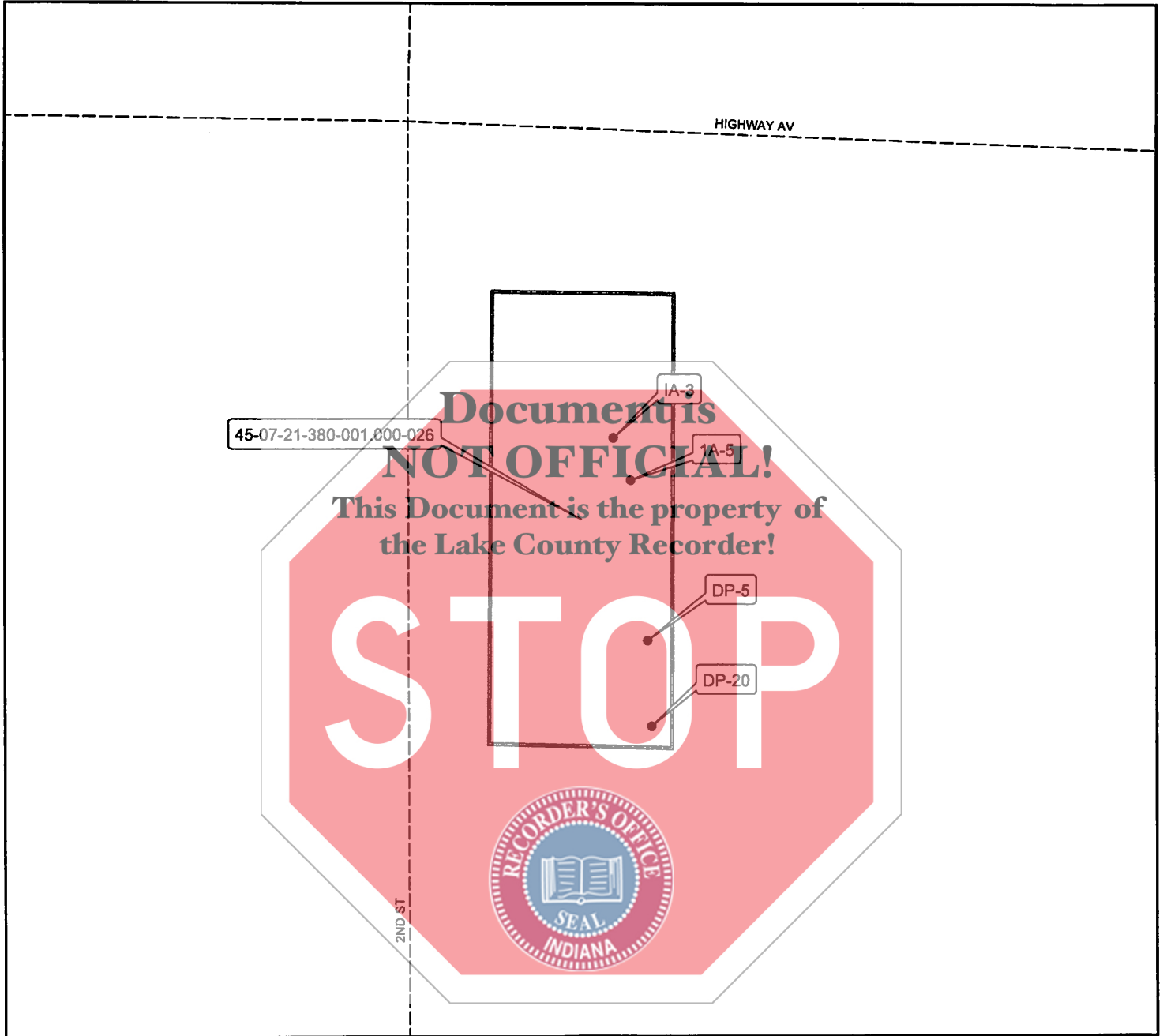
EXHIBIT E

**Highland Kiddie Shop, Highland - BFD #4190410
Site Map Depicting Sampling Locations at Which
COCs Were Detected Above Applicable IDEM RCG Screening Levels**



DISCLAIMER: Information on this map is being provided to depict environmental conditions on the Real Estate that are the subject of the land use restrictions contained in the Covenant to which this map is attached and incorporated. The land use restrictions contained in the Covenant were deemed appropriate by the Department based on information provided to the Department by the Owner or another party investigating and/or remediating the environmental conditions on the Real Estate. This map cannot be relied upon as a depiction of all current environmental conditions on the Real Estate, nor can it be relied upon in the future as depicting environmental conditions on the Real Estate.

BFD 4190410 - Site Map Depicting Sample Location Where COCs Were Detected Above Applicable IDEM RCG Screening Levels



Mapped By: Mike Hill, IDEM, Office of Land Quality, Science Services Branch, Engineering & GIS Services, July 29, 2019

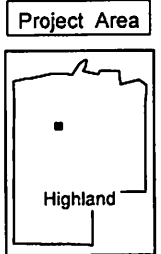
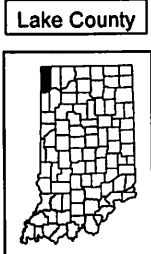
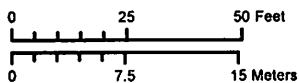
Sample Info: Sample locations based on Figure # 6, by Enviroforensics, dated 5/7/14

PLSS Info: Section 21, T36N, R9W, North Township, Lake County, IN

Property Info: 2706 Highway Avenue, Highland, IN

Disclaimer: This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.

●	Sample Location
▭	Real Estate
- - -	Street





LYNN-DOUGLAS

October 21, 2019

Ms. Tracey Michael
Project Manager
Indiana Finance Authority
100 North Senate Avenue, STE 1275
Indianapolis, Indiana 46204

RE: Plans, Sub Slab Vapor Mitigation System Piping
Former Highland Kiddie Shop
2706 Highway Avenue
Highland, Indiana 46406
Brownfield No. 4190410 (Site)

Dear Ms. Michael:

On behalf of Dr. Kurt E. Pramuk/Evajo LLC (Stakeholder), Lynn Douglas Inc. (LDI) presents herewith plan documents for the sub slab depressurization piping installed at the above-referenced Site which is shown on Figure 1. These plan documents have been prepared to satisfy requirements of a Contaminated Aquifer Letter being pursued by the Stakeholder at the request of a lender. This report details the remediation efforts undertaken by the Stakeholder to proactively address the potential for vapor migration into his future Site building, if the potential exists.

Background

Incidental minor spills at the former Thrifty Kleen dry cleaners located at 2716 Highway Avenue in Highland, IN, have resulted in soil impacted with tetrachloroethene (PCE) and trichloroethene (TCE) beneath the dry-cleaning unit, a portion of an adjoining tenant spaces, and in a parking lot east of the Site building. The first subsurface investigation completed at the Site indicating a release of VOCs was a Limited Subsurface Investigation (LSI) submitted to the IDEM by Environmental Forensic Investigations Inc. (EFI) on January 10, 2010. PCE, TCE, cis-1,2 and trans-1,2 dichloroethene (DCE) and vinyl chloride, which are the Site's contaminants of concern (CoCs), have been detected in groundwater at concentrations above values published in the IDEM's Remediation Closure Guide (RCG) Residential Vapor Intrusion Screening Levels (VISL) or tap residential groundwater screening levels (TRGSL). An outline of the concentrated portion of the groundwater plume is shown in Figure 2.

EFI concluded in their January 14, 2014 Vapor Intrusion Sampling and Mitigation Report (VFC No. 69479599), the VI pathway has been appropriately investigated and no further investigation is warranted at additional businesses such as the former Highland Kiddie Shop located approximately 75 feet west of the Thrifty Kleen Cleaners.

The following investigations have been completed by EFI at the Site:

- September 24, 2010 Site Investigation Report Virtual File Cabinet (VFC) No. 58574661
- July 5, 2011 Response to Further Site Investigation Request, VFC No. 62840040
- June 19, 2012 Further Site Investigation VFC No. 66258592
- May 6, 2013 Response to IDEM Comment Letter VFC No. 68172959
- January 14, 2014 Vapor Intrusion Sampling and Mitigation Report VFC No. 69479599
- June 30, 2014 Further Vapor Intrusion Assessment and Post Mitigation Report VFC No. 70176517
- March 6, 2014 Further Site Investigation 2 Report, VFC No. 69757267
- March 16, 2015 Voluntary Remediation Program Application VFC No. 80030238

The following investigations have been completed by LDI at the Site:

- January 17, 2019 Remediation Progress Report VFC No. 82677897
- March 8, 2018 Remediation Progress Report VFC No. 82603185
- April 20, 2018 Revised Remediation Work Plan VFC No. 82601044
- February 28, 2017 Remediation Work Plan Addendum VFC No. 82601023
- January 11, 2016 Remediation Work Plan VFC No. 82601006

Potential human exposure to VOCs originating from the Site has been addressed by the following remediation activities by LDI:

- Removal of the soil source area in the former dry cleaner building in December 2016,
- installation of a sub-slab depressurization systems (SSDS) in the former soil source area in December 2016,
- installation and operation of a groundwater extraction, treatment and recirculation loop beginning in October 2017 and ending in November 2018, and
- installation of an injection well near the former Highland Kiddie Shop and the injection of a permanganate solution in November 2018 and July 2019.

At this time soil impacts have been addressed by the soil remediation completed by LDI as described in the above documents. Groundwater impacts remain beneath the Site and a CoC plume extends from the former Thrifty Kleen dry cleaner to beneath the Site as shown in Figure 2.

Geological Setting

According to the USDA Soil Survey, the predominant mapped soil unit surrounding the Site are urban soil, which is described as areas filled with earth, cinders, basic slag, trash or any combination of these and then have been regraded and covered. Underlying the Urban Land

soils are unconsolidated lacustrine deposits, predominantly dune deposits consisting of fine to medium sand.

Historically, the retreat of the Lake Michigan ice lobe from the Michigan basin opened outlets across Canada that rapidly lowered the elevation of the lake. The first time this happened was about 12,200 years ago. The readvance closed the Canadian outlets, ponding water in front of the ice once again. In the southern part of the lake, the rising lake level and accompanying waves and currents scoured sediment from the margins of the lake.

The Calumet Beach is a prominent feature along Indiana's coast. Highway 12 follows it from Michigan City to Dune Acres. Farther westward, Ridge Road follows the Calumet Beach through Glen Park, Highland, and Munster. About 10,000 years ago, lake level rapidly fell again. It fell so quickly that nearshore bars are preserved in Wicker Park (intersection of Ridge Road and Highway 41).¹

These permeable, granular soils known to be present beneath the Site allow for favorable fluid movement whether it is groundwater or vapor phase moisture. The geologic setting is favorable for the installation of a SSDS to control the migration of subsurface vapors near a building.

SSDS Design

LDI directed the installation of a horizontal SSDS extraction well, prior to the pouring of the Site building's concrete slab considering the following:

- The building will have a slab on grade construction without a basement,
- The future use of the Site will be a dental practice which will have temporary occupation,
- A 10-mil vapor barrier was placed atop compacted backfill prior to pouring the concrete slab for the building (Figure 3),
- VOC vapors in Site soil, particularly the northern portion of the property, have the potential to exceed applicable IDEM screening levels,
 - The first barrier to vertical migration of VOCs into the Site building will be the 10-mil vapor,
 - The second barrier will be the concrete slab itself,
 - Flooring material, including tile will also serve as a vapor barrier
 - Future testing of the SSDS extraction well will be completed as a first step to determine if CoC vapor accumulation beneath the concrete slab's vapor barrier exists,

¹ <https://igws.indiana.edu/FossilsAndTime/LakeMichigan>

The SSDS, if an active system is needed, will have the following features:

- If an active SSDS is necessary, all construction will be completed in accordance with *ASTM E2121-13 Standard Practice for Installing Radon Mitigation Systems in Existing Low-Rise Residential Buildings*
- One three-inch diameter, schedule 40, polyvinyl chloride (PVC) screen 10 feet long was placed horizontally to a depth of approximately one foot below concrete grade to provide an intake to recover potential vapor phase impacts (Figure 4),
 - The slot size of the screen is No. 20
 - The horizontal well was placed in a bed of pea gravel, and
 - The horizontal well serves as a sampling point to assess soil vapor at the Site.

If needed, one centrifugal blower will be installed with the ability to provide a vacuum of up to 3 inches of water with an exhaust air flow rate of at least 40 cubic feet per minute.

- An electrical service using household 115/120-volt 15 amperage service will be used.
- The exhaust of the blower would be placed above the roof line,

The blower installation would appear similar to the following radon system.



Once the building construction is complete, EVAJO LLC will complete sampling of the newly installed system piping for VOCs by EPA Method TO-15. The data will be reviewed, and a decision made to complete the installation of the sub slab depressurization system.

Regards,

Ray Milejczak

Raymond D. Milejczak, L.P.G
Principal Geologist



acgraphix

Sanitary Manhole 7132

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HIGHWAY AVENUE



Boys Brothers
Breaker House

Highland
American
Legion
Post 180



NOTES

- PCF - TRICHLOROETHENE
- TCE - TETRACHLOROETHENE
- c1,2DCE - c1,1,2-TRICHLOROETHENE
- c1,2DCE - c1,2,4-TRICHLOROETHENE
- VC - VINYL CHLORIDE
- ND - NOT DETECTED
- GREEN SHADING - EXCEEDANCE OF RESIDENTIAL TAP WATER SCREENING LEVELS
- BLUE SHADING - EXCEEDANCE OF RESIDENTIAL VAPOR EXPOSURE SCREENING LEVELS
- YELLOW SHADING - EXCEEDANCE OF INDUSTRIAL VAPOR EXPOSURE SCREENING LEVELS
- VALUES PRESENTED IN MICROGRAMS PER LITER (ug/l)
- * 22719 SAMPLES COLLECTED AT SHALLOWEST DEPTH OF 10.5 FEET BELOW TOP OF CASING

MW1	BTW	VERSES	YES/1
PCF	0	1/0	4/0
TCE	0	0/1	3/8
c1,2DCE	70	8/8	NE
c1,2DCE	100	8/8	NE
VC	0	5/1	3/5

APPROXIMATE GRAPHIC SCALE



LYNN-DOUGLAS

3933 E. 10th Street
Carmel, Indiana 46032

PROPERTY IDENTIFICATION MAP
 EVALO LLC &
 FORMER TRIPLETT & LEN CLEANERS
 2706, 2716 & 2720 HIGHWAY AVENUE
 HIGHLAND, INDIANA

Job No: 0629001 Date: MARCH 2019
 Drawn By: HD Version: 1
 Approved By: RM Figure No: 1



MONITORING WELL LOCATION

NOTES

- PCE - TETRACHLOROETHENE
- TCE - TRICHLOROETHENE
- c-1,2-DCE - cis-1,2-DICHLOROETHENE
- t-1,2-DCE - trans-1,2-DICHLOROETHENE
- VCh - VINYL CHLORIDE
- ND - NOT DETECTED
- GREEN SHADING - EXCEEDANCE OF RESIDENTIAL TAP WATER SCREENING LEVELS
- BLUE SHADING - EXCEEDANCE OF RESIDENTIAL VAPOR EXPOSURE SCREENING LEVELS
- YELLOW SHADING - EXCEEDANCE OF INDUSTRIAL VAPOR EXPOSURE SCREENING LEVELS
- VALUES PRESENTED IN MICROGRAMS PER LITER (µg/l)
- * 22/19 SAMPLES COLLECTED AT SHALLOWEST DEPTH OF 10.5 FEET BELOW TOP OF CASING

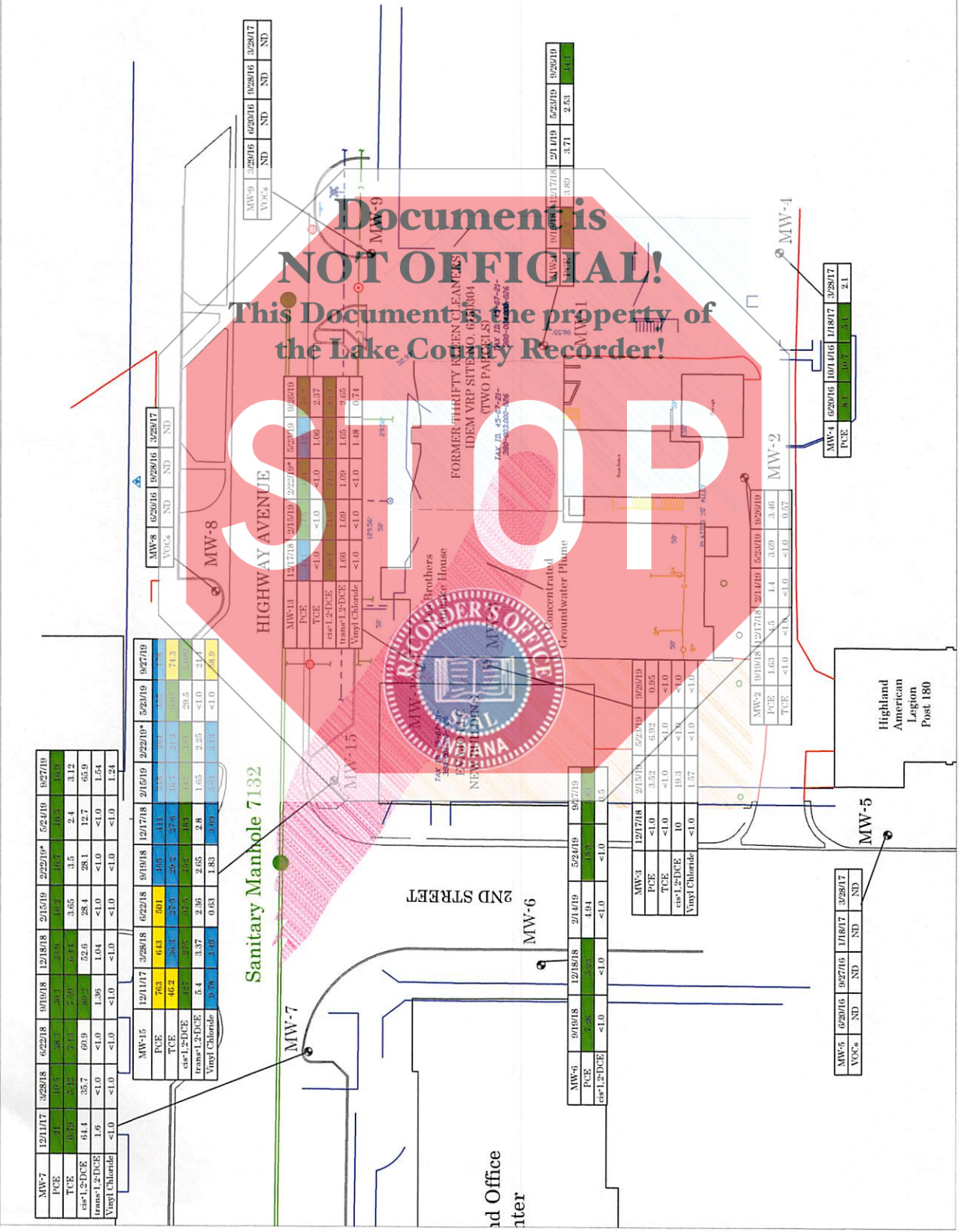
MW#	RTW	VERSES	VE#1
PCE	3	110	470
TCE	3	31	38
c-1,2-DCE	3	33	NE
t-1,2-DCE	3	33	NE
VCh	2	3	35

APPROXIMATE GRAPHIC SCALE
0 30
(IN FEET)



GROUNDWATER SAMPLING RESULTS
NEAR 4288, 4716 & 2720
HIGHWAY AVENUE
HIGHLAND, INDIANA

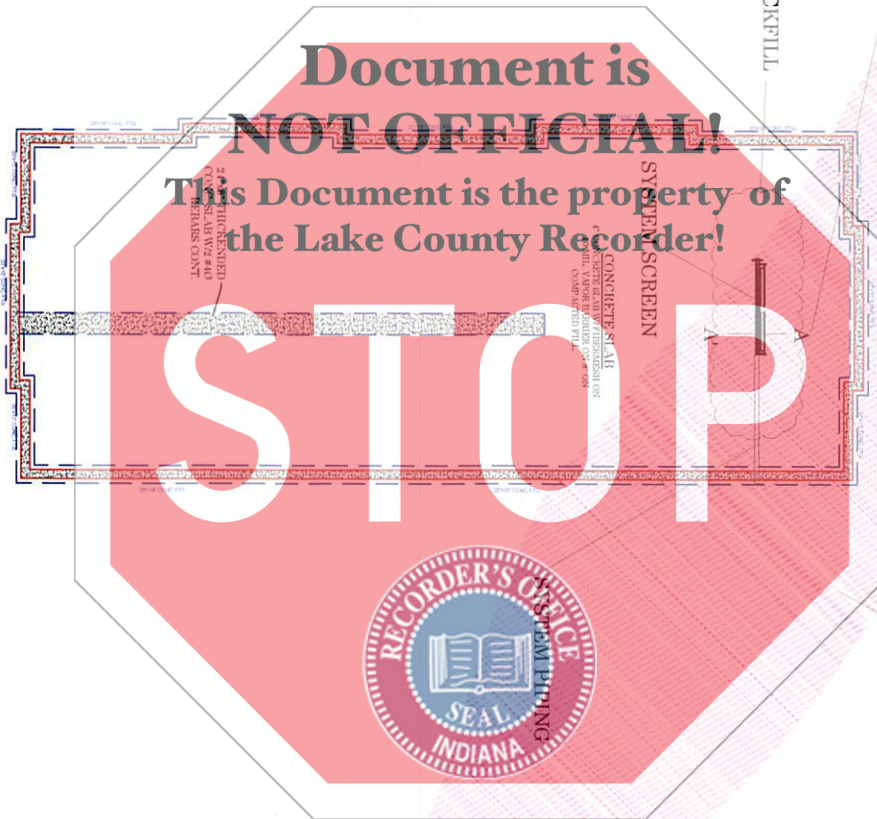
Job No. 002-901 Date: OCTOBER 2019
Drawn By: RJJ Version: 1
Approved By: RM Figure No. 2



PIPING SECTION (FIGURE 4)

GRAVEL BACKFILL

GROUNDWATER PLUME (FIGURE 2)



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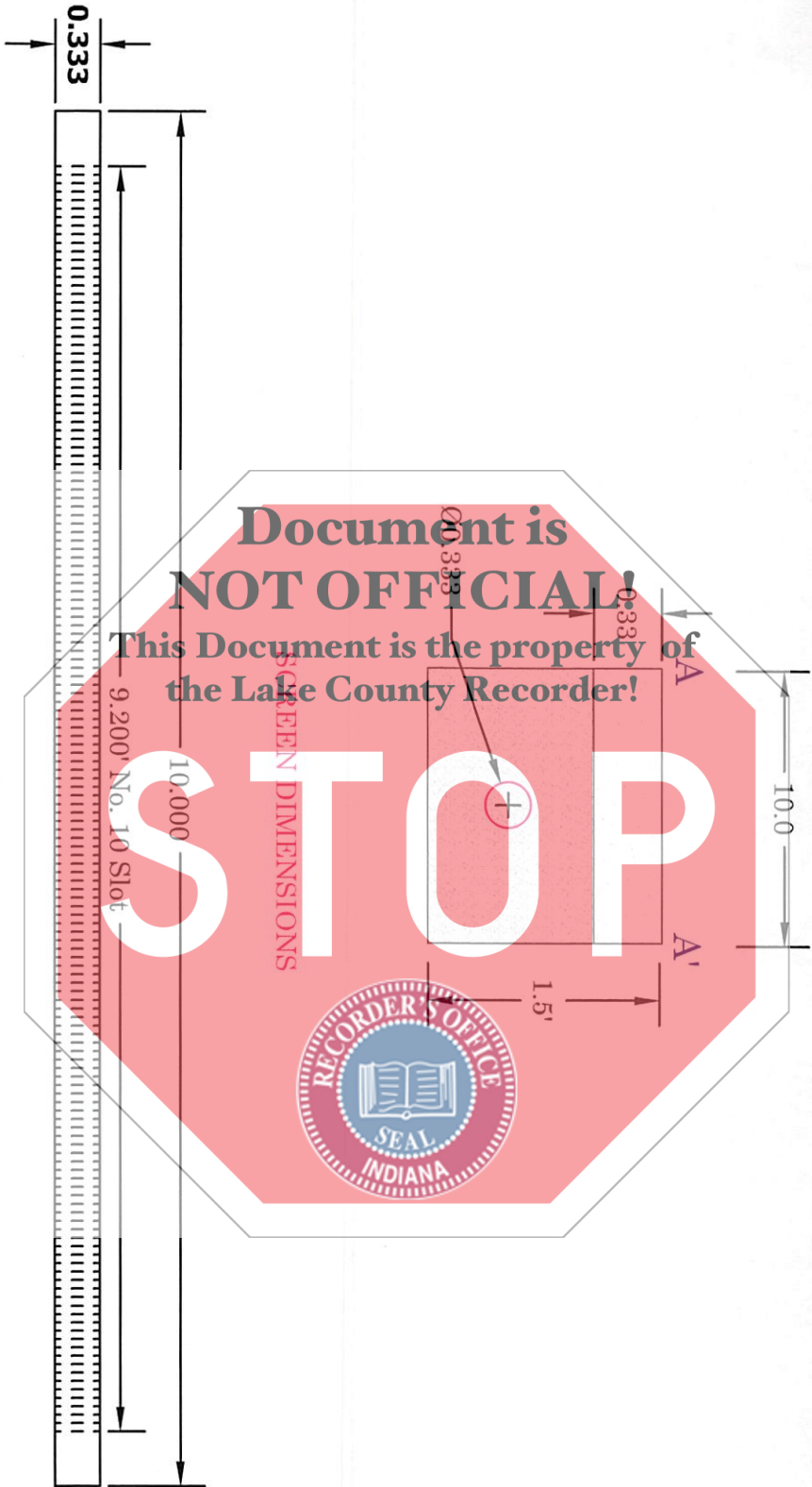


LYNN-DOUGLAS
 3849 E. 126th Street
 Carmel, Indiana 46032

PLAN VIEW
 SUB-SLAB VAPOR SYSTEM
 2700 HIGHWAY AVENUE
 THOPLAND, INDIANA

Job No.	002-601	Date	OCTOBER 2019
Drawn by	JS	Version	1
Approved by	KM	Figure No.	3

PIPE SECTION



APPROXIMATE SCALE
AS SHOWN



LYNN-DOUCIAS
Sue E. Lynn, General
Counsel, Indiana 2012

PRINTING DETAILS
EVADOLLC
2706 HIGHWAY AVENUE
HIGHLAND, INDIANA

J&S No.	Date
002-001	OCTOBER 2019
Drawn By	Version
JS	1
Approved By	Figure No.
RM	4



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

September 19, 2019

Kurt E. Pramuk, DDS, PC
Evajo, LLC
931 Ridge Road, Suite C
Munster, Indiana 46231

Re: **Comfort Letter**
Contaminated Aquifer
Highland Kiddie Shop
2706 Highway Avenue
Highland, Lake County
Brownfield #4190410

**Document is
NOT OFFICIAL!**

**This Document is the property of
the Lake County Recorder!**

Dear Dr. Pramuk:

In response to the request by Lynn Douglas, Inc. (Lynn Douglas) on behalf of Evajo, LLC (Evajo or Owner) to the Indiana Brownfields Program (Program) for assistance concerning the property located at 2706 Highway Avenue, Highland (Site), the Indiana Department of Environmental Management (IDEM) has agreed to provide this Comfort Letter to outline applicable limitations on liability for environmental conditions on the Site. This letter is not a legal release from liability. It will, however, help to establish whether environmental conditions at the Site might be a barrier to redevelopment or transfer.

In April 2019, the Owner requested a Comfort Letter based on qualification as a bona fide prospective purchaser (BFPP) under applicable statutes. To qualify as a BFPP under the federal "All Appropriate Inquiries" (AAI) rule set forth in 40 CFR Part 312, a prospective purchaser must conduct all appropriate inquiries into previous ownership and uses of the Site prior to acquisition. The Owner purchased the Site on February 8, 2019 without obtaining an AAI-compliant Phase I environmental site assessment (Phase I ESA) prior to acquisition.¹ Therefore, the Owner is ineligible to obtain a Comfort Letter for the Site from the Program based on qualification as a BFPP. However, as discussed below, there is an enforcement discretion policy that applies to environmental conditions on the Site through which the Owner can qualify for a Comfort Letter instead.

¹ A Phase I Environmental Property Assessment (February 2019 Phase I ESA) dated February 28, 2019 and prepared by Environmental Services, Inc. (Document #82764619) for Peoples Bank and the U.S. Small Business Association was submitted to the Program with the Owner's April 2019 Comfort Letter request. However, the February 2019 Phase I ESA did not authorize the Owner to rely on the report as a User and, in addition, was not issued prior to the Owner's acquisition of the Site.

Site Description and History

The 0.15-acre Site is one parcel identified by the State by parcel #45-07-21-380-001.000-026. The Site was initially developed for residential use in 1907 with a wooden one-story building constructed on wooden support beams resting on the ground surface. An addition to the building was subsequently constructed in 1948. The Site was later used for commercial purposes and was most recently a clothing store (Highland Kiddie Shop) between 1970 and 2010. A remodeling permit was issued in 2015, but a stop work order was issued due to structural issues. The Owner acquired the Site on February 8, 2019 and plans to demolish the building for the construction of a new dental office.

Surrounding properties include Highway Avenue and commercial properties to the north; a parking lot, hiking trail, and commercial properties including Thrifty Kleen Cleaners (State Cleanup Program (SCP) #201001012 and Voluntary Remediation Program (VRP) site #6150304) to the east; commercial properties to the south; and, 2nd Street and residences to the west.

Environmental Conditions

As part of the request for assistance in determining any existing environmental contamination and potential liability to undertake response activities at the Site, Program staff have reviewed the documents listed below. These documents may be viewed electronically by searching online by the noted document number in IDEM's Virtual File Cabinet (VFC) accessible through IDEM's website.

- *Phase I Environmental Property Assessment* (Phase I EPA – February 2019), dated February 28, 2019, prepared by EPS Environmental Services, Inc. (Document #82764619)
- *Comfort Letter – Bona Fide Prospective Purchaser, Thrifty Kleen Cleaners, 2716 Highway Avenue, Highland, Lake County (2019 Comfort Letter – Thrifty Kleen Cleaners)*, dated May 10, 2019, prepared by IDEM (Document #82769835)

For purposes of evaluating Site conditions for closure, sample analytical results were compared to IDEM's *Remediation Closure Guide* (RCG) (March 22, 2012 and applicable revisions) screening levels as follows: soil samples collected at depths between 0 and 10 feet below ground surface (bgs) were compared to RCG residential and commercial/industrial direct contact screening levels (RDCSLs and IDCSLs, respectively), soil samples collected between 0 and 18 feet bgs were compared to the excavation worker direct contact screening levels (EX DCSLs); and, soil samples collected at depths greater than 18 feet bgs were not evaluated for purposes of closure because of the unlikely risk of exposure to soil at that depth. Ground water samples were compared to both residential tap ground water screening levels (Res TAP GWSLs), residential and commercial/industrial vapor exposure ground water screening levels (Res VE GWSLs and Indus VE GWSLs, respectively). Indoor air samples were compared to residential indoor air vapor exposure screening levels (Res IA VESLs) and commercial/industrial indoor air vapor exposure screening levels (Indus IA VESLs).

Subslab soil gas samples were compared to calculated RCG residential subslab soil gas screening levels (Res SGss SLs) and calculated commercial/industrial subslab soil gas screening level (Indus SGss SLs).

2019 Phase I ESA – February 2019

The February 2019 Phase I ESA identified the following recognized environmental conditions (RECs) associated with the Site:

- Thrifty Kleen Cleaners (2716 Highway Avenue), located to the east of the Site, was identified as IDEM SCP #201001012 and VRP site #6150304. According to the IDEM database, a release of various volatile organic compounds (VOCs) occurred as a result of historical dry cleaning operations and contaminated soil and ground water are migrating off-site.
- According to laboratory data from ground water samples collected from the adjoining property, concentrations of VOCs in ground water samples exceeded their respective IDEM Res VE GWSLs and/or Indus VE GWSLs. Therefore, there is a potential for vapor encroachment to occur at the Site.

May 2019 Comfort Letter and Environmental Restrictions – Thrifty Kleen Cleaners

On May 10, 2019, a Comfort Letter (May 2019 Comfort Letter) and environmental restrictive covenant (ERC) (Document #82769835) were issued by IDEM to Les Trinity Group LLC for the eastern, off-Site adjoining Thrifty Kleen Cleaners property. The May 2019 Comfort Letter summarized the field investigations completed at the Site as follows:

- Between December 2009 and October 2011, soil borings DP-5, DP-6, and DP-20 were advanced on the Site as part of a larger investigation of a release of tetrachloroethene (PCE) at the off-Site Thrifty Kleen Cleaners property. In October 2011, one subslab vapor port was installed in the Highland Kiddie Shop building for the collection of paired subslab soil gas/indoor air (SS-3/IA-3) samples. PCE was detected in ground water above its Res TAP GWSL, but below its Res VE GWSL and Indus VE GWSL in multiple samples. Refer to Table 1, below, for a summary of ground water analytical data above applicable RCG screening levels. No other constituents analyzed in ground water, subslab soil gas, and indoor air were detected at levels above their applicable RCG screening levels.
- In December 2012, paired subslab soil gas/indoor air (SS-3/IA-3) sampling was completed on-Site. Subslab soil gas analytical results did not detect any analyzed constituents above RCG screening levels. PCE and TCE were detected in indoor air at levels above their respective Res IA VESLs and TCE was detected at a level above its Indus IA VESL. Refer to Table 3, below, for a summary of ground water analytical data above applicable RCG screening levels. No other constituents analyzed in subslab soil gas or indoor air samples

were detected above applicable RCG screening levels.

- In June and August 2013, active vapor intrusion (VI) mitigation systems were installed at the Thrifty Kleen Cleaners building and one crawl space air sample (CS-1) was collected in the on-Site building. No constituents analyzed in crawl space air were detected at levels above applicable RCG screening levels.
- In March 2014, winter worst-case scenario post-mitigation VI sampling was conducted at the Site. One indoor air (IA-5) and one crawlspace sample (CS-1) were collected at the Site. Benzene was detected in indoor air sample IA-5 at levels above its Res IA VESL, but below its Indus IA VESL. No other constituents analyzed in indoor air were detected at levels above applicable RCG screening levels.
- Thrifty Kleen Cleaners submitted an application to the Voluntary Remediation Program (VRP) on March 16, 2015. A Voluntary Remediation Agreement (VRA) was signed on May 14, 2015 assigning VRP #6150304 to the Thrifty Kleen Cleaners property. A Remediation Work Plan (RWP) dated January 11, 2016 was subsequently submitted to VRP.
- In November 2016, Thrifty Kleen Cleaners discontinued its operations and in December 2016, soil under the Thrifty Kleen Cleaners portion of the building was excavated.
- In January 2017, extraction piping for a replacement subslab depressurization system (SSDS) and a ground water conveyance system were installed in the Thrifty Kleen Cleaners building.
- In May 2017, construction of the ground water conveyance system continued with the installation closed loop remediation at the Thrifty Kleen Cleaners building.
- By February 2018, the on-Site building was vacant.
- In April 2018, a Revised RWP for the Thrifty Kleen Cleaners VRP property was submitted to IDEM and proposed an additional two years ground water sampling after completion of remediation.
- In October 2018, an injection well (IW-1) and a pumping well (PW-1) were installed off-Site in the ROW of Highway Avenue to the north of the Site.
- In November 2018, ground water was pumped from PW-1 into a tote, mixed with sodium permanganate powder and injected into IW-1. Two rounds of injections and a rinse of residual permanganate from the tote (approximately 600 gallons) were injected into IW-1 and ground water conveyance system was shut down for the winter.

TABLE 1
Ground Water Concentrations Exceeding Applicable IDEM RCG Screening Levels

Sample		Contaminants and Concentrations (parts per billion (ppb))			
ID	Date	PCE	TCE	Cis-1,2-dichloroethene	Vinyl Chloride
DP-5	12/09	25	<5	<5	<2
DP-20	9/11	11.1	<5	<5	<2
DP-22*	9/11	18.5	<5	<5	<2
DP-23*	9/11	<i>72.7/74.4</i>	<i>14.3/15.1</i>	<i>47.4/52.8</i>	<2
MW-3*	10/11	55.8	<5	<5	<2
GP-2*	10/16	17.1	NR	NR	NR
GP-3*	10/16	584	69.1	1,060	30.9
MW-13*	12/18	111	NR	90.1	NR
MW-15*	12/18	411	27.6	183	3.69
Res TAP GWSL		5	5	70	2
Res VE GWSL		110	9.1	NE	2.1
Indus VE GWSL		470	38	NE	35

Notes: **bold** = above RCG Residential Tap Ground Water Screening Level
italics = above RCG Residential Vapor Exposure Ground Water Screening Level
underline = above RCG Commercial/Industrial Vapor Exposure Ground Water Screening Level
 ## = duplicate sample
 PCE = tetrachloroethene
 NR = not reported
 * = off-Site, but in vicinity of Site
 TCE = trichloroethene
 NE = not established

TABLE 2
Indoor Air Concentrations Exceeding Applicable IDEM RCG Screening Levels

Sample		Sample ID & Results (Micrograms per cubic meter (ug/m ³))		
ID	Date	Benzene	Tetrachloroethene	Trichloroethene
IA-3	12/2012	NR	95.8	9.4
IA-5	3/2014	5.88	9.83	<1.07
Res IA VESL		3.6	42	2.1
Indus IA VESL		16	180	8.8

Notes: **bold** = above RCG Residential Indoor Air Vapor Exposure Screening Level
italics = above RCG Commercial/Industrial Indoor Air Vapor Exposure Screening Level
 NR = not reported

Technical Conclusion

PCE, TCE, and benzene have been detected in indoor air on the Site and PCE has been detected in on-Site ground water, all at levels above their respective RCG screening levels. It has been demonstrated that ground water and indoor air contamination on the Site is emanating from the Thrifty Kleen Cleaners property located adjacent to the east of the Site. Ground water contamination on the Site will continue to be managed as part of the ongoing efforts to remediate ground water in the vicinity of the Site through the VRP project for Thrifty Kleen Cleaners.

Liability Clarification

IDEM's "*Brownfields Program Comfort and Site Status Letters*" Non-rule Policy Document, W-0051 (April 18, 2003) (Comfort and Site Status Letter Policy), provides that IDEM may issue a letter to a stakeholder involved in redevelopment of a brownfield if the stakeholder satisfies certain eligibility criteria outlined below. IDEM concludes, based in part on information provided by the Owner, that:

- (1) no state or federal enforcement action at the Site is pending;
- (2) no federal grant requires an enforcement action at the Site;
- (3) no condition on the Site constitutes an imminent and substantial threat to human health or the environment;
- (4) neither the Owner nor an agent or employee of the Owner caused, contributed to, or knowingly exacerbated the release or threat of release of any hazardous substance at the Site, and;
- (5) The Owner is eligible for application of an IDEM enforcement discretion policy, specifically IDEM's Nonrule Policy Document "*Property Containing Contaminated Aquifers*," W0047 (January 30, 1997) (Contaminated Aquifers Policy) (IC 13-23; 329 IAC 9).

Pursuant to the Contaminated Aquifers Policy, IDEM will not pursue any person for response costs related to, or require them to respond to, a release of petroleum or a hazardous substances if the person can demonstrate that the contamination at issue has come to be located on the property solely as the result of subsurface migration in an aquifer from a source outside the boundaries of the property and the landowner did not cause, contribute to, or exacerbate the release or threat of release of the contamination. Based on the information reviewed by the Program to date, IDEM has determined that:

- 1) the PCE contamination detected in ground water on the Site (and PCE, TCE and benzene in indoor air on the Site) has come to be located there solely as the result of subsurface migration in an aquifer from a source outside of the boundaries of the Site;
- 2) the Owner has neither caused, contributed to, or exacerbated the release or threat of release of PCE in ground water on the Site; and,

- 3) no direct or indirect contractual relationship exists between the Owner and the party or parties responsible for the contamination.

Therefore, under the applicable policies, IDEM will utilize its enforcement discretion to not hold the Owner responsible to investigate and remediate the PCE contamination in ground water on the Site or the PCE, TCE and benzene contamination in indoor air on the Site. However, pursuant to the applicable policies and as a condition of IDEM's exercise of its enforcement discretion, the Owner must take due care with respect to the contamination discovered on the Site. In this case, IDEM is requiring the implementation of land use restrictions through recordation of an environmental restrictive covenant (ERC) on the deed for the Site to ensure no exposure by Site occupants to the contamination above RCG residential screening levels in on-Site ground water. The land use restrictions in the ERC are summarized below.

Institutional Control

Since levels of benzene, PCE, and TCE in indoor air and PCE in ground water underlying the Site remain above applicable RCG residential screening levels, IDEM is requiring the implementation of land use restrictions through recordation of an ERC on the deed for the Site to ensure no exposure by Site occupants to the contamination above RCG residential screening levels in on-Site ground water. The land use restrictions in the ERC are summarized below:

- Not interfere with any ongoing response activities or long-term ground water monitoring implemented at the Site (VRP #6150304).
- Not occupy any existing building(s) or any newly-constructed human-occupied building(s) on the Site without first determining, or permitting a third party to determine, with IDEM concurrence that a vapor intrusion (VI) exposure is not present; or installing an IDEM-approved VI mitigation system. If a VI mitigation system(s) is installed, the VI system(s) shall be operated and maintained to ensure the VI exposure risk is mitigated, or shall be operated and maintained until such a time it is determined with IDEM concurrence that the VI exposure risk no longer exists.
- Not use or allow the use or extraction of ground water at the Site.

Conclusion

IDEM encourages the commercial redevelopment of the Site. Should additional information gathered in conjunction with future Site investigations and/or remediation demonstrate that a particular restriction is no longer necessary to protect human health and the environment or that Site conditions are appropriate for unrestricted use, IDEM will, upon request, consider modification or termination of the ERC recorded on the deed for the Site pursuant to its terms and conditions. Conversely, it is also possible that new land use restrictions may be necessary in the future due to new information or changed circumstances at the Site.

This letter shall not be construed as limiting the Owner's ability to rely upon any other defenses and/or exemptions available to it under any common or environmental law, nor shall it limit any ongoing obligations of the Owner that are required to maintain the benefit of the issuance of this letter. Furthermore, the terms and conditions of this letter shall be limited in application to this letter recipient and this Site, and shall not be binding on IDEM at any other Site.

If at any time IDEM discovers that the above-mentioned reports, any representations made to IDEM, or any other information submitted to or reviewed by IDEM was inaccurate, which inaccuracy can be attributed to the Owner, then IDEM reserves the right to revoke this letter and pursue any responsible parties. Furthermore, if any activities undertaken by the Owner result in a new release or if Site conditions are later determined by IDEM to constitute an imminent and substantial threat to human health or the environment, IDEM reserves the right to revoke this decision and pursue any responsible parties. Additionally, this decision does not apply to past or present contamination that is not described in this Comfort Letter, future releases, or applicable requirements under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 or CERCLA criminal liability, or liability for natural resource damages. Furthermore, this letter does not constitute an assurance that the Site is safe for any particular use. Please be advised that any work performed at the Site must be done in accordance with all applicable environmental laws.

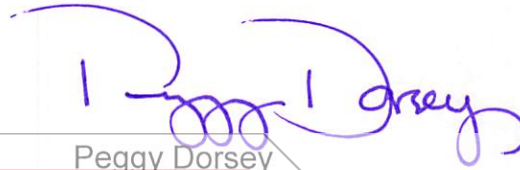
In order for IDEM to consider this letter effective, the enclosed ERC, which includes a copy of the Comfort Letter, must be recorded on the deed for the Site in the Lake County Recorder's Office. Enclosed are recording instructions explaining the process of how to correctly record the ERC. Please return a certified copy of the filed document to the address listed below.

Indiana Brownfields Program
100 North Senate Avenue, Room 1275
Indianapolis, Indiana 46204
ATTN: Tracey Michael

Highland Kidde Shop, Highland – Contaminated Aquifer Comfort Letter
BFD #4190410
September XX, 2019
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IDEM is pleased to assist Evajo, LLC with this commercial redevelopment project determination. Should you have any questions or comments, please contact Tracey Michael of the Indiana Brownfields Program at 317-232-4402 or by email at tmichael@ifa.in.gov.

Sincerely,



Peggy Dorsey
Assistant Commissioner
Office of Land Quality

**Document is
NOT OFFICIAL!**

Enclosure (ERC)

**This Document is the property of
the Lake County Recorder!**

cc: Patricia Polston, U.S. EPA Region 5 (*electronic copy*)
Meredith Gramelspacher, Indiana Brownfields Program (*electronic copy*)
Tracey Michael, Indiana Brownfields Program (*electronic copy*)
Robin Feller, IDEM Voluntary Remediation Program (*electronic copy*)
Ray Milejczak, Lynn Douglas (*electronic copy*)

