

ENVIRONMENTAL COVENANT

SITE NAME: Former Safety Kleen Service Center

GRANTOR/OWNER: BDC Spectrum LLC

GRANTEE(S)/HOLDERS(S): BDC Spectrum LLC and Maryland Department of the Environment

PROPERTY ADDRESS: 12120, 12144 and 12200 Tech Road, Silver Spring, MD 20904

This Environmental Covenant is executed pursuant to the provisions of Subtitle 8, Title 1 of the Environment Article, Ann. Code of Md. (2014 Repl. Vol.). This Environmental Covenant subjects the Property identified in Paragraph 1 to the activity and/or use limitations in this document. This Environmental Covenant has been approved by the Maryland Department of the Environment ("Department" or "MDE") and the United States Environmental Protection Agency ("EPA").

1. Property Affected. The real property affected by this Environmental Covenant (the "Property") is a ten acre industrial and commercial park located on Tech Road in Silver Spring, Montgomery County, Maryland.

The Property includes the addresses 12120, 12144 and 12200 Tech Road, Silver Spring, Maryland 20904.

The County Land Records Deed Reference for the Property is: Liber 44120 Folio 359, dated June 1, 2012 and recorded June 6, 2012.

Tax Account Identification Numbers: 05-02563520 (Unit 3A) 12120 Tech Road
05-02563531 (Unit 3B) 12144 Tech Road
05-02563542 (Unit 3C) 12200 Tech Road

The approximate latitude and longitude of the center of the Property affected by this Environmental Covenant is: 39° 03' 20" / 76° 58' 03".

A complete metes and bounds description of the Property is attached to this Environmental Covenant as Exhibit A. From approximately 1982 until April 1996, Safety-Kleen Systems, Inc. (Safety Kleen) operated the Safety Kleen Service Center (SKSC Parcel) at the Property as an accumulation point for spent solvents and other fluids generated by Safety Kleen customers. The SKSC Parcel consisted of two leaseholds. Safety Kleen occupied two warehouses in a building with other tenants in adjacent offices and its lease included a parking lot and an area where two underground storage tanks (USTS or tanks), a return and fill station area, and associated piping trench had been located (UST Area). The SKSC Parcel is depicted as Unit 3B, the shaded area on Exhibit B; the entire property subject to this Environmental Covenant includes Units 3A, 3B and 3C as shown on Exhibit C (Map of the Property).

AFTER RECORDING RETURN TO:

Fidelity National Title Insurance Company
Commonwealth Land Title Insurance Company
1620 L Street, NW, 4th Floor
Washington, D.C. 20036
File No. CPN17-657 *212* 1 of 1

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0141, MSA_CE63_55221, Date available 11/30/2017, Printed 12/04/2017.

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Environmental Covenant

Property Addresses: 12120, 12144, and 12200 1 Tech Road, Silver Spring, Maryland 20904

Deed Reference: Liber 44120 Folio 359, dated June 1, 2012 and recorded June 6, 2012

Tax Account Identification Number:

2. **Property Owner/Grantor.** BDC Spectrum LLC is the current owner (Owner) of the Property and the Grantor of this Environmental Covenant. The mailing address of the Owner is: 4733 Bethesda Avenue, Suite 650, Bethesda, Maryland 20814.

3. **Holder(s)/Grantee(s).** For purposes of this Environmental Covenant, the Owner and the Department shall also be Holders/Grantees.

4. **Regulatory Program(s) Issuing Determination.** The following regulatory program(s) is (are) responsible for having issued a determination requiring the use of this Environmental Covenant:

EPA Corrective Action Program under the Resource Conservation and Recovery Act

MDE Programs

Voluntary Cleanup Program

Controlled Hazardous Substance Enforcement Program

Oil Control Program

Solid Waste Program

Resource Management Program

Other Program within the Department: _____

5. **Activity & Use Limitations.** The Final Remedy, as set forth in the November 2014 Final Decision and Response to Comments (FDRTC), and Exhibit D, the Administrative Order on Consent Docket Number: RCRA-03-2015-0129TH (September 30, 2015) (AOC), requires the following activity and use limitations, which the Owner and each subsequent owner of the Property shall abide, except as expressly provided in this Paragraph 5:

- a. Groundwater at the Property shall not be used for any purpose other than the operation, maintenance, and monitoring activities required by the Department and/or EPA, unless it is demonstrated to EPA, in consultation with the Department, that such use will not pose a threat to human health or the environment or adversely affect or interfere with the final remedy, and EPA, in consultation with the Department, provides prior written approval for such use.
- b. New groundwater monitoring wells shall not be installed on the Property unless it is demonstrated to EPA, in consultation with the Department, that such wells are necessary to implement the final remedy, and only after EPA provides prior written approval to install such wells.
- c. The Property shall not be used in a way that will adversely affect or interfere with the integrity and protectiveness of the Final Remedy.
- d. If required pursuant to Paragraph 24 of the AOC, Exhibit D, a vapor intrusion control system, the design of which shall be approved in advance by EPA, shall be installed in each new structure constructed at the SKSC Parcel unless it is demonstrated to EPA that

Environmental Covenant

Property Addresses: 12120, 12144, and 12200 1 Tech Road, Silver Spring, Maryland 20904

Deed Reference: Liber 44120 Folio 359, dated June 1, 2012 and recorded June 6, 2012

Tax Account Identification Number:

vapor intrusion does not pose a threat to human health and EPA provides written approval that no vapor intrusion control system is needed.

- e. The then current owner and/ or operator shall submit written certification to EPA that the use restrictions specified by Paragraphs 5. a – c are in place, upon notice from EPA or MDE.

6. Notice of Limitations in Future Conveyances. Each instrument hereafter conveying any interest in the Property shall contain a notice of the activity and use limitations set forth in this Environmental Covenant and shall provide the recorded location of this Environmental Covenant.

7. Access by the Department and EPA. In addition to any rights already possessed by the Department or EPA, this Environmental Covenant grants to the Department and EPA a right of access to the Property to implement or enforce this Environmental Covenant.

8. Recordation & Filing with Registry. The Owner shall record this Environmental Covenant in the Land Records of Montgomery County within 30 days of the later of the Department and EPA's approval of this Environmental Covenant and shall send proof of the recording to the Department and EPA within 30 days of recordation. This Environmental Covenant shall be filed as soon as possible after execution in the Registry of Environmental Covenants maintained by the Department. This Environmental Covenant may be found electronically on the Department's website at:

www.mde.maryland.gov/programs/land/marylandbrownfieldvcp/pages/programs/landprograms/erpp_brownfields/ueca.aspx

9. Termination or Modification. This Environmental Covenant runs with the land unless terminated or modified in accordance with § 1-808 or § 1-809 of the Environment Article, Ann. Code of Md. (2014 Repl. Vol.). The rights and obligations set forth herein shall inure to and be binding on the successors and assigns to this Environmental Covenant. The then-current owner of the Property agrees to provide EPA and the Department with written notice of the pendency of any proceeding that could lead to a foreclosure referred to in § 1-808(a)(4) of the Environment Article, Ann. Code of Md. (2014 Repl. Vol.), within seven calendar days of the owner's becoming aware of the pendency of such proceeding. The then-current owner shall provide EPA and the Department written notice within 30 days after each conveyance of an interest in any portion of the Property. Such written notice shall include the name, address and telephone numbers of the transferee to whom such interest is conveyed.

10. EPA's Address. Communications with EPA regarding this Environmental Covenant shall be sent to: Office of Remediation (3LC20), Land and Chemicals Division, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0143, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

Environmental Covenant

Property Addresses: 12120, 12144, and 12200 1 Tech Road, Silver Spring, Maryland 20904

Deed Reference: Liber 44120 Folio 359, dated June 1, 2012 and recorded June 6, 2012

Tax Account Identification Number:

11. **The Department's Address.** Communications with the Department regarding this Environmental Covenant shall be sent to: Registry of Environmental Covenants, Maryland Department of the Environment, Land Management Administration, Land Restoration Program, 1800 Washington Blvd., Baltimore, MD 21230.

12. **Administrative Record.** The Administrative Record pertaining to the remedy selected by EPA in the Final Decision and Response to Comments ("FDRTC"), EPA ID No. MDD000737395, is located at the United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

13. **Enforcement.** This environmental covenant shall be enforced in accordance with § 1-810 of the Environment Article, Ann. Code of Md. (2014 Repl. Vol.).

14. **Compliance Reporting.** Within 21 days after written request by the Department or EPA, the then current owner of the Property shall submit, to the Department, EPA and any Holder listed in Paragraph 3, written documentation stating whether or not the activity and use limitations set forth in Paragraph 5 of this Environmental Covenant are being abided by. In addition, within 21 days after any of the following events: a) transfer of title of the Property or of any part of the Property affected by this Environmental Covenant, b) becoming aware of noncompliance with Paragraph 5, and c) an application for a permit or other approval for any building or site work that could affect contamination on any part of the Property, the then current owner will send a report to the Department, EPA and any Holder. The report will state whether there is compliance with Paragraph 5. If there is noncompliance, the report will state the actions that will be taken to assure compliance.

15. **Severability.** The paragraphs of this Environmental Covenant shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

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MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0144, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

Environmental Covenant

Property Addresses: 12120, 12144, and 12200 1 Tech Road, Silver Spring, Maryland 20904

Deed Reference: Liber 44120 Folio 359, dated June 1, 2012 and recorded June 6, 2012

Tax Account Identification Number:

IN WITNESS WHEREOF, the parties hereto have caused this Environmental Covenant to be executed and delivered as of the day and year first above written.

ACKNOWLEDGMENTS by Grantor/Owner, any Grantee(s)/Holder(s), the Department and EPA, in the following form:

ATTEST:

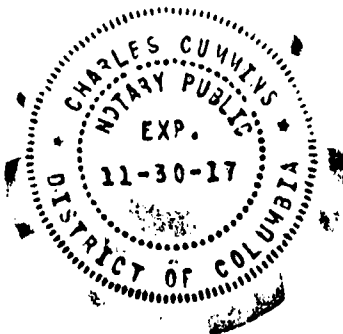
Date: 10/26/17 BDC Spectrum LLC Grantor/Owner
 By: [Signature]
 Name: Joshua Bernstein
 Title: President of Bernstein Development Corporation, Manager of BDC Tech 29 LLC, Managing Member
 District of Columbia)
 STATE OF MARYLAND)
)
) SS:
 COUNTY OF ~~[Insert County]~~)

On this 26th day of October, 2017, before me, the undersigned, personally appeared Joshua Bernstein, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Charles Cummins
Charles Cummins
 (Name of notary public typewritten or printed)
 Notary Public

My commission expires: 11/30/17



CHARLES CUMMINS
 NOTARY PUBLIC DISTRICT OF COLUMBIA
 My Commission Expires November 30, 2017

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0145, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

Environmental Covenant

Property Addresses: 12158 and 12164 Tech Road, Silver Spring, Maryland 20904

Deed Reference: Lieber 44120 Folio 359, dated 1, 2012 and recorded June 6, 2012

Tax Account Identification Number:

APPROVED, by United States Environmental Protection Agency, Region III,

Date: 11/1, 2017

By: Martha Shimkin
Martha Shimkin
Acting Director
Land and Chemicals Division
United States Environmental Protection Agency
Region III

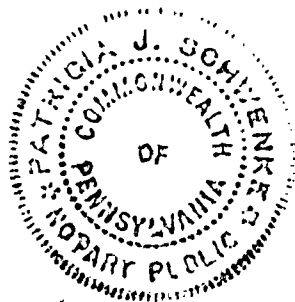
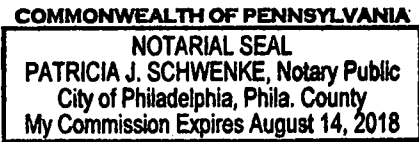
COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF PHILADELPHIA) SS:

On this 1st day of November, 2017, before me, the undersigned, personally appeared John A. Armstead, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Patricia J. Schwenke
(Name of notary public typewritten or printed)
Notary Public

My commission expires: 8/14/2018



MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0147, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

Environmental Covenant

Property Addresses: 12120, 12144, and 12200 1 Tech Road, Silver Spring, Maryland 20904

Deed Reference: Liber 44120 Folio 359, dated June 1, 2012 and recorded June 6, 2012

Tax Account Identification Number:

EXHIBIT A

Complete Metes and Bounds Description of the Property

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) HMS 6946, p. 0316, MSA_CE63_6904. Date available 06/22/2005. F

LIBER 6946 FOLIO 316 EXHIBIT A

Kidde Consultants, Inc.
Rockville, Maryland
Our Job No.: 11-80-091C
September 23, 1985

METES AND BOUNDS DESCRIPTION

TECH CENTER 29 CONDOMINIUM

PLAT UNIT 3A
Parcel A, Condo Unit A
ELECTION DISTRICT NO. 5

MONTGOMERY COUNTY, MARYLAND

Being a piece or parcel of land lying, situate and being in Election District No. 5, Montgomery County, Maryland, said piece or parcel of land being part of Lot 3, Montgomery Industrial Park as per the plat of subdivision recorded among the Land Records of Montgomery County, Maryland in Plat Book 73 at Plat No. 7036, being more particularly described as follows:

Beginning for piece or parcel of land at a point, said point being at the beginning of the North 51°50'15" East, 667.00 foot line of aforesaid Lot 3, said point lying on the easterly line of Industrial Parkway as per plat of subdivision recorded among aforesaid Land Records in Plat Book 65 at Plat No. 5846, thence leaving aforesaid easterly line of Industrial Parkway and running with the outline of aforesaid Lot 3 and with the southeasterly line of Lot 2, Montgomery Industrial Park as per plat of subdivision recorded in aforesaid Plat Book 65 at Plat No. 5846

1. North 51°47'54" East, 607.22 feet to a point; thence leaving aforesaid outline and aforesaid southeasterly line and running across aforesaid Lot 3 for a new line of division
2. South 38°12'06" East, 451.90 feet to a point on the westerly right of way line of Tech Road as shown on the plat of subdivision recorded among aforesaid Land Records

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0149, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) HMS 6946, p. 0317, MSA_CE63_6904. Date available 06/22/2005. F

LIBER 6946 FOLIO 317

Kidde Consultants, Inc.
Rockville, Maryland
Our Job No.: 11-80-091C
September 23, 1985

in Plat Book 84 at Plat No. 8824;
thence running with aforesaid westerly
right of way line the following four
courses and distances

- 3. South 51°47'08" West, 27.49 feet to a point; thence
- 4. 240.58 feet along a curve to the left, said curve
having a radius of 640.98 and a chord
bearing and distance of South 41°01'58"
West, 239.18 feet to a point; thence
- 5. South 30°16'48" West, 288.97 feet to a point; thence
- 6. 54.98 feet along a curve to the right, said curve
having a radius of 35.00 feet and a
chord bearing and distance of South
75°16'48" West, 49.50 feet to a point
on the easterly line of Industrial
Parkway as per plats recorded among
aforesaid Land Records in Plat Book
68 at Plat No. 6310 and in Plat Book
65 at Plat No. 5846; thence running
with aforesaid easterly right of way
line the following three courses and
distances
- 7. North 59°43'12" West, 30.00 feet to a point; thence
- 8. 105.52 feet along a curve to the right, said curve
having a radius of 280.95 feet and a
chord bearing and distance of North
48°56'03" West, 104.92 feet to a point
thence
- 9. North 38°12'06" West, 451.88 feet to the point of
beginning, containing 313492 square
feet or 7.1968 acres of land.

SUBJECT to any and all easements, rights-of-way or covenants
of record or imposed by law.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0150, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) HMS 6946, p. 0318, MSA_CE63_6904. Date available 06/22/2005. F

LIBER 6946 FOLIO 918

Kidde Consultants, Inc.
Rockville, Maryland
Our Job No.: 11-80-091C
September 23, 1985

METES AND BOUNDS DESCRIPTION

TECH CENTER 29 CONDOMINIUM

PLAT UNIT 3B
Parcel B, Condo Unit B
ELECTION DISTRICT NO. 5

MONTGOMERY COUNTY, MARYLAND

Being a piece or parcel of land lying, situate and being in Election District No. 5, Montgomery County, Maryland, said piece or parcel of land being part of Lot 3, Montgomery Industrial Park as per the plat of subdivision recorded among the Land Records of Montgomery County, Maryland in Plat Book 73 at Plat No. 7036 and being part of Parcel One as described in a deed dated November 15, 1965 from Contee Sand and Gravel Company, Inc. to Montgomery Industrial Park, Inc. as recorded among aforesaid Land Records in Liber 3472 at Folio 222, and being more particularly described as follows:

Beginning for said piece or parcel of land at a point on the North 51°50'15" East, 667.00 foot line of aforesaid Lot 3, said point being 60.05 feet from the end of aforesaid line, thence running with part of aforesaid line and with the southeasterly line of Lot 2, Montgomery Industrial Park, as per plat of subdivision recorded among aforesaid Land Records in Plat Book 65 at Plat No. 5846

1. North 51°47'54" East, 60.05 feet to a point; thence leaving the outline of aforesaid Lot 3 and aforesaid southeasterly line and running across aforesaid Lot 3 and aforesaid Parcel One, Liber 3472 at Folio 222
2. North 51°47'54" East, 277.40 feet to a point on the westerly right of way line of Tech Road as per plat of subdivision recorded

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MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0151, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) HMS 6946, p. 0319, MSA, CE63 6904. Date available 06/22/2005. F

LIBER 6946 FOLIO 319

Kidde Consultants, Inc.
Rockville, Maryland
Our Job No.: 11-80-091C
September 23, 1985

among the Land Records of Montgomery County, Maryland in Plat Book 84 at Plat No. 8824; thence running with aforesaid westerly right of way line the following three courses and distances

- 3. South 38°12'06" East, 186.86 feet to a point; thence
- 4. 416.20 feet along a curve to the right, said curve having a radius of 265.00 feet and a chord bearing and distance of South 06°47'31" West, 374.72 feet to a point; thence
- 5. South 51°47'08" West, 72.51 feet to a point; thence leaving aforesaid westerly right of way line and running across aforesaid Lot 3 for a new line of division
- 6. North 38°12'06" West, 451.90 feet to the point of beginning, containing 137418 square feet or 3.1547 acres of land.

SUBJECT to any and all easements, rights-of-way or covenants of record or imposed by law.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0152, MSA, CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) HMS 6946, p. 0320; MSA_CE63_6904. Date available 06/22/2005. F

LIBER 6946 FOLIO 320

Kidde Consultants, Inc.
Rockville, Maryland
Our Job No.: 11-80-091C
September 23, 1985

METES AND BOUNDS DESCRIPTION

TECH CENTER 29 CONDOMINIUM

PLAT UNIT 3C
Parcel C, Condo Unit C
ELECTION DISTRICT NO. 5

MONTGOMERY COUNTY, MARYLAND

Being a piece or parcel of land lying, situate and being in Election District No. 5, Montgomery County, Maryland, said piece or parcel of land being part of Lot 3, Montgomery Industrial Park as per the plat of subdivision recorded among the Land Records of Montgomery County, Maryland in Plat Book 73 at Plat No. 7036, and being part of Outlot C, Montgomery Industrial Park as per aforesaid Plat Book 73 at Plat No. 7036 and part of Parcel One as described in a deed dated November 15, 1965 from Contee Sand and Gravel Company, Inc. to Montgomery Industrial, Inc. as recorded among the aforesaid Land Records in Liber 3477 at Folio 222 and being more particularly described as follows:

Beginning for said piece or parcel of land at a point at the beginning of the North 38°09'45" West, 413.00 foot line of aforesaid Lot 3, thence running with aforesaid line and with the northerly line of Lot 2, Montgomery Industrial Park as per plat of subdivision recorded among aforesaid Land Records in Plat Book 65 at Plat No. 5846

1. North 38°12'06" West, 413.00 feet to a point; thence running with the outline of aforesaid Outlot C the following two courses and distances
2. North 38°12'06" West, 50.00 feet to a point; thence

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0153, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) HMS 6946, p: 0321, MSA_CE63_6904. Date available 06/22/2005. F

LIBER 6946 FOLIO 321

Kidde Consultants, Inc.
Rockville, Maryland
Our Job No.: 11-80-091C
September 23, 1985

- 3. North 51°47'54" East, 255.39 feet to a point on the southeasterly right of way line of U.S. Route 29 (Columbia Pike) as shown on SRC Plat No. 12617; thence running with aforesaid southeasterly right of way line the following three courses and distances
- 4. South 87°30'17" East, 9.25 feet to a point; thence
- 5. South 38°12'06" East, 44.00 feet to a point; thence
- 6. North 51°47'54" East, 15.00 feet to a point on the southwesterly right of way line of Tech Road as per plat recorded among aforesaid Land Records in Plat Book 84 at Plat No. 8824; thence running with aforesaid southwesterly right of way line
- 7. South 38°12'06" East, 412.97 feet; thence leaving aforesaid southwesterly right of way line and running across aforesaid Lot 3 and running across part of aforesaid Parcel One Liber 3472 at Folio 222 for a new line of division
- 8. South 51°47'54" West, 277.40 feet to the point of beginning, containing 127664 square feet or 2.9308 acres of land.

SUBJECT to any and all easements, rights-of-way or covenants of record or imposed by law.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0154, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

Environmental Covenant

Property Addresses: 12120, 12144, and 12200 1 Tech Road, Silver Spring, Maryland 20904

Deed Reference: Liber 44120 Folio 359, dated June 1, 2012 and recorded June 6, 2012

Tax Account Identification Number:

EXHIBIT B

Depiction of SKSC Parcel

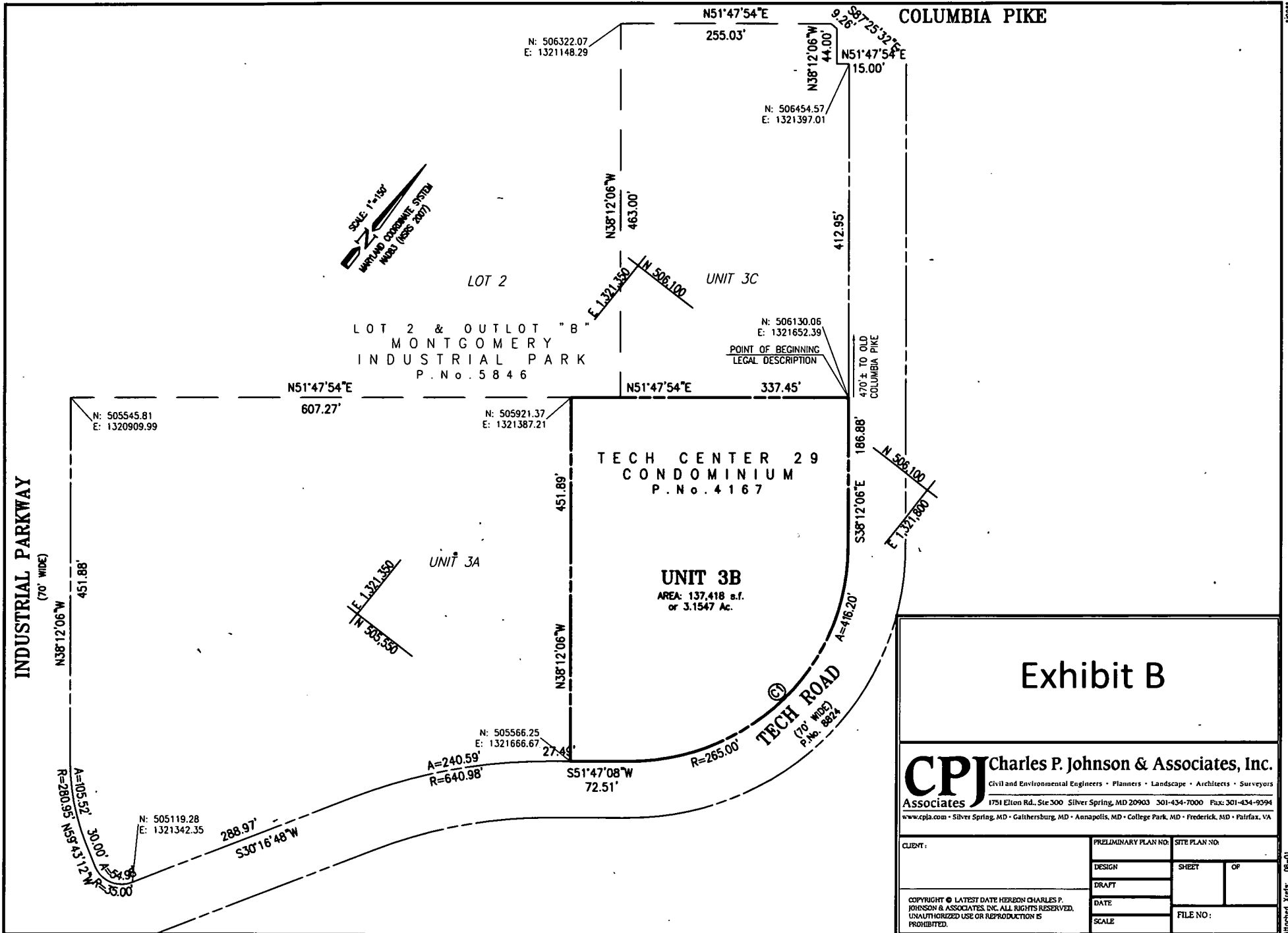


Exhibit B

CPJ Charles P. Johnson & Associates, Inc.
Civil and Environmental Engineers • Planners • Landscape • Architects • Surveyors
1751 Elton Rd., Ste 300 Silver Spring, MD 20903 301-434-7000 Fax: 301-434-9294
www.cpja.com • Silver Spring, MD • Gaithersburg, MD • Annapolis, MD • College Park, MD • Frederick, MD • Fairfax, VA

CLIENT:	PRELIMINARY PLAN NO.	SITE PLAN NO.	
	DESIGN	SHEET	OF
	DRAFT		
	DATE	FILE NO.:	
COPYRIGHT © LATEST DATE HERON CHARLES P. JOHNSON & ASSOCIATES, INC. ALL RIGHTS RESERVED. UNAUTHORIZED USE OR REPRODUCTION IS PROHIBITED.			
SCALE			

Environmental Covenant

Property Addresses: 12120, 12144, and 12200 1 Tech Road, Silver Spring, Maryland 20904

Deed Reference: Liber 44120 Folio 359, dated June 1, 2012 and recorded June 6, 2012

Tax Account Identification Number:

EXHIBIT C

Map of the Property

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0157, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

Environmental Covenant

Property Addresses: 12120, 12144, and 12200 1 Tech Road, Silver Spring, Maryland 20904

Deed Reference: Liber 44120 Folio 359, dated June 1, 2012 and recorded June 6, 2012

Tax Account Identification Number:

EXHIBIT D

Administrative Order on Consent Docket Number:
RCRA-03-2015-0129TH (September 30, 2015)

RECEIVED
OCT 06 2015

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

I hereby certify that the
within is a true and correct copy
of the original Order
filed in this matter.


Attorney for USEPA

IN THE MATTER OF:

Safety Kleen Systems Inc.

RESPONDENT

BDC Spectrum LLC

Silver Spring, Maryland

FACILITY

) ADMINISTRATIVE ORDER ON
) CONSENT

) U.S. EPA Docket Number:
) RCRA-03-2015-0129TH

) Proceeding under Section
) 3013 of the Resource
) Conservation and Recovery
) Act, as amended, 42 U.S.C.
) § 6934

ADMINISTRATIVE ORDER ON CONSENT

The parties to this Administrative Order on Consent (Consent Order or Order), the United States Environmental Protection Agency (EPA) and Safety Kleen Systems Inc. (Safety Kleen or Respondent), having agreed to entry of this Consent Order, it is therefore ordered and agreed that:

I. JURISDICTION

1. This Consent Order is issued pursuant to the authority vested in the Administrator

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0160, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

of EPA (the Administrator) by Section 3013 of the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as RCRA), 42 U.S.C. Section 6934. The authority vested in the Administrator has been delegated to the EPA Regional Administrators by EPA Delegation No. 8-20, dated May 11, 1994, and further delegated to the Director of the Waste and Chemicals Management Division, now known as the Land and Chemicals Division, on September 20, 1999.

2. On January 25, 1985, EPA granted the State of Maryland (the State) authorization to operate a state hazardous waste program in lieu of the Federal program, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and has since approved revisions to that program. The State, however, does not have RCRA Section 3013, 42 U.S.C. § 6934, authority. The State has been given notice of the issuance of this Consent Order.

3. This Consent Order is issued to Safety Kleen, the former operator of the Facility as more fully described in Section V. 11. C., below.

4. Respondent consents to issuance of this Consent Order, agrees to comply with its terms and will not contest EPA's authority to issue this Consent Order and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction to compel compliance with this Consent Order in any subsequent enforcement proceeding, either administrative or judicial, require Respondent's compliance with the terms of this Consent Order, or impose sanctions for violations of this Consent Order. Respondent, however, by entering into this Consent Order does not admit or deny EPA's Findings of Fact or Conclusions of Law. Moreover, nothing in this Consent Order constitutes an admission of liability or waiver of defenses by the Respondent to any third party.

II. DEFINITIONS

5. This Consent Order incorporates the definitions in RCRA, 42 U.S.C. §§ 6901 - 6922k.

III. PARTIES BOUND

6. This Consent Order shall apply to and be binding upon EPA, the Respondent, and their agents, successors and assigns.

7. No change in ownership of any property covered by this Consent Order or in the corporate or partnership status of Respondent, shall in any way alter, diminish, or otherwise affect Respondent's obligations and responsibilities under this Consent Order.

8. Respondent shall provide a copy of this Consent Order to all supervisory personnel, contractors, subcontractors, laboratories, and consultants retained to conduct and/or monitor any portion of the Work performed pursuant to this Consent Order and shall do so within seven (7) calendar days of the Effective Date of this Consent Order or date of such

retention, whichever is later. All contracts, agreements or other arrangements with such persons shall require such persons to conduct and/or monitor the Work in accordance with the requirements of this Consent Order. Notwithstanding the terms of any such contract, agreement or arrangement, Respondent is responsible for complying with this Consent Order and for ensuring that all such persons perform such Work in accordance with this Consent Order.

9. In the event of any change in majority ownership or control of the Respondent, Respondent shall notify EPA in writing of the nature of any such change no later than fifteen (15) calendar days after the effective date of such change. Respondent shall provide a copy of this Consent Order to any successor to Respondent and/or Facility at least fifteen (15) calendar days prior to the effective date of such change. Nothing stated in this Paragraph III.9 shall relieve Respondent from complying with the terms and conditions of this Consent Order in the time and manner specified herein.

IV. STATEMENT OF PURPOSE

10. In entering into this Consent Order, the mutual objective of EPA and Respondent is to have Respondent perform the monitoring, testing, analysis, and reporting activities required by the Final Remedy identified in Section 5 of Final Decision and Response to Comments (FDRTC) and as specified in Section VII, below, issued by EPA on November 21, 2014. The FDRTC is incorporated by reference herein as though fully set forth at length and is attached herein and made a part hereof as Exhibit 1 to this Consent Order.

V. EPA'S FINDINGS OF FACT

11. EPA makes the following Findings of Fact to which Respondent neither admits nor denies:

A. Respondent is a corporation and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

B. Respondent is the former operator of a hazardous waste storage, facility located at 12158 and 12164 Tech Rd., Silver Spring, Maryland within the meaning of Section 3013 of RCRA, U.S.C. Section 6934.

C. The Facility consists of approximately 10 acres. The Facility is currently owned by BDC Spectrum LLC. From approximately 1982 until April 1996, Safety Kleen operated two leaseholds within the Facility as an accumulation point for spent solvents and other fluids generated by Safety Kleen customers. Safety Kleen occupied two warehouses in a building with other tenants in adjacent offices. The Facility property includes a parking lot and an area where two underground storage tanks (USTs or tanks), a return and fill station area, and associated piping trench had been located (UST Area).

a

The area within which Safety Kleen operated is depicted on Exhibit 2. The Facility is an operating industrial and commercial park. Neighboring properties are involved in various forms of industrial and commercial activities.

D. During Safety Kleen's lease of a portion of the Facility, it operated under a Controlled Hazardous Substances permit issued by the Maryland Department of the Environment (MDE). MDE issued a Post Closure Permit for the Facility in February 2001, which includes remediation goals and requirements for the cleanup of total petroleum hydrocarbon (TPH), volatile organic compounds (VOCs), organic compounds and metals in the groundwater and soil.

E. On October 29, 2013, Safety Kleen performed groundwater sampling at the Facility. Results showed that groundwater under and in the vicinity of the Facility contained concentrations of tetrachloroethylene (PCE) above its Maximum Contaminant Level (MCL) established by the Safe Drinking Water Act, 42 U.S.C. Section 300g-1, as follows:

Well ID	PCE*
	micrograms per liter ug/L
Shallow Overburden Wells	
MW-1	ND(5)
MW-2	ND(5)
MW-3	ND(5)
MW-4	76
MW-5	93
MW-6	170
MW-7	8.4
Off-site, Side Gradient	
MW-8	300
Deep Overburden Zone Wells	
MW-9	170
MW-10	260
MW-11	210
Up-Gradient, On-Site	
MW-13	6.4
MW-14	24
Up-gradient, west side of building	
PZ-2	55
PZ-1	ND(5)
*MCL (ug/L)	5

F. Groundwater sampling results from MW-7 taken in 2012 showed other VOCs above their applicable MCLs as follows: 99 ug/L of cis-1,2-dichloroethene (MCL of 70 ug/L), 8.2 ug/l of trichloroethene (MCL of 5 ug/L), and 31 ug/l of vinyl chloride (MCL of 2 ug/L).

G. In response to EPA's request, Safety Kleen submitted a Groundwater Monitoring Plan (the "GWMP"), attached hereto as Exhibit 3, to address the residual PCE groundwater concentrations found in the October 2013 samples. EPA approved the GWMP on May 6, 2014.

H. In August 2015, consistent with Section 5.B.4 of the Final Remedy in the FDRTC, Safety Kleen submitted to EPA for review and approval, a plan to install a sub slab depressurization system ("Vapor Intrusion Control System Plan" or "VICS Plan")

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below the current structure on the Facility (Exhibit 4). EPA approved the VICS Plan on September 23, 2015.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

12. EPA makes the following Conclusions of Law and Determinations to which Respondent neither admits nor denies:

Based on the Findings of Fact set forth above, all jurisdictional elements of Section 3013 of RCRA, 42 U.S.C. § 6934, have been met and the monitoring, testing, analysis and reporting set forth in this Consent Order are reasonable to ascertain the nature and extent of the hazard at the Facility.

VII. MONITORING, TESTING, ANALYSIS AND REPORTING

13. Pursuant to Section 3013 of RCRA, 42 U.S.C. § 6934, Respondent agrees to and is hereby ordered to perform the monitoring, testing, analysis and reporting activities required by the Final Remedy identified in Section 5 of the FDRTC as further described in Paragraph 16 of this Order below (“Work”) in the manner and by the dates specified herein. All Work undertaken pursuant to this Consent Order shall be developed and performed, as appropriate and approved by EPA, in accordance with the Scope of Work for Corrective Measures Implementation (“CMI”); the Scope of Work for Health and Safety Plan, and RCRA, its implementing regulations and relevant EPA guidance documents. EPA’s Scopes of Work and relevant guidance are available at: http://www.epa.gov/reg3wcmd/ca/ca_resources.htm.

14. EPA acknowledges that Respondent has completed some of the tasks required by this Consent Order and that Respondent has available some of the information and data required by this Consent Order. On May 6, 2014, EPA approved the Ground Water Monitoring Plan (GWMP). This previous work may be used to meet the requirements of this Consent Order, upon submission to and formal approval by EPA.

15. “Days” as used herein shall mean calendar days unless otherwise specified.

A. CORRECTIVE MEASURES IMPLEMENTATION PLAN

16. Corrective Measures Implementation Plan

- a. Within thirty (30) days of the effective date of this Order, Respondent shall submit to EPA for approval a Corrective Measures Implementation Plan

(CMIP) for implementation of the Final Remedy selected by EPA in the FDRTC. The CMIP shall include a schedule to: a) install, and operate and maintain the EPA-approved vapor intrusion control system (VICS) under the current structure on the Facility to achieve and/or maintain an ambient indoor air perchloroethylene (PCE) concentration of 47 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) or less on a continuous basis; b) implement the EPA-approved GWMP attached hereto as Attachment 1; c) submit annual written certification evaluating the effectiveness of the GWMP in reducing contaminant concentrations and restoring groundwater to MCLs or background concentrations; d) secure from the then-current owner of the Facility the groundwater use restrictions described in Subsections 5.B.1, 2, 3, 6(2) and 7 of the FDRTC and a description how such restrictions will be implemented, monitored for compliance, and enforced against future owners, i.e., run with the land; and e) submit geographic coordinates and metes and bounds survey of the Facility property boundary and the 3.5-acre area depicted in Exhibit 2 consistent with Section 5C of the FDRTC. The following link provides additional guidance with respect to the coordinate data:

[http://www3.epa.gov/reg3wcmd/ca/pdf/RCRA Mapping of Institutional and Engineering Controls.pdf](http://www3.epa.gov/reg3wcmd/ca/pdf/RCRA_Mapping_of_Institutional_and_Engineering_Controls.pdf)

The CMIP shall be developed in accordance with the Scope of Work for CMI. EPA's Scopes of Work and relevant guidance are available at:

http://www3.epa.gov/reg3wcmd/ca/ca_resources.htm

Upon receipt of EPA approval of the CMIP, Respondent shall implement the EPA-approved CMIP in accordance with the terms and schedules contained therein.

- b. Respondent shall use best efforts to secure from the then-current owner an agreement by to cooperate with Respondent in implementing the EPA-approved CMIP.
- c. For purposes of Paragraph VII.A.16.b of this Order, "best efforts" means the efforts that a reasonable person in the position of Respondent would use so as to secure groundwater use restrictions in a timely manner, including the cost of employing professional assistance to negotiate with the then-current owner and the payment of reasonable sums of money to draft, file and record a restrictive covenant containing the groundwater use restrictions required in Subsections 5.B.1, 2, 3, 6(2) and 7 of the FDRTC. If Respondent does not secure from the then-current owner an enforceable restrictive covenant and agreement to have it recorded on title to the Facility property within sixty (60) days of EPA's approval of the CMIP, Respondent shall immediately notify EPA in writing, and shall include in that notification a summary of the steps

that Respondent has taken to attempt to comply with Paragraphs VII.A.16. a and b of this Order. EPA may, as it deems appropriate, assist Respondent in obtaining the groundwater use restrictions. EPA reserves any right it may have to require that Respondent reimburse EPA for all costs incurred by EPA in obtaining groundwater use restrictions, including, but not limited to, attorney's fees and the amount of any just compensation and costs incurred by EPA. Provided that EPA has determined that Respondent has used good faith efforts to obtain the groundwater use restrictions required by Paragraph VII.A.16.a of this Order, Respondent shall not be deemed in violation of Paragraphs VII.A.16.a and b of this Order.

- d. Respondent is required to operate, maintain and monitor all vapor mitigation systems installed in accordance with this Consent Order. If Respondent believes on the basis of the monitoring results over three (3) consecutive years that the operation of any vapor mitigation system installed is no longer necessary to protect human health, Respondent may petition EPA in writing for a system shut-down. EPA will notify Respondent in writing of EPA's decision. If EPA approves Respondent's system shut-down petition, Respondent will no longer be required under this Consent Order to operate, maintain and monitor such system.

17. Corrective Measures Implementation Assessment Report

- e. Within one (1) year after EPA approval of the CMIP pursuant to Paragraph 16 immediately above, Respondent shall submit a CMI Assessment Report for EPA approval. The CMI Assessment Report shall provide an evaluation of the effectiveness of the corrective measures being implemented in accordance with the EPA-approved CMIP.
- f. If, based on the CMI Assessment Report or any other information, EPA determines that the Final Remedy is not being effectively implemented under the EPA-approved CMIP, EPA shall notify Respondent in writing of those activities that must be undertaken to implement the Final Remedy effectively and shall set forth a schedule for the completion of those activities. Respondent shall complete the activities in accordance with the schedule set forth in the EPA notification.
- g. No later than five (5) years after the Effective Date of this Consent Order and every five (5) years thereafter until Respondent's receipt of written notice from EPA that Respondent has demonstrated, to the satisfaction of EPA, that the terms of this Consent Order, including any additional tasks determined by EPA to be required pursuant to this Consent Order, have been satisfactorily completed, Respondent shall submit to EPA a CMI Five-Year Assessment Report. Such Report shall contain an evaluation of the past and projected

future effectiveness of the corrective measures in achieving the requirements set forth in the FDRTC.

- h. Respondent may, as part of a CMI Five-Year Assessment Report or earlier, request that EPA select, for the purposes of this Consent Order, an alternative and/or supplemental corrective measures.
- i. In the event EPA selects an alternative and/or supplemental corrective measure(s) either in response to a request by Respondent pursuant to subparagraph 17. h., immediately above, or on its own initiative, EPA may provide Respondent with a period of thirty (30) calendar days from the date Respondent receives written notice from EPA of the selection of an alternative and/or supplemental corrective measure(s) within which to reach an agreement with EPA regarding performance of the alternative and/or supplemental corrective measure(s) in lieu of, or in addition to, the corrective measures. Any such agreement between EPA and Respondent shall be incorporated into and become enforceable under this Consent Order in accordance with Section XXII. ("SUBSEQUENT MODIFICATION") and Respondent shall implement the activities required under any such agreement in accordance with any schedule and provisions contained therein.

Nothing in this Paragraph 17 shall limit EPA's authority to implement or require performance of alternative and/or supplemental corrective measure(s) or to take any other appropriate action under RCRA, the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), 42 U.S.C. §§ 9601 *et seq.*, or any other legal authority, including the issuance of a unilateral administrative order or the filing of a civil action. Respondent reserves whatever rights it may have to defend against any such action by EPA.

C. SUBMISSIONS / EPA APPROVAL

18. EPA will review the workplans and reports and all other documents required to be submitted by Respondent to EPA by this Consent Order (Submissions) and, with the exception of progress reports, notify Respondent in writing of EPA's approval or disapproval of each such Submission. In the event of EPA's disapproval, EPA shall specify in writing any deficiencies in the Submission. Such disapproval shall not be subject to the Dispute Resolution procedures of Section XV, below.

19. Within thirty (30) calendar days of receipt of EPA's comments on the Submission, Respondent shall submit to EPA for approval a revised Submission, which responds to any comments received and/or corrects any deficiencies identified by EPA. In the event that EPA disapproves of the revised Submission, Respondent may invoke the Dispute Resolution procedures of Section XV, below. Otherwise, EPA reserves the right to revise such Submission.

Any Submission approved or revised by EPA or upheld through dispute resolution under this Consent Order shall be deemed incorporated into and made an enforceable part of this Consent Order.

20. Beginning with the first business day of the fourth full month following the Effective Date of this Consent Order, Respondent shall provide EPA with annual progress reports.

21. One (1) copy of all Submissions required by this Consent Order shall be electronically delivered to the Project coordinator, and one (1) hard copy shall be hand-delivered or sent by Overnight Mail, Return Receipt Requested, to the Project Coordinator designated pursuant to Section XII ("PROJECT COORDINATORS") below.

22. All Work performed pursuant to this Consent Order shall be under the direction and supervision of a professional engineer or geologist with expertise in hazardous waste site investigation. Respondent has selected Mr. George Mathes, P.E., Trihydro Corporation to supervise the Work performed pursuant to this Consent Order. Notwithstanding Respondent's selection of Mr. George Mathes, nothing herein shall relieve Respondent of its obligation to comply with the terms and conditions of this Consent Order. EPA shall have the right to disapprove at any time the use of any professional engineer, geologist, contractor or subcontractor selected by Respondent. EPA's disapproval shall not be subject to review under Section XV ("DISPUTE RESOLUTION") or otherwise. Within fifteen (15) calendar days of receipt from EPA of written notice disapproving the use of any professional engineer, geologist, contractor or subcontractor, Respondent shall notify EPA, in writing, of the name, title and qualifications of the personnel who will replace the personnel disapproved by EPA. Respondent shall notify EPA ten (10) days prior to changing voluntarily its engineer or geologist, and/or contractors or subcontractors to be used in carrying out the terms of this Consent Order, and shall submit to EPA in writing, the name, title, and qualifications of such person(s). As of the Effective Date of this Consent Order, EPA has not provided written notice to Respondent disapproving the use of any professional engineer, geologist, contractor or subcontractor.

D. ADDITIONAL WORK

23. EPA may determine or Respondent may propose that certain tasks and deliverables including, but not limited to, investigatory work or engineering evaluation require additional work. These tasks and deliverables may or may not have been in the EPA-approved Work Plans. If EPA determines that such additional work is necessary, EPA shall request, in writing, that Respondent perform the additional work and shall specify the reasons for EPA's determination that additional work is necessary. Within fifteen (15) calendar days after the receipt of such request, or as otherwise agreed by the parties, Respondent shall have the opportunity to meet or confer with EPA to discuss the additional work. In the event that Respondent agrees to perform the additional work, this Consent Order shall be modified in accordance with Section XXII ("SUBSEQUENT MODIFICATION") below, and such work shall be performed in accordance with this Consent Order. In the event Respondent declines or fails to perform the additional work, EPA reserves the right, at a minimum, to order Respondent

to perform such additional work; to perform such additional work itself and to seek to recover from Respondent all costs of performing such additional work; and to disapprove the CMI Work Plans; the CMI Reports and/or any other Submissions. Respondent reserves its rights and defenses to challenge any such action by EPA, subject to Paragraph I.4 above.

24. If at any time during the pendency of this Consent Order, Respondent discovers that a new structure is to be constructed above the 3.5-acre area depicted in Exhibit 2, Respondent shall notify EPA within 30 days of such discovery. Respondent may, at the time of such notification or at any time, provide EPA with a demonstration that the new structure is a structure which is required to be constructed to comply with Mont. Co. Code 08.00.02.27, 424.1 or that vapor intrusion will not pose a threat to human health. Upon written request of EPA, Respondent shall submit to EPA for approval a Workplan to install a vapor intrusion control system (VICS Workplan). Upon receipt of EPA approval of the VICS Workplan, Respondent shall implement the EPA-approved VICS Workplan in accordance with the terms and conditions set forth therein.

VIII. QUALITY ASSURANCE

25. Commencing on the Effective Date of this Consent Order and continuing thereafter, throughout all sample collection and analysis activities, Respondent shall use EPA-approved quality assurance, quality control, and chain-of-custody procedures, as specified in the EPA-approved Workplans. In addition, Respondent shall:

A. Ensure that laboratories used by Respondent for analyses perform such analyses according to the EPA methods included in "Test Methods for Evaluating Solid Waste" (SW-846, November 1986) or other methods deemed satisfactory to EPA. If methods other than EPA methods are to be used, Respondent shall submit all analytical protocols to be used for analyses to EPA for approval at least thirty (30) calendar days prior to the commencement of analyses and shall obtain EPA approval prior to the use of such analytical protocols.

B. Ensure that laboratories used by Respondent for analyses participate in a quality assurance/quality control program equivalent to that which is followed by EPA. As part of such a program, and upon request by EPA, such laboratories shall perform analyses of samples provided by EPA to demonstrate the quality of the analytical data.

C. Inform the EPA Project Coordinator at least fourteen (14) calendar days in advance of any laboratory analysis regarding which laboratory will be used by Respondent and ensure that EPA personnel and EPA authorized representatives have reasonable access to the laboratories and personnel used for analysis.

IX. ON-SITE AND OFF-SITE ACCESS

26. Respondent shall use its best efforts to obtain site access either through existing agreements or through new agreement(s) from the then current owner(s) and/or lessee(s) of any property it does not own or control, as appropriate, within thirty (30) calendar days of receipt of EPA approval of the CIMP and/or any VICS Workplan. For purposes of this paragraph, "best efforts" means the efforts that a reasonable person in the position of Respondent would use so as to obtain access in a timely manner, including the cost of employing professional assistance to negotiate with the then-current owner and the payment of reasonable sums of money to secure any additional access required. In the event that such access is not obtained from the then-current owner through new or modified agreements within thirty (30) calendar days after receipt of EPA approval of any workplan prepared pursuant to this Consent Order, Respondent shall notify EPA, in writing, within seven (7) calendar days after the conclusion of such thirty-day period, regarding both the efforts undertaken to obtain access and the inability to obtain such agreements. In the event that Respondent fails to obtain such access, despite the exercise of best efforts, EPA, in its discretion, may assist Respondent in obtaining such access for Respondent. Respondent shall reimburse EPA for all costs incurred by EPA in obtaining access, including, but not limited to, attorney's fees and the amount of any just compensation and costs incurred by EPA.

27. Nothing in this Consent Order limits or otherwise affects EPA's rights of access and entry pursuant to applicable law, including, but not limited to, RCRA and CERCLA.

X. SAMPLING AND DATA/DOCUMENT AVAILABILITY

28. Respondent shall submit to EPA the results of all sampling and/or tests or other data generated by, or on behalf of, Respondent in accordance with the requirements of this Consent Order.

29. Respondent shall notify EPA, electronically, or in writing, at least fourteen (14) calendar days in advance of any field activities, including but not limited to, well drilling, installation of equipment, or sampling. At the request of EPA, Respondent shall provide or allow EPA or its authorized representatives to take split or duplicate samples of all samples collected by Respondent pursuant to this Consent Order. Nothing in this Consent Order shall limit or otherwise affect EPA's authority to collect samples pursuant to applicable law, including, but not limited to, RCRA and CERCLA.

30. Respondent may assert a business confidentiality claim covering all or part of any information submitted to EPA pursuant to this Consent Order in the manner described in 40 C.F.R. § 2.203(b). Any assertion of confidentiality shall be adequately substantiated by Respondent when the assertion is made in accordance with 40 C.F.R. § 2.204(e)(4). Information subject to a confidentiality claim shall be disclosed only to the extent allowed by, and in accordance with, the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such confidentiality claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to Respondent. Respondent shall not assert any confidentiality claim with regard to any physical, sampling, monitoring, or analytical data.

31. If Respondent wishes to assert a privilege with regard to any document which EPA seeks to inspect or copy pursuant to this Consent Order, Respondent shall identify the document, the privilege claimed, and the basis therefor in writing. For the purposes of this Consent Order, privileged documents are those documents exempt from discovery from the United States in litigation under the Federal Rules of Civil Procedure. Respondent shall not assert a privilege with regard to analytical, sampling and monitoring data.

XI. RECORD PRESERVATION

32. Respondent agrees that it shall preserve, during the pendency of this Consent Order and for a minimum of at least six (6) years after its termination, all data, records and documents in its possession or in the possession of its divisions, officers, directors, employees, agents, contractors, successors, and assigns which relate in any way to this Consent Order or to solid and/or hazardous waste management and/or disposal at the Facility. After six (6) years, Respondent shall make such records available to EPA for inspection or shall provide copies of such records to EPA. Respondent shall notify EPA at least thirty (30) calendar days prior to the proposed destruction of any such records, and shall provide EPA with a reasonable opportunity to inspect, copy and/or take possession of any such records. Respondent shall not destroy any record to which EPA has requested access for inspection and/or copying until EPA has obtained such access or withdrawn its request for such access. Nothing in this Section shall in any way limit the authority of EPA under § 3007 of RCRA, 42 U.S.C. § 6927, or any other access or information-gathering authority.

XII. PROJECT COORDINATORS

34. EPA hereby designates Leonard Hotham as the EPA Project Coordinator. Respondent hereby designates Stephen Fleming, P.E. as its Project Coordinator. Respondent will notify EPA within ten (10) calendar days of the effective date of this Consent Order, in writing, of a change in the Project Coordinator it has selected. Respondent's legal counsel shall not serve as Respondent's Project Coordinator. Each Project Coordinator shall be responsible for overseeing the implementation of the Consent Order. The EPA Project Coordinator will be EPA's primary designated representative at the Facility. To the maximum extent possible, all communications between Respondent and EPA, and all documents, reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Order, shall be directed through the Project Coordinators.

35. Each party agrees to provide at least seven (7) calendar days written notice to the other party prior to changing Project Coordinators.

36. The absence of the EPA Project Coordinator from the Facility shall not be cause for the delay or stoppage of Work.

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XIII. NOTIFICATION

37. Unless otherwise specified, reports, correspondence, approvals, disapprovals, notices, or other submissions relating to or required under this Consent Order shall be in writing and shall be sent as follows:

A. One (1) hard copy and one (1) electronic copy shall to be submitted to:

Leonard Hotham
U.S. Environmental Protection Agency
Region III, Mail Code 3LC20
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
Telephone # 215-814-5778
E-mail: hotham.leonard@epa.gov

B. One (1) copy of all documents to be submitted to EPA shall also be sent to:

Mr. Ed Hammerberg
Maryland Department of the Environment (MDE)
Waste Division and Utilization Program
1800 Washington Blvd., Suite 645
Baltimore, MD 21230

38. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Consent Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this Consent Order shall be certified by a responsible corporate officer or a duly authorized representative of a responsible corporate officer. A "responsible corporate officer" means: (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. A person is a "duly authorized representative" only if: (1) the authorization is made in writing by a person described above; (2) the authorization specifies either an individual or position having responsibility for overall operation of the regulated facility or activity (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and (3) the written authorization is submitted to the Project Coordinator designated by EPA in Section XII ("PROJECT COORDINATORS") of this Consent Order.

39. The certification required by Paragraph 38, above, shall be in the following form:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature : _____

Name : _____

Title : _____

XIV. DELAY IN PERFORMANCE/STIPULATED PENALTIES

40. Unless there has been a written modification of a compliance date by EPA, or excusable delay as defined below in Section XVI ("FORCE MAJEURE AND EXCUSABLE DELAY"), in the event that Respondent fails to comply with the requirements set forth in this Consent Order and this Section XIV, Respondent shall pay stipulated penalties, as set forth below, upon receipt of written demand by EPA. Compliance by Respondent shall include commencement or completion, as appropriate, of any activity, plan, study or report required by this Consent Order and in the manner required by this Consent Order and within the specified time schedules in and approved under this Consent Order. Stipulated penalties shall for failure to commence, perform, complete Work, submit a deliverable (Submission"), or for any failure to comply with this Consent Order as required herein: \$500 per day for one to seven days or part thereof of noncompliance, and \$1,000 per day for each day of noncompliance, or part thereof, thereafter.

41. Whether or not Respondent has received notice of a violation, stipulated penalties shall begin to accrue on the date that complete performance is due or a violation occurs, and shall continue to accrue until and through the correction of the violation. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this Consent Order.

42. All penalties owed to EPA under this Section shall be due within thirty (30) calendar days of receipt of a demand for payment unless Respondent invokes the dispute resolution procedures under Section XV, below. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest shall begin to accrue on the unpaid balance at the end of the thirty (30) calendar day period and shall accrue at the United

States Tax and Loan Rate.

43. All penalty payments shall be made by certified or cashier's check payable to the Treasurer of the United States of America and shall be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Office
PO Box 979077
St. Louis, MO 63197-9000

All payments shall reference the name of the Facility, Respondent's name and address, and the EPA Docket Number of this Consent Order. Copies of the transmittal of payment shall be sent simultaneously to the EPA Project Coordinator and the Regional Hearing Clerk (3RC00), U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

44. Respondent may dispute EPA's demand for payment of stipulated penalties for any alleged violation of this Consent Order by invoking the dispute resolution procedures below under Section XV ("DISPUTE RESOLUTION"). Stipulated penalties shall continue to accrue for failures specified in Paragraph 40 which continue, but need not be paid, for any alleged noncompliance which is the subject of dispute resolution during the period of such dispute resolution. To the extent that Respondent does not prevail upon resolution of the dispute, Respondent shall remit to EPA within seven (7) calendar days of receipt of such resolution any outstanding penalty payment, including any accrued interest, in the manner described above in Paragraph 42 of this Section. To the extent Respondent prevails upon resolution of the dispute, no penalties shall be payable.

45. Neither the filing of a petition to resolve a dispute nor the payment of penalties shall alter in any way Respondent's obligation to comply with the requirements of this Consent Order.

46. The stipulated penalties set forth in this Section XIV shall not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this Consent Order.

XV. DISPUTE RESOLUTION

47. If Respondent disagrees, in whole or in part, with any EPA disapproval, modification or other decision or directive made by the Land and Chemicals Division (LCD) pursuant to this Consent Order, Respondent shall notify the Director of LCD in writing of its objections, and the basis for such objections, within fourteen (14) calendar days of receipt of LCD's disapproval, decision or directive. Such notice shall set forth the specific points of the dispute, the position which Respondent asserts should be adopted as consistent with the requirements of this Consent Order, the basis for Respondent's position, and any matters which it

considers necessary for LCD's determination. LCD and Respondent shall have an additional fourteen (14) calendar days from the receipt by LCD of the notification of objection, during which time representatives of LCD and Respondent may confer in person or by telephone to resolve any disagreement. If an agreement is reached, the resolution shall be written and signed by an authorized representative of each party. In the event that resolution is not reached within this fourteen (14) calendar day period, LCD will furnish to Respondent, in writing, its decision on the pending dispute.

48. The invocation of formal dispute resolution procedures under this Section XV shall not extend, postpone or affect in any way any obligation of Respondent under this Consent Order unless EPA determines otherwise. Stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Order. In the event that Respondent does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XIV ("DELAY IN PERFORMANCE/STIPULATED PENALTIES").

49. Notwithstanding any other provisions of this Consent Order, no action or decision by EPA, including, without limitation, decisions of the Director of Land and Chemicals Management Division, Region III, pursuant to this Consent Order, shall constitute final agency action giving rise to any right to judicial review prior to EPA's initiation of a judicial action to compel Respondent's compliance with this Consent Order.

XVI. FORCE MAJEURE AND EXCUSABLE DELAY

50. Respondent shall perform the requirements of this Consent Order in the manner and within the time limits set forth herein, unless the performance is prevented or delayed by events which constitute a force majeure. Respondent shall have the burden of proving such a force majeure. A force majeure is defined as any event arising from causes not reasonably foreseeable and beyond the control of Respondent, which cannot be overcome by due diligence and which delays or prevents performance in the manner or by a date required by this Consent Order. Such events do not include increased costs of performance, changed economic circumstances, reasonably foreseeable weather conditions or weather conditions which could have been overcome by due diligence, or failure to obtain federal, state, or local permits unless applications for such permits were submitted in a timely and complete fashion and such permits were not issued, through no fault of Respondent.

51. Respondent shall notify EPA, in writing, within seven (7) calendar days after it becomes or should have become aware of any event which Respondent claims constitutes a force majeure. Such notice shall estimate the anticipated length of delay, including necessary demobilization and remobilization, its cause, measures taken or to be taken to prevent or minimize the delay, and an estimated timetable for implementation of these measures. Failure to comply with the notice provision of this Section shall constitute a waiver of Respondent's right to assert a force majeure claim with respect to such event. In addition to the above notification

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requirements, Respondent shall undertake all reasonable actions to prevent or to minimize any delay in achieving compliance with any requirement of this Consent Order after it becomes or should have become aware of any event which may delay such compliance.

52. If EPA determines that there is excusable delay because the failure to comply or delay has been or will be caused by a force majeure, the time for performance of that requirement of this Consent Order may be extended, upon EPA approval, for a period equal to the delay resulting from such force majeure. This shall be accomplished through an amendment to this Consent Order pursuant to Section XXII ("SUBSEQUENT MODIFICATION"). Such an extension shall not alter the schedule for performance or completion of any other tasks required by this Consent Order, unless these tasks are also specifically altered by amendment of the Consent Order. In the event that EPA and Respondent cannot agree that any delay or failure has been or will be caused by a force majeure, or if there is no agreement on the length of the extension, Respondent may invoke the dispute resolution procedures set forth in Section XV ("DISPUTE RESOLUTION").

XVII. RESERVATION OF RIGHTS

53. EPA expressly reserves all rights and defenses that it may have, including the right both to disapprove of Work performed by Respondent pursuant to this Consent Order, to require that Respondent correct and/or perform any Work disapproved by EPA, and to request that Respondent perform tasks in addition to those stated in this Consent Order and the documents incorporated hereunder.

54. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including any which may pertain to Respondent's failure to comply with any of the requirements of this Consent Order, including, without limitation, the assessment of penalties under Section 3013 of RCRA, 42 U.S.C. § 6934. This Consent Order shall not be construed as a covenant not to sue, or as a release, waiver or limitation of any rights, remedies, powers and/or authorities, civil or criminal, which EPA has under RCRA, CERCLA, or any other statutory, regulatory or common law authority.

55. Compliance by Respondent with the terms of this Consent Order shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, state, or federal laws and regulations.

56. The signing of this Consent Order and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement action pursuant to RCRA, including, but not limited to, Section 3013 of RCRA, 42 U.S.C. § 6934, or any other authority, should EPA determine that such action is warranted. Respondent's willingness to enter into and comply with the Consent Order does not serve as an admission of any fact or of liability to EPA or any other person.

57. This Consent Order is not intended to be, nor shall it be construed as, a permit. This Consent Order does not relieve Respondent of any obligation to obtain and comply with any local, state, or federal permit or approval.

58. EPA reserves the right to perform any portion of the Work consented to herein or any additional site characterization, feasibility study, and response/corrective actions it deems necessary to protect public health or welfare or the environment. EPA may exercise its authority under RCRA, CERCLA or any other authority to undertake or require the performance of response actions at any time. EPA reserves the right to seek reimbursement from Respondent for costs incurred by the United States in connection with any such response actions. Notwithstanding compliance with the terms of this Consent Order, Respondent is not released from liability, if any, for the costs of any response actions taken by EPA. Respondent reserves all rights and defenses it may have with respect to any such action by EPA and makes no admission of liability as to such action by EPA.

59. EPA reserves whatever rights it may have under CERCLA or any other law, or in equity, to recover from Respondent any costs incurred by EPA in overseeing the implementation of this Consent Order. Respondent reserves all rights and defenses it may have with respect to any such action by EPA, and makes no admission of liability as to such action by EPA.

XVIII. OTHER CLAIMS

60. Nothing in this Consent Order shall constitute or be construed as a release by EPA of any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation, or other entity for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal or any hazardous constituents, hazardous substances, hazardous wastes, solid wastes, pollutants, or contaminants found at, taken to, or taken from the Facility. Except as specified in this Consent Order, nothing in this Consent Order shall constitute or be construed as a release, waiver or admission by Respondent in any claim, cause of action or demand in law or equity by any person, firm, partnership, corporation or other entity, other than EPA.

XIX. OTHER APPLICABLE LAWS

61. All actions required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. Respondent shall obtain or require its authorized representatives to obtain all permits and approvals necessary under such laws and regulations.

XX. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

62. Respondent agrees to indemnify and save and hold harmless the United States Government, its agencies, departments, agents, and employees, from any and all claims or causes of action arising from or on account of acts or omissions of Respondent or its agents, independent contractors, receivers, trustees, and assigns in carrying out activities required by this Consent Order. This indemnification shall not be construed in any way as affecting or limiting

the rights or obligations of Respondent or the United States under their various contracts. The United States shall not be deemed to be a party to any contract entered into by Respondent for the purpose of carrying out any activities required by this Consent Order.

XXI. NOTICE OF NON-LIABILITY OF EPA

63. EPA shall not be deemed a party to any contract involving Respondent and relating to activities at the Facility and shall not be liable for any claim or cause of action arising from or on account of any act, or the omission of Respondent, its officers, employees, contractors, receivers, trustees, agents or assigns, in carrying out the activities required by this Consent Order.

XXII. SUBSEQUENT MODIFICATION

64. Except as provided in Paragraph 66, below, this Consent Order may be amended only by mutual agreement of EPA and Respondent. Any such amendment shall be in writing, shall be signed by an authorized representative of each party, shall have as its effective date the date on which it is signed by EPA, and shall be incorporated into this Consent Order.

65. All Submissions required by paragraph 64 are, upon written approval by EPA, incorporated into this Consent Order. Any noncompliance with such EPA-approved Submissions, and attachments shall be considered a violation of this Consent Order and shall subject Respondent to the stipulated penalty provisions included in Section XIV ("DELAY IN PERFORMANCE/STIPULATED PENALTIES").

66. Minor modifications in the studies, techniques, procedures, designs or schedules utilized in carrying out this Consent Order and necessary for the completion of the project may be made by written agreement of the Project Coordinators. Such modifications shall have as an effective date the date on which the agreement is signed by the EPA Project Coordinator.

67. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent shall be construed as relieving Respondent of its obligation to obtain written approval, if and when required by this Consent Order.

XXIII. SEVERABILITY

68. If any provision or authority of this Consent Order or the application of this Consent Order to any party or circumstance is held by any judicial or administrative authority to be invalid, the application of such provision to other parties or circumstances and the remainder of this Consent Order shall not be affected thereby and shall remain in full force.

XXIV. TERMINATION AND SATISFACTION

69. The provisions of this Consent Order shall be deemed satisfied upon Respondent's receipt of written notice from EPA that Respondent has demonstrated, to the satisfaction of EPA, that the CMIP, and any additional tasks imposed by EPA to be required pursuant to this Consent Order, have been satisfactorily completed. This notice shall not, however, terminate Respondent's obligation to comply with its continuing obligations hereunder including, but not limited to, Sections XI ("RECORD PRESERVATION"), XVII ("RESERVATION OF RIGHTS"), XVIII ("OTHER CLAIMS"), XIX ("OTHER APPLICABLE LAWS"), and XX ("INDEMNIFICATION OF THE UNITED STATES GOVERNMENT").

XXV. ATTORNEYS' FEES

70. The Respondent shall bear its own costs and attorneys fees.

XXVI. EFFECTIVE DATE


71. The Effective Date of this Consent Order shall be the date on which a true and correct copy of this Consent Order is received by Respondent.

XXVII. CERTIFICATION OF SIGNATURE

72. The undersigned representative of Respondent certifies that it is fully authorized to enter into the terms and conditions of this Consent Order and to bind the party it represents to this document.

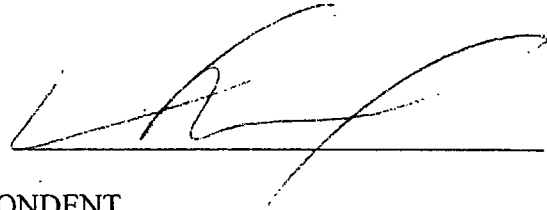
IT IS SO AGREED AND ORDERED:

DATE: 9.30.15

BY: 
JOHN ARMSTEAD
DIRECTOR, LAND AND CHEMICALS DIVISION
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY
REGION III

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0180, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

DATE: 9/30/15

A handwritten signature in black ink, appearing to be 'LAF', written over a horizontal line.

BY:
RESPONDENT
SAFETY KLEEN SYSTEMS INC.

Attachment 1

STEPHEN D. FLEMING, PE, CHMM
SENIOR REMEDIATION MANAGER

April 18, 2014

Mr. Leonard Hotham
 United States Environmental Protection Agency – Region 3
 Remedial Project Manager
 1650 Arch Street
 Philadelphia, PA 19103

RE: Groundwater Monitoring Plan, Former Safety-Kleen Corp. Service Center
 12164 Tech Road, Silver Spring, Maryland (MDD000737395)

Dear Mr. Hotham:

Enclosed please find a copy of the document entitled *Groundwater Monitoring Plan, Former Safety-Kleen Corp. (S-K) Service Center, 12164 Tech Road, Silver Spring, Maryland*. This revised Groundwater Monitoring Plan has been prepared at the request of the United States Environmental Protection Agency (USEPA) Region 3 in email correspondence dated December 4, 2013. Comments on the Groundwater Monitoring Plan were submitted by email from the USEPA dated February 11, 2014, April 2, 2014, and April 8, 2014.

S-K does not concur with the technical assumptions used as the basis for the suggested monitoring well network, including which wells are up-gradient versus down-gradient, appropriate cleanup objectives, as well as the fate and transport of regional tetrachloroethene (PCE) impacts onto the former S-K site. PCE was excluded from the MDE permit due to the presence of a substantial, well-documented up-gradient source of PCE migrating from the former International Fabricare Institute (IFI) property onto the former S-K Site. Note, there are considerable regional PCE impacts associated with a long-term release and subsequent transport/release in a sewer line that wraps around the S-K site. Additionally, contaminant presence/transport in bedrock groundwater has been documented by the up-gradient/regional source. Therefore, S-K respectfully disagrees with the assumption that wells MW-8 and PZ-2 are down-gradient of S-K operations, and that well MW-12 is not background. Well MW-12 was excluded from the enclosed Groundwater Monitoring Plan at the request of USEPA due to concerns that the well is not up-gradient of the S-K monitoring well network, which S-K does not concur with.

There is a significant historical record supporting that well MW-8 has been impacted by PCE discharged by IFI into the WSSC sewer including the trial and appellate record in the lawsuit filed by Westfarm Associates Ltd. Partnership against IFI and WSSC. For example, the fact section of the of a summary judgment motion filed in the United States District Court in Maryland in 1993, explains that:

Scott McClelland, a hydrogeologist, has also testified that the presence of PCE contamination at well S-K MW-8, adjacent to the Tech Road sewer where the Tech Road bends to the southwest, indicates that PCE has escaped from Tech Road sewer. The

Mr. Leonard Hotham
April 18, 2014
Page 2

conclusion that PCE has escaped from the Tech Road sewer is also supported by the fact that high levels of PCE residues were found in the Tech Road sewer when that sewer was cleaned out prior to the April 9, 1993 video inspection.

Memorandum in Support of Motion of Westfarm Associates Limited Partnership for Partial Summary Judgment against WSSC for CERCLA Response at p. 6.

However, S-K would like to continue to work with USEPA to refine our mutual understanding of the site conceptual model, and it is our understanding that finalization of the Groundwater Monitoring Plan could not be delayed in order to reach consensus. S-K is committed to working with the USEPA on incorporating the final remedy for the site (institutional controls), and has submitted this revised Groundwater Monitoring Plan with the suggested edits provided by the USEPA. However, S-K respectfully requests that amendments to the Groundwater Monitoring Plan be allowed based on information and data which is pertinent to the ability of S-K to meet cleanup objectives due to the regional impacts.

If you have any questions regarding the Groundwater Monitoring Plan and/or require additional information, please feel free to contact me at (513) 275-3960 or Allison Riffel (Trihydro Corporation) at (307) 745-7474. Please understand that nothing stated in this letter or the attached work plan is intended, nor should be construed as an admission of fact or law, or waiver of any legal rights or defenses by Safety-Kleen.

Sincerely,
SAFETY-KLEEN SYSTEMS, INC.



Stephen Fleming, P.E., CHMM
Senior Environmental Remediation Manager

198-002-015

Attachment

- cc: Luis Pizarro (USEPA Region III)
- Ed Hammerberg (MDE)
- Todd Blake (S-K, Manassas, VA)
- Norman Nelhuebel (S-K, Norwell) – CD
- Tim Henderson (Rich & Henderson) – electronic copy
- Sean Sullivan (Spectrum Partners) – electronic copy
- Trihydro Corporation

GROUNDWATER MONITORING PLAN
FORMER SAFETY-KLEEN CORP. SERVICE CENTER
12164 TECH ROAD
SILVER SPRING, MARYLAND

April 18, 2014

Project #: 198-002-015

SUBMITTED BY: Trihydro Corporation

1252 Commerce Drive, Laramie, WY 82070

PREPARED FOR: Safety-Kleen Systems, Inc., A Clean Harbors Company

4120 Thunderbird Lane, Fairfield, OH 45014



ENGINEERING SOLUTIONS. ADVANCING BUSINESS.

Home Office | 1252 Commerce Drive | Laramie, WY 82070 | phone 307/745.7474 | fax 307/745.7729 | www.trihydro.com

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1.0 INTRODUCTION

This Groundwater Monitoring Plan has been prepared for the former Safety-Kleen Systems, Inc. (S-K) service center located at 12164 Tech Road in Silver Spring, Maryland (Site) (Figure 1). Monitoring activities are currently being implemented in accordance with Controlled Hazardous Substances Permit Number A-302 (Effective Date December 11, 2008), which was issued by the Maryland Department of the Environment (MDE). On June 11, 2012, S-K submitted a request to terminate the post-closure permit. Based on verbal feedback provided during a teleconference on November 2013, S-K anticipates that termination of the MDE permit will be forthcoming in the near future.

S-K has been working recently with the United States Environmental Protection Agency (USEPA) Region 3 to address tetrachloroethene (PCE) impacts to the former facility. S-K recently installed up-gradient wells MW-12, MW-13, and MW-14 in October 2013 to further document the presence of PCE up-gradient from the former S-K property. PCE was detected in all three wells at concentrations above the current USEPA Regional Screening Level (5 ug/L), with a maximum concentration of 130 ug/L (Figure 2).

S-K proposed institutional controls as final remedy as part of the Remedial Alternatives Evaluation Report (Trihydro 2009). USEPA has concurred with this approach through implementation of a covenant on the subject property. However, the USEPA will require long-term groundwater monitoring for PCE and its daughter products in conjunction with the covenant. The purpose of this Groundwater Monitoring Plan is to identify a well network and monitoring program for the purposes of finalizing the covenant. The covenant will allow for future residential use in conjunction with an institutional control as required at the time of property development.



2.0 PROPOSED WELL NETWORK

The proposed groundwater monitoring program consists of a subset of the existing 14 wells (MW-1 through MW-14) and 2 piezometers (PZ-1 and PZ-2) at the site. A total of ten wells were selected by the USEPA for the network, including two background wells (MW-13 and MW-14), six compliance wells (PZ-2, MW-1, MW-8, MW-9, MW-10, and MW-11), and two sentinel wells (MW-6 and MW-7). Sentinel wells are being defined by the USEPA in this instance as the wells used to determine the groundwater concentrations leaving the site (USEPA 2014). Wells installed at the most down-gradient edge of the site and the property line will be considered sentinel wells. Compliance wells are defined by USEPA as wells installed at the point of compliance, which in this instance is the waste management area. USEPA has specified that the point of compliance is the edge of the building where S-K managed wastes (USEPA 2014).

S-K will continue to work with the USEPA to refine the mutual understanding of groundwater flow direction, and contaminant fate and transport. S-K will propose modifications to the aforementioned well network as necessary to reflect consensus on the technical differences of opinion, as appropriate.

Four existing wells (MW-2, MW-3, MW-4, and MW-5) were excluded from the proposed monitoring program due to proximity to existing wells. Piezometer PZ-1 was excluded from the proposed sampling program, since it is located hydraulically up-gradient from S-K activities (Figure 2). Off-site well WSSC MW-4 will not be gauged or sampled as part of the monitoring program, because this well is already being monitored by the Washington Suburban Sanitation Commission (WSSC) as part of ongoing investigations into elevated PCE concentrations at this location. S-K will try to obtain routine fluid level data for the purposes of preparing groundwater contour figures and evaluating regional groundwater flow conditions, if possible. The locations of the wells within the proposed monitoring program are shown on Figure 3. Groundwater monitoring wells and piezometers not included in the monitoring well network (MW-2, MW-3, MW-4, MW-5, and PZ-1) will be gauged for fluid levels, but will not be sampled. A summary of the well construction information for the proposed monitoring well network is included in Table 1.



3.0 FIELD PROCEDURES

Groundwater monitoring activities will include fluid level monitoring and groundwater sampling. Procedures for conducting routine field activities are described below, including well inspections, fluid level gauging, and groundwater sampling. In addition, standard practices for equipment calibration and maintenance; decontamination; and management of investigation derived waste are outlined herein.

3.1 WELL INSPECTIONS

During groundwater sampling activities, each of the groundwater monitoring wells and piezometers on Site will be inspected for damage to well integrity, including: seals, bolts, concrete well vaults. The inspections will be recorded on the Field Well Inspection Form (Appendix A). Any damage/faults that are observed will be repaired in a timely manner.

3.2 FLUID LEVEL GAUGING

Fluid levels will be gauged using an oil/water interface probe or similar device that is designed to distinguish between water and non-aqueous phase liquids. The fluid level and total well depth will be measured to the nearest 0.01-foot for each well and piezometer and recorded on a Fluid Level Form (Appendix A). If non-aqueous phase liquids are encountered in a monitoring well, the well will not be sampled. The non-aqueous phase liquid will be evacuated from the well using a disposable bailer, collected in buckets, and then containerized in 55-gallon drums. The quantity of non-aqueous phase liquid will be recorded on the field form.

3.3 GROUNDWATER SAMPLING

Groundwater wells included in the monitoring well network will be sampled in order from least to most impacted based on past analytical results. A submersible pump and dedicated tubing will be used for purging and sampling. Wells will be sampled using low-flow sampling methodology pursuant to the latest USEPA guidance (or newer if available): Region I USEPA guidance document *Low-Stress (Low Flow) Purging and Sampling Procedure for the Collection of Groundwater Samples from Monitoring Wells* (USEPA 2010). The flow rate will be set at a maximum of 500 mL/min so that drawdown is no greater than 0.3 feet to reduce the potential for volatilization from turbulent flow and to target formation water. If the minimum drawdown that can be achieved exceeds 0.3 feet, but remains stable, purging will continue. Low-yielding wells will be evacuated to dryness and allowed to recover prior to sampling. A well will not be considered to be bailed dry until less than 10% of the original volume of water remains in the well after purging.



Field parameters (temperature, pH, specific conductance, oxidation/reduction potential (ORP), dissolved oxygen (DO), and turbidity) will be monitored during purging using a water quality meter with a flow through cell. Purging will continue until field parameters stabilize. Field parameters will be considered stabilized when successive measurements meet the following requirements: temperature (± 3 degrees Celsius), pH (± 0.1 pH unit), specific conductance ($\pm 3\%$), ORP (± 10 mV), and DO ($\pm 3\%$).

Groundwater samples will be submitted to Analytical Services, Inc. in Norcross, Georgia for analysis of volatile organic compounds (VOCs), including PCE and reductive dechlorination daughter products, by USEPA Method 8260B. Table 2 includes the analytical method, sample container, preservation, and holding times for sample collection. Groundwater samples will be placed on ice to cool them, handled with care, and stored in a secure location. Transfer of the samples to the laboratory will be recorded through a Chain of Custody form, which will include the date and time of transfer.

Field personnel will record sample collection information on a Low-Flow Groundwater Sampling Log (Appendix A). Relevant information will include: sampler name; date; sample time; observations of sheen, odor, or color; field parameter readings; total depth and fluid levels; purge volumes; analysis requested; and quality assurance/quality control samples collected.

3.4 EQUIPMENT MAINTENANCE AND CALIBRATION

Various types and brands of field instruments and equipment will be available for use during groundwater sampling. Maintenance and calibration procedures for these items will vary, depending on the instrument type, manufacturer, and model. Manufacturer's manuals for operation of the equipment and instruments will be available during the sampling event and will be closely followed to maintain proper operation, adjustment, calibration, general maintenance, and trouble-shooting. Equipment and instruments used during sampling will be examined to verify that they are in satisfactory operating condition. If a piece of equipment or instrument is malfunctioning or providing suspect performance or measurements, it will be immediately taken out of service and replaced. Any equipment problems noted during sampling, and not corrected in the field, will be corrected upon return to the office. Broken or contaminated equipment will be discarded and taken out of use.

Water quality instruments will be checked and calibrated with sufficient frequency (at least daily, prior to beginning sampling) and in such a manner that accuracy and reproducibility of results are consistent with specifications in the manufacturer's instruction manual. The instrument checks and calibrations performed will be documented on Daily Instrument and Calibration/Maintenance Log (Appendix A).



3.5 DECONTAMINATION PROCEDURES

Non-disposable sampling equipment (e.g., fluid level probe, submersible pump, etc.) will be manually washed and rinsed prior to use and between each sampling location. The decontamination procedure will include washing with non-phosphate based detergent such as Alconox (or similar), a tap-water rinse, and a distilled (or de-ionized) water rinse. Decontamination will be conducted over visqueen type poly sheeting to avoid discharging any decontamination fluids onto the ground.

3.6 INVESTIGATION DERIVED WASTE

Investigation derived waste (IDW) generated during the groundwater monitoring activities includes groundwater generating during monitoring and solid waste. Groundwater and decontamination/rinse water will be containerized and sealed in 55-gallon drums. The drums will be labeled and transported off-site by S-K or Clean Harbors for management within the S-K or Clean Harbors waste management system. Personnel protective equipment (PPE) and disposable equipment generated during sampling activities will be disposed of as municipal solid waste.

3.7 SAFETY PROCEDURES

Field personnel that have the potential of coming into contact with the impacted media will be trained appropriately, including Occupational Safety and Health Administration (OSHA) 40-hour HAZWOPER training and annual 8-hour HAZWOPER refresher training. Additionally, field personnel will sign and acknowledge that they have reviewed and understand the site safety procedures as presented in the current site-specific Health and Safety Plan (HASP). The HASP will be updated annually.



4.0 QUALITY ASSURANCE/QUALITY CONTROL PROCEDURES

The quality assurance objectives provide quantitative and qualitative measures of the ability to produce high quality results through a properly designed sampling and analysis program. The objectives of the overall Quality Assurance/Quality Control (QA/QC) program are to:

- Confirm that procedures are documented, including any changes from the work plan protocol.
 - Confirm that sampling and analytical procedures are conducted according to sound scientific principles.
 - Monitor the performance of the field sampling team and laboratory with a systematic audit program and provide for corrective action necessary to assure quality.
 - Evaluate the quality of the analytical data through a system of quantitative and qualitative criteria.
-
- Confirm that data and observations are properly recorded and archived.

4.1 FIELD QUALITY ASSURANCE/QUALITY CONTROL SAMPLES

The level of quality control effort will be consistent with that required under SW846 and the USEPA National Functional Guidelines. The level of effort for each quality assurance sample type is summarized below:

- Blind Duplicate Samples: One for each ten samples received for VOCs with a minimum of one per sampling event.
- Trip Blanks: One aqueous trip blank for each cooler shipment of VOCs groundwater samples.
- Field Blanks: One for each ten samples received for VOCs with a minimum of one per sampling event.
- Matrix Spike/Matrix Spike Duplicate (MS/MSD): One for each twenty samples received for VOCs with a minimum of one per sampling event.

If a blind duplicate fails the acceptance criteria, the laboratory will be contacted to determine the possible cause of the error. If duplicate samples do not meet the acceptance criteria (RPD of 30%), the parent and duplicate sample are qualified with "J" flags to indicate an estimated value. If the RPD is greater than or equal to 100%, all samples will be qualified with "J" flags for that constituent or "UJ" qualified depending on the magnitude of difference between the parent and duplicate sample. When corrective action is taken as a result of field QC checks, the effectiveness of the corrective action will be measured based on the rate of reoccurrence of failure. In some cases, qualification of the data may be sufficient for evaluation of the data. Additionally, in some cases, the field crew may be required to return to the site in order to meet completeness objectives.



4.2 LABORATORY QUALITY ASSURANCE/QUALITY CONTROL SAMPLES

Laboratories contracted for this project have QC programs in place to ensure the reliability and validity of the analysis performed at the laboratory. The required PCE detection limit for this investigation will be 1.0 ug/L. All analytical procedures are documented in writing as SOPs and each SOP includes a QC section that addresses the minimum QC requirements for the analytical procedure. The internal QC checks include:

- Method blanks
 - Instrument blanks
 - MS/MSDs
 - Surrogate spikes
 - Laboratory duplicates
 - Laboratory control standards
-
- Internal standard areas for GC/MS analysis
 - Mass tuning for GC/MS analysis

Data obtained will be properly recorded. The data package will include a full deliverable package capable of allowing the recipient to reconstruct QC information and compare it to QC criteria. The laboratory will re-analyze any samples not analyzed in conformance with the QC criteria, if sufficient volume is available. It is expected that sufficient volumes/weights of samples will be collected to allow for reanalysis, when necessary.

4.3 DATA VALIDATION (TIER I AND II)

Trihydro will perform data validation review on data received from the laboratory. The data validation will include a Tier I and Tier II reviews, unless a higher level of validation would be triggered due to major non-conformances or at the discretion of the project manager. Data will be evaluated in accordance with the general validation criteria set forth in the USEPA Contract Laboratory Program (CLP) National Functional Guidelines for Inorganic Data Review, document number EPA 540R-10-011, January 2010. Review of duplicates is conducted in accordance with USEPA Region 1 Laboratory Data Validation Function Guidelines for Evaluation of Organic Analysis, December 1996 or as specified by the method (as applicable).

The Tier I evaluation will include a review of sampling dates, sample extraction dates, and analysis dates to check that samples were extracted and/or analyzed within proper holding times; review of analytical methods and required detection limits to verify conformance with this Work Plan; review of the target constituent list to verify that



conformance with project requirements; and review chain-of-custody forms to verify that samples were maintained under a strict chain-of-custody. The Tier II evaluation will include a review of all Tier I elements as well a review of field and laboratory blanks to evaluate possible contamination sources; review of field duplicate data for evaluation of field and laboratory precision; review of laboratory quality assurance data (MS/MSD recoveries and RPD calculations, LCS recoveries) for compliance with method or project required acceptance criteria; review of the analytical results to verify compliance with the specified project goals; and review of the laboratory narrative notes for tuning and calibration checks (if available). One hundred percent of the analytical data shall be validated. The data validation procedures described above does not include a review of the raw data (chromatographs), tuning, calibrations, or those items described as Tier III/Tier IV validation, unless a higher level of validation is needed.

A Tier I checklist and Tier II data validation report will be produced for each sample delivery group (laboratory report) delivered by the laboratory. A Tier I validation checklist will be prepared in an electronic format for each laboratory analytical sample group. Tier I validations can be performed by any competent person with knowledge of the project requirements. Tier II data validations will be performed by an individual who is familiar with the actual laboratory methods used in generating the data set, and who has a reasonable degree of independence from the project team.

The Tier II data validation reports will describe and define any qualifiers that were added by the data validator. The data quality flags used to qualify analytical data will be in general accordance with those outlined within the USEPA Data Validation Functional Guidelines for Evaluating Environmental Analyses. These qualifiers will be maintained in the database with each data point and the reason for qualification. The most commonly used data quality flags include:

- **R Code:** An "R" flag indicates data has not met the required analytical quality assurance requirements. This data is unusable, even if field quality control requirements have been fulfilled.
- **J Code:** A "J" flag indicates that data has not met some of the analytical quality assurance requirements; however, the problem was not of sufficient magnitude to warrant classifying the data as unusable. Data in this category is qualitative (estimated) provided the field data meets all quality control requirements.
- **UJ Code:** The analyte was analyzed for, but was not detected. The sample quantification limit is an estimated value.
- **JB Code:** A "JB" flag indicates that the result of the value could be attributed to cross contamination. Specifically, this flag will be applied if the result for a field contaminant is within 10 times of a field, equipment, trip or method blank detected result.
- **U Code:** A "U" code indicates that the result was detected but due to cross contamination was determined to be undetected by the validator. The original values and the revised undetected result will be clearly noted on the report tables.



5.0 REMEDIAL SCREENING LEVELS

The most current USEPA Regional Screening Levels (RSLs) will be used for screening levels with the exception of PCE. Since The Site is impacted by off-site sources of PCE, as indicated by the presence of the contaminant in up-gradient wells MW-13 and MW-14, the screening level for PCE will be established using background concentrations. Background PCE concentrations will account for the presence of PCE above the USEPA Regional Screening Level of 5 ug/L, which will be verified by groundwater monitoring. S-K proposes to establish the screening level for the former Silver Spring site by calculating an Upper Prediction Limit (UPL).

S-K proposes establishing standards based on up-gradient or background data as presented in USEPA's Unified Guidance (USEPA 2009); one recommended method is to compare down-gradient sample results to an UPL calculated from background/up-gradient sample results. The UPL is the upper bound on a statistical interval created to capture the "next" sample result with a specified level of confidence; in cases where inter-well testing is appropriate, the data from up-gradient wells are combined to create the background data set to which individual compliance well measurements are compared. With each new round of sampling, the background data are updated by adding the new sample results, and a new UPL is calculated. S-K proposes to use a UPL approach to calculating the background PCE concentration after completing four monitoring events with the two background wells noted above (MW-13 and MW-14).

5.1 PROPOSED TRIGGER

An important aspect of the UPL test is that it incorporates retesting for confirmation of an indicated exceedance; i.e. the statistic is calculated based on the number of retests required to confirm an exceedance, while maintaining the desired Site-Wide False Positive Rate (SWFPR). If the PCE concentration in a sentinel well (MW-6 and MW-7) exceeds the UPL, the well would be resampled during the next semiannual event. Therefore, two consecutive events with PCE concentrations above the UPL are necessary for a confirmed exceedance at a sentinel well.

5.2 DISCONTINUATION OF MONITORING ACTIVITIES

S-K proposes to continue monitoring PCE concentrations groundwater until the RSLs are achieved for three consecutive years. At that time, S-K will discontinue monitoring activities at the site with USEPA approval. PCE impacts are being investigated under the direction of the MDE concurrently at the off-site WSSC property to the east of the former S-K site. S-K may refine or discontinue the proposed monitoring program if new information becomes available which affects our understanding of the site conceptual model, such as additional information regarding the migration of PCE from the off-site property to the S-K property with USEPA approval. Transfer of monitoring activities would be coordinated with USEPA from S-K to the responsible party at that time and USEPA would also



need to approve the transfer. In addition, remediation activities at up-gradient or down-gradient neighboring properties may influence PCE groundwater quality at the former S-K site. S-K will coordinate with USEPA to evaluate how the proposed monitoring program may be modified to account for changing conditions and USEPA will need to approve any changes to the program.

All applicable and appropriate technical and policy arguments will be considered by the USEPA and MDE in order to adjust, modify and revise the approved Groundwater Monitoring Plan, including but not limited to risk assessment approaches and consideration of regional impacts.



6.0 SCHEDULE AND REPORTING

The groundwater well network will be monitored semiannually, typically during April and October. S-K will provide notification to the USEPA at least 10-days prior to sampling. Results of each monitoring event will be compiled into two semiannual progress reports. The reports will include:

- Summary of field, laboratory, and data validation activities
 - Tabulation of groundwater monitoring data
 - Site map including well locations
 - Groundwater quality map depicting current PCE concentrations
 - Groundwater fluid level map showing the groundwater level elevations
 - Summary of conclusions and recommendations
-
- Copies of field documentation, laboratory report, and Tier II data validation report

Semiannual progress reports will be submitted to the USEPA by the end of the semiannual monitoring period (June 30 and December 31).



7.0 REFERENCES

- Arcadis G&M, Inc. 2006. Second Quarter 2006 Groundwater Monitoring Report, International Fabricare Institute, Silver Spring Maryland. July 2006.
- Trihydro 2009. Remedial Alternatives Evaluation Report, Former Safety-Kleen Corp. Service Center, 12164 Tech Road, Silver Spring, Maryland, Trihydro Corporation, March 11, 2009.
- USEPA 2014. Memorandum to Leonard Hotham, Project Manager from Erich Weissbart, P.G. Regarding Former Safety-Kleen Silver Spring Service Center – Groundwater Monitoring Plan, February 11, 2014.
- USEPA 2010. Region 1, Low Stress (Low Flow) Purging and Sampling Procedure for the Collection of Groundwater Samples from Monitoring Wells, United States Environmental Protection Agency (USEPA). January 19, 2010 (EQASOP-GW 001) Revision Number 3.
- USEPA 2009. The Statistical Analysis of Groundwater Monitoring Data At RCRA Facilities Unified Guidance, United States Environmental Protection Agency (USEPA), March 2009.
- USEPA 1998. Risk-Based Clean Closure. Memorandum From Elizabeth Cotswold, United States Environmental Protection Agency (USEPA) Office of Solid Waste, To RCRA Senior Policy Advisors, March 16, 1998.
- Westfarm Associates Limited Partnership v. International Fabricare Institute, et al. Memorandum in Support of Motion of Westfarm Associates Limited Partnership for Partial Summary Judgment Against Washington Suburban Sanitary Commission for CERCLA Response Costs, Civil No. HM-92-9, 1993 (D. Md.).
- Westfarm Associates Ltd. Partnership v. Int'l Fabricare Institute, et. al., 846 F.Supp. 422 (D.Md. 1993) and Westfarm Associates Ltd. P'ship v. Washington Suburban Sanitary Comm'n, 66 F.3d 669 (4th Cir. 1995).



TABLES

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0202, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.



TABLE 1. MONITORING WELL COMPLETION SUMMARY INFORMATION
FORMER SAFETY-KLEEN CORP. SERVICE CENTER, SILVER SPRING, MARYLAND

Well Number	Date Drilled	Total Depth Drilled (ft-bgs)	Total Depth Cased (ft-bgs)	Casing Diameter and Type (inches)	Measuring Point Elevation (ft-amsl)	Ground Surface Elevation (ft-amsl)	Elevation of Screened Interval (ft-amsl)
MW-2	8/10/1989	26.0	25.0	4-inch PVC, 0.020-inch SLSC	369.99	370.51	345.51 to 365.51
MW-3	8/10/1989	25.5	25.0	4-inch PVC, 0.020-inch SLSC	369.05	369.68	344.68 to 364.68
MW-4	8/10/1989	25.5	25.0	4-inch PVC, 0.020-inch SLSC	368.15	369.04	344.04 to 364.04
MW-5	8/14/1991	30.0	30.0	4-inch PVC, 0.020-inch SLSC	369.16	369.53	339.53 to 364.53
MW-12	10/9/2013	40.0	40.0	2-inch PVC, 0.020-inch SLSC	371.92	372.06	332.06 to 342.06
PZ-1	10/14/2013	28.0	27.7	2-inch PVC, 0.020-inch SLSC	368.05	368.52	340.52 to 350.52
MW-6	8/13/1991	30.0	30.0	4-inch PVC, 0.020-inch SLSC	367.77	368.20	338.20 to 363.20
MW-7	8/14/1991	30.0	30.0	4-inch PVC, 0.020-inch SLSC	368.72	368.94	338.94 to 363.94
MW-13	10/10/2013	30.0	30.0	2-inch PVC, 0.020-inch SLSC	370.44	370.66	340.66 to 350.66
MW-14	10/11/2013	27.0	26.7	2-inch PVC, 0.020-inch SLSC	370.03	370.44	343.44 to 353.44
MW-1	8/8/1989	31.0	30.0	4-inch PVC, 0.020-inch SLSC	369.43	369.77	339.77 to 359.77
MW-8	1/7/1992	30.0	30.0	4-inch PVC, 0.020-inch SLSC	368.67	368.90	338.90 to 363.90
MW-9	4/25/2008	40.0	40.0	2-inch PVC, 0.020-inch SLSC	368.60	369.04	329.04 to 339.04
MW-10	4/24/2008	40.0	39.7	2-inch PVC, 0.020-inch SLSC	368.91	369.17	329.17 to 339.17
MW-11	4/23/3008	40.0	39.6	2-inch PVC, 0.020-inch SLSC	368.99	369.27	329.27 to 339.27
PZ-2	10/14/2013	31.0	30.7	2-inch PVC, 0.020-inch SLSC	367.31	368.05	337.05 to 347.05

Fluid Levels Only

Sentinel Wells

Background Wells

Compliance Wells

Notes:
ft-bgs = feet below ground surface.
ft-amsl = feet above mean sea level.

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**TABLE 2. ANALYTICAL METHODS AND SAMPLING REQUIREMENTS
FORMER SAFETY-KLEEN CORP. SERVICE CENTER
12164 TECH ROAD, SILVER SPRING, MARYLAND**

ANALYSIS	METHOD	MATRIX	HOLDING TIME (days)	MINIMUM VOLUME	CONTAINER	PRESERVATION
VOCs	8260B	W	14	40 mL	3 x 40-mL VOA vials	Cool, 6°C and HCl to pH < 2 (no headspace)

Notes:

Method - USEPA SW-846 Methods

W - water/aqueous samples

mL - milliliters

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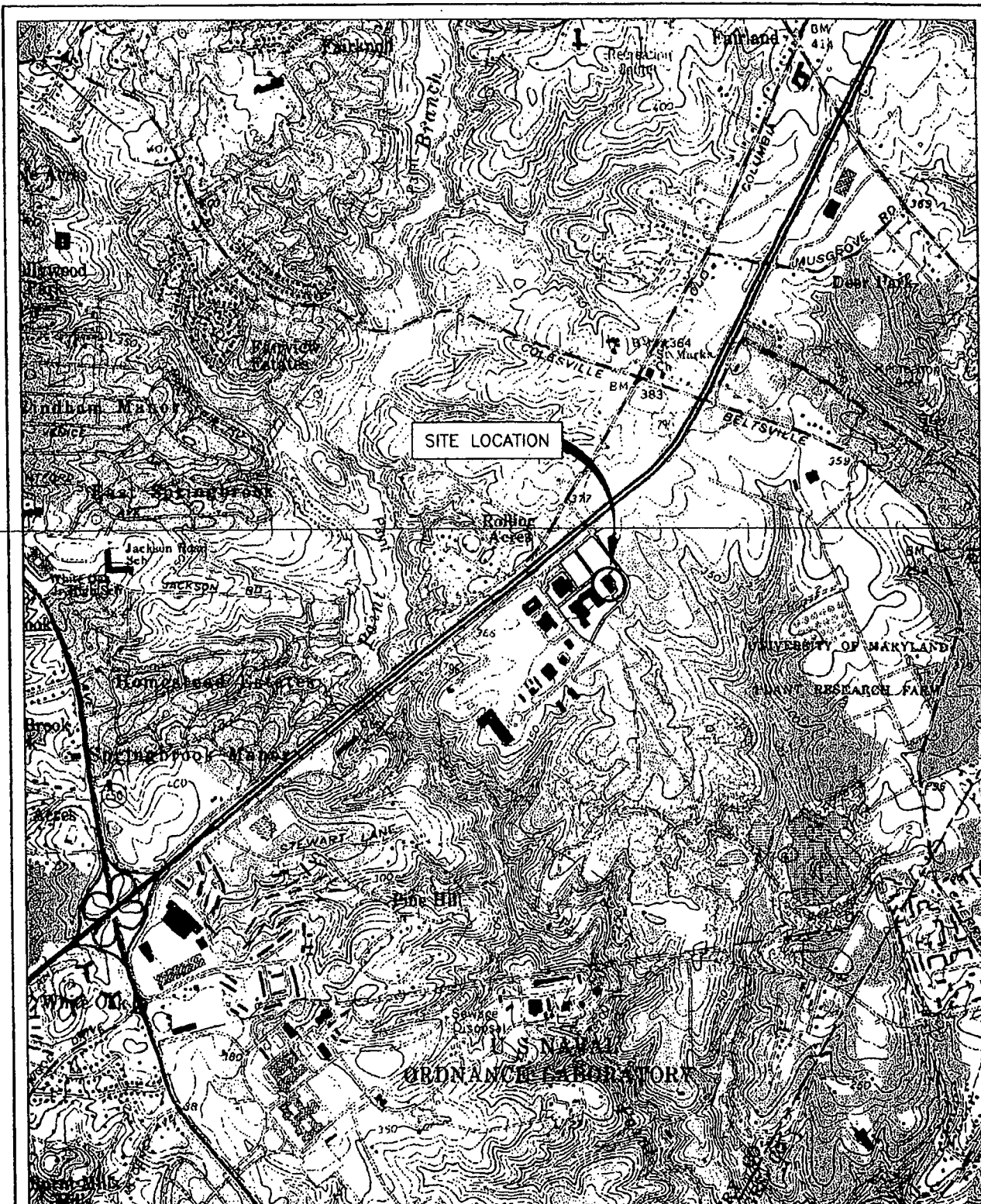
MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0204, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0205, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

FIGURES



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Base map: U.S.G.S. 7.5 Min. Quadrangle, Beltsville, MD. 1964 Photorevised 1979

FIGURE 1

SITE LOCATION MAP

FORMER SAFETY-KLEEN CORP. SERVICE CENTER
SILVER SPRING, MARYLAND



1252 Commerce Drive
Laramie, Wyoming 82070
www.trihydro.com
(P) 307/745.7474 (F) 307/745.7728

Drawn By: REP

Checked By: AR

Scale: 1" = 2,000'

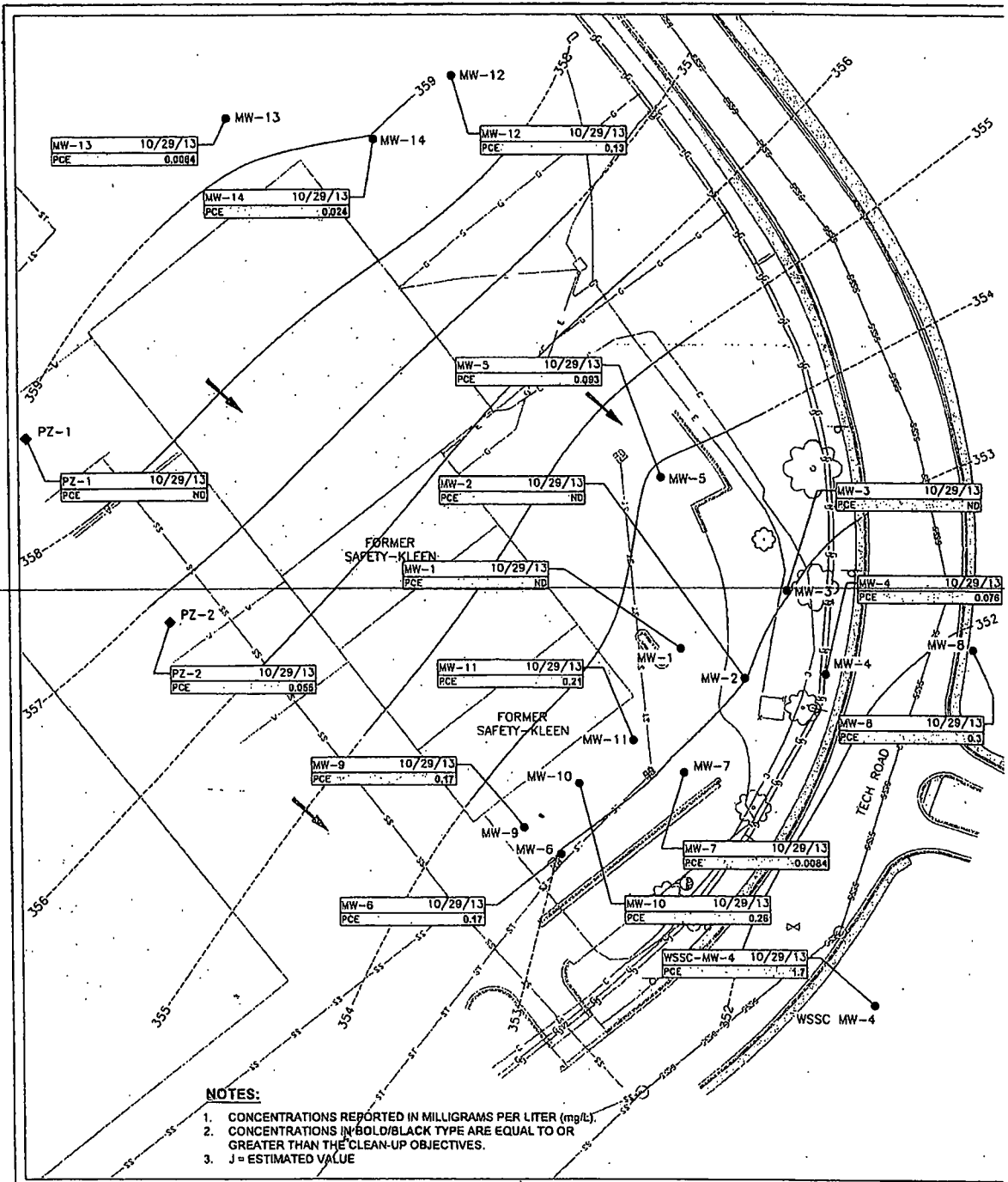
Date: 3/11/09

File: 198USGSSITE

66

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0206, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0207, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.



NOTES:

1. CONCENTRATIONS REPORTED IN MILLIGRAMS PER LITER (mg/L).
2. CONCENTRATIONS IN BOLD/BLACK TYPE ARE EQUAL TO OR GREATER THAN THE CLEAN-UP OBJECTIVES.
3. J = ESTIMATED VALUE

EXPLANATION

- MW-6 WELL AND DESIGNATION
- MW, SCS, TR, PI, WSSC - MONITORING WELL
- PZ-2 PIEZOMETER AND DESIGNATION
- FENCE
- SS SANITARY SEWER LINE
- G GAS LINE
- ST STORM DRAIN LINE
- W WATER LINE
- C COMMUNICATION/CABLE LINE
- E ELECTRICAL LINE
- FD FIRE HYDRANT
- G GRATE
- S SIGN POST
- U UTILITY POLE
- GUY GUY WIRE
- SM SEWER MANHOLE
- WV WATER VALVE
- BS BUILDING OR OTHER STRUCTURE
- SW SIDEWALK
- T TREE

CONSTITUENT TABLE EXPLANATION

- WELL DESIGNATION - MW-6
- 10/29/13 - SAMPLE DATE
- TETRACHLOROETHENE - PCE
- 0.0533 - AVERAGE BACKGROUND CONCENTRATION IN UNITS OF mg/L

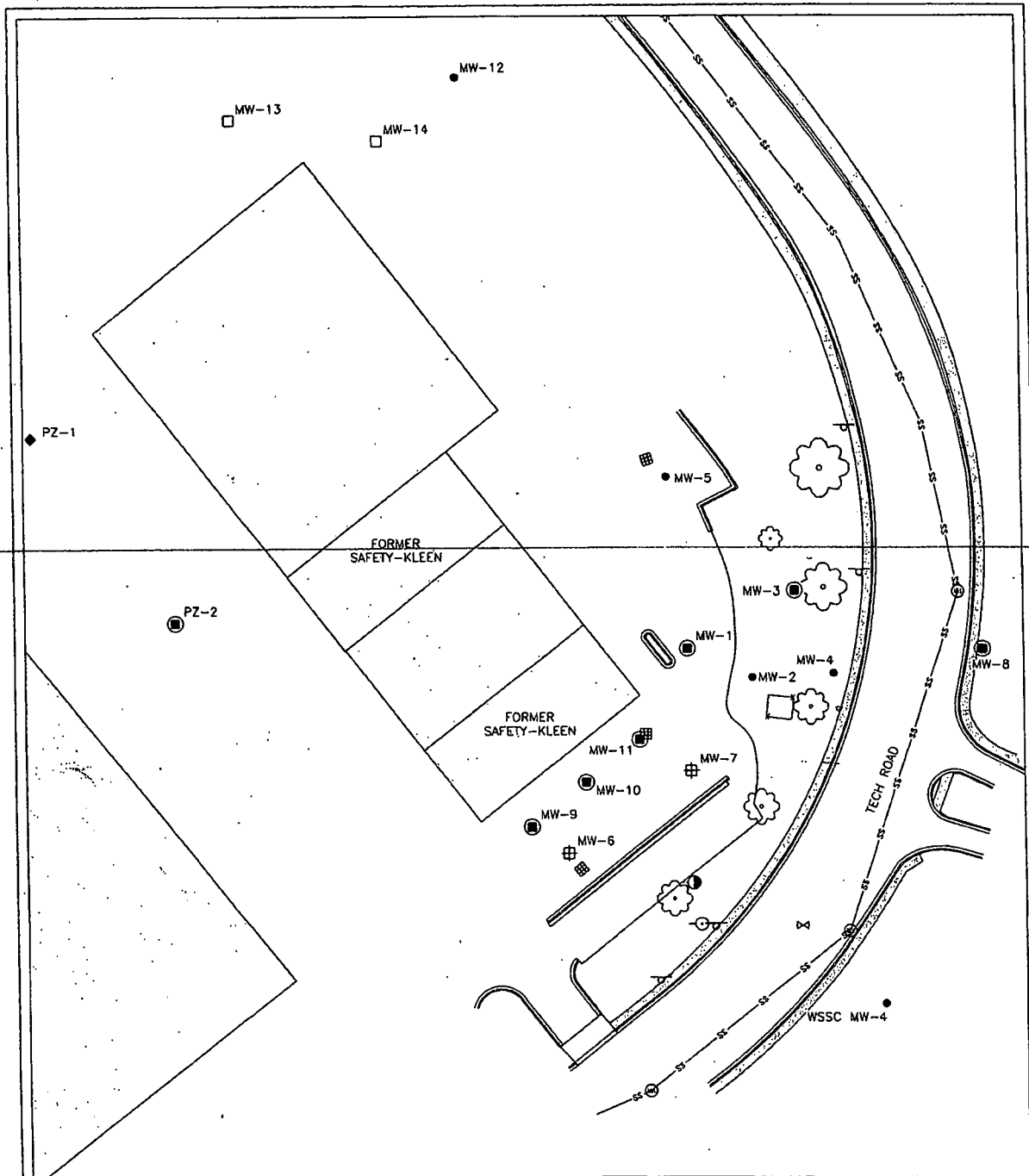


FIGURE 2
TETRACHLOROETHENE
GROUNDWATER CONCENTRATIONS
(OCTOBER 2013)
FORMER SAFETY-KLEEN CORP. SERVICE CENTER
SILVER SPRING, MARYLAND

Drawn By: REP Checked By: MS Scale: 1" = 60' Date: 11/29/13 File: 198GW-DATA201310

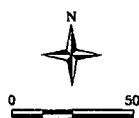
67

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0208, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.



EXPLANATION

- MW-6 MONITORING WELL AND DESIGNATION
- MW-13 BACKGROUND MONITORING WELL AND DESIGNATION
- ⊕ MW-6 SENTINEL MONITORING WELL AND DESIGNATION
- ⊙ MW-9 COMPLIANCE WELL AND DESIGNATION
- ◆ PZ-2 PIEZOMETER AND DESIGNATION
- — — — — FENCE
- — — — — SANITARY SEWER LINE
- ⊠ GRATE
- ⊡ SIGN POST
- ⊙ UTILITY POLE
- ⊙ GUY WIRE
- ⊙ SEWER MANHOLE
- ⊙ WATER VALVE
- ▭ BUILDING OR OTHER STRUCTURE
- ▭ SIDEWALK
- ⊙ TREE



<p>Trihydro CORPORATION</p> <p>1252 Commerce Drive Laramie, Wyoming 82070 www.trihydro.com (P) 307/745,7474 (F) 307/745,7728</p>	<p>FIGURE 3</p> <p>PROPOSED MONITORING PROGRAM</p>	
	<p>FORMER SAFETY-KLEEN CORP. SERVICE CENTER SILVER SPRING, MARYLAND</p>	
<p>Drawn By: REP</p>	<p>Checked By: AR</p>	<p>Scale: 1" = 50'</p>
<p>Date: 3/4/14</p>	<p>File: 198MONWELLNET201403</p>	

Handwritten initials

APPENDIX A

EXAMPLE FIELD FORMS





Field Well Inspection Form

Job Name: Former Service Center
Job No.: 198-002-014
Client: Safety-Kleen

Site Location: Silver Spring
Date: _____
Inspector: _____

Concrete Pad
Visible? Yes No
Sloped away from casing? Yes No

If no, which well(s)? Explain: _____
If no, which well(s)? Explain: _____

Check any of the following features that apply:

- Many Cracks Well ID and explanation: _____
- Few Cracks Well ID and explanation: _____
- Gap Around Casing Well ID and explanation: _____
- No Pad Present Well ID and explanation: _____
- Ponded Water Well ID and explanation: _____

Well Cover

- Steel Lid Present: Yes No
- Condition: Good Broken Cracked
- Condition of Sump: Clean Dirty Standing Water
- Stripped Bolts? Yes No
- Stripped Bolt Holes? Yes No
- Missing Bolts? Yes No
- Missing Gaskets? Yes No
- Broken Bolt Ears? Yes No

If no, which well(s)? Explain: _____
If not good, which well(s)? Explain: _____
If not clean, which well(s)? Explain: _____
If yes, which well(s)? Fixed? Explain: _____
If yes, which well(s)? Fixed? Explain: _____
If yes, which well(s)? Fixed? Explain: _____
If yes, which well(s)? Fixed? Explain: _____
If yes, which well(s)? Fixed? Explain: _____

Inter casing (PVC):

- Condition: Good Broken Cracked
- Cap Present: Yes No
- Well Lock Present: Yes No
- Lock Functioning: Yes No
- Well I.D. Visible: Yes No

If not good, which well(s)? Explain: _____
If no, which well(s)? Explain: _____
If no, which well(s)? Explain: _____
If no, which well(s)? Explain: _____
If no, which well(s)? Explain: _____

ADDITIONAL SPACE FOR EXPLANATIONS:

FLUID LEVEL FORM

Site S-K Silver Spring Date of Fluid Measurement _____
Fluid Level Probe _____

Well ID	Sample Order	DTW	TD	DTP	Volume Bailed
MW-1	_____	_____	_____	_____	_____
MW-2	_____	_____	_____	_____	_____
MW-3	_____	_____	_____	_____	_____
MW-4	_____	_____	_____	_____	_____
MW-5	_____	_____	_____	_____	_____
MW-6	_____	_____	_____	_____	_____
MW-7	_____	_____	_____	_____	_____
MW-8	_____	_____	_____	_____	_____
MW-9	_____	_____	_____	_____	_____
MW-10	_____	_____	_____	_____	_____
MW-11	_____	_____	_____	_____	_____
MW-12	_____	_____	_____	_____	_____
MW-13	_____	_____	_____	_____	_____
MW-14	_____	_____	_____	_____	_____
PZ-1	_____	_____	_____	_____	_____
PZ-2	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____

Technician _____

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0211, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

LOW-FLOW GROUNDWATER SAMPLING LOG

Client: Safety-Kleen Systems Inc. Static Water Level: _____

Project Number: 198-01A-002 Depth to Product: _____

Project Name: S-K Silver Spring Total Well Depth: _____

Project Location: Silver Spring, MD Screened Interval: _____

Sample Date: _____ Pump Inlet Depth: _____

Weather: _____ Laboratory Analysis: VOCs _____

Field Personnel: _____ Containers/Preservatives: 3 X 40mL VOA _____

SAMPLE TIME: _____ Water Quality Meter: _____

SAMPLE ID: _____ Total Purge Volume: _____

QAQC Samples Collected: (yes) (no) _____

MONITORING WELL ID: _____

Time	Pumping Rate (mL/min)	Depth to Water (ft-bmp)	Temp (deg C)	Sp. Con. (mS/cm)	DO (mg/L)	pH (S.U.)	ORP (mV)	TDS (mg/L)	Turbidity (NTU)	Comments

FIELD WELL INSPECTION: _____

Protective Casing: _____ Well I.D. Visible: _____

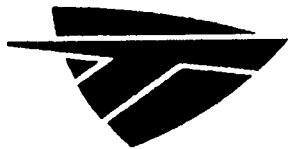
Lock Condition: _____ Condition of Manway: _____

Lid Condition: _____ Bolt Condition: _____

Casing Diameter: _____ Bumper Posts: _____

Cap Condition: _____ Flush Mount Seal: _____

Comments: _____



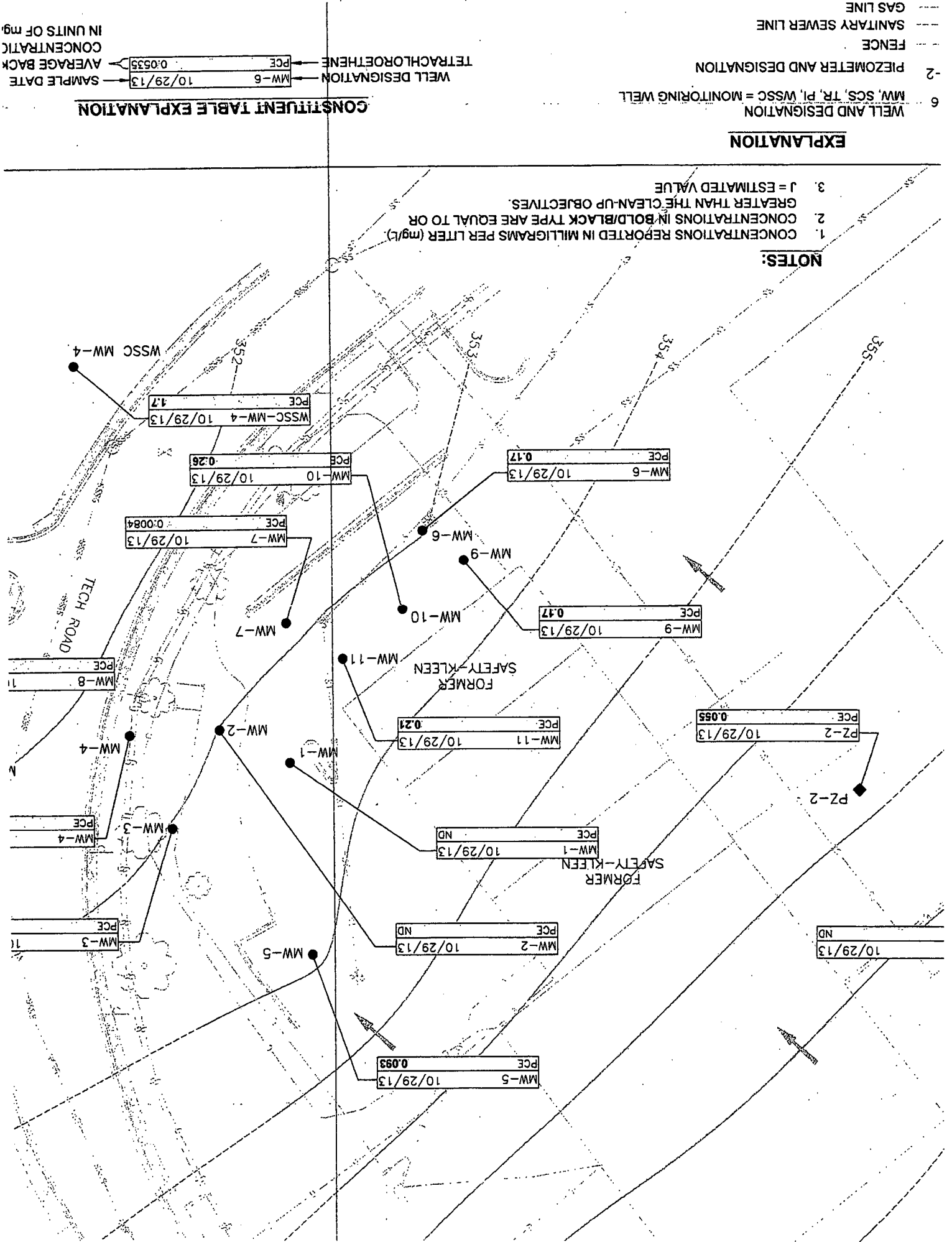
DAILY INSTRUMENT CALIBRATION/MAINTENANCE LOG

Date: _____

Filed Instrument and Number	Standard and Concentration	Calibration Reading	Accuracy Reading	Accuracy (+/- % from Standard)	Calibrator Initials

Field Instrument and Number	Maintenance Personnel	Maintenance Performed

Site Manager



EXPLANATION





- 6 WELL AND DESIGNATION
- MM, SCS, TR, PI, WSSC = MONITORING WELL
- 2 PIEZOMETER AND DESIGNATION
- FENCE
- SANITARY SEWER LINE
- GAS LINE

NOTES:

1. CONCENTRATIONS REPORTED IN MILLIGRAMS PER LITER (mg/L).
2. CONCENTRATIONS IN BOLD/BLACK TYPE ARE EQUAL TO OR GREATER THAN THE CLEAN-UP OBJECTIVES.
3. J = ESTIMATED VALUE

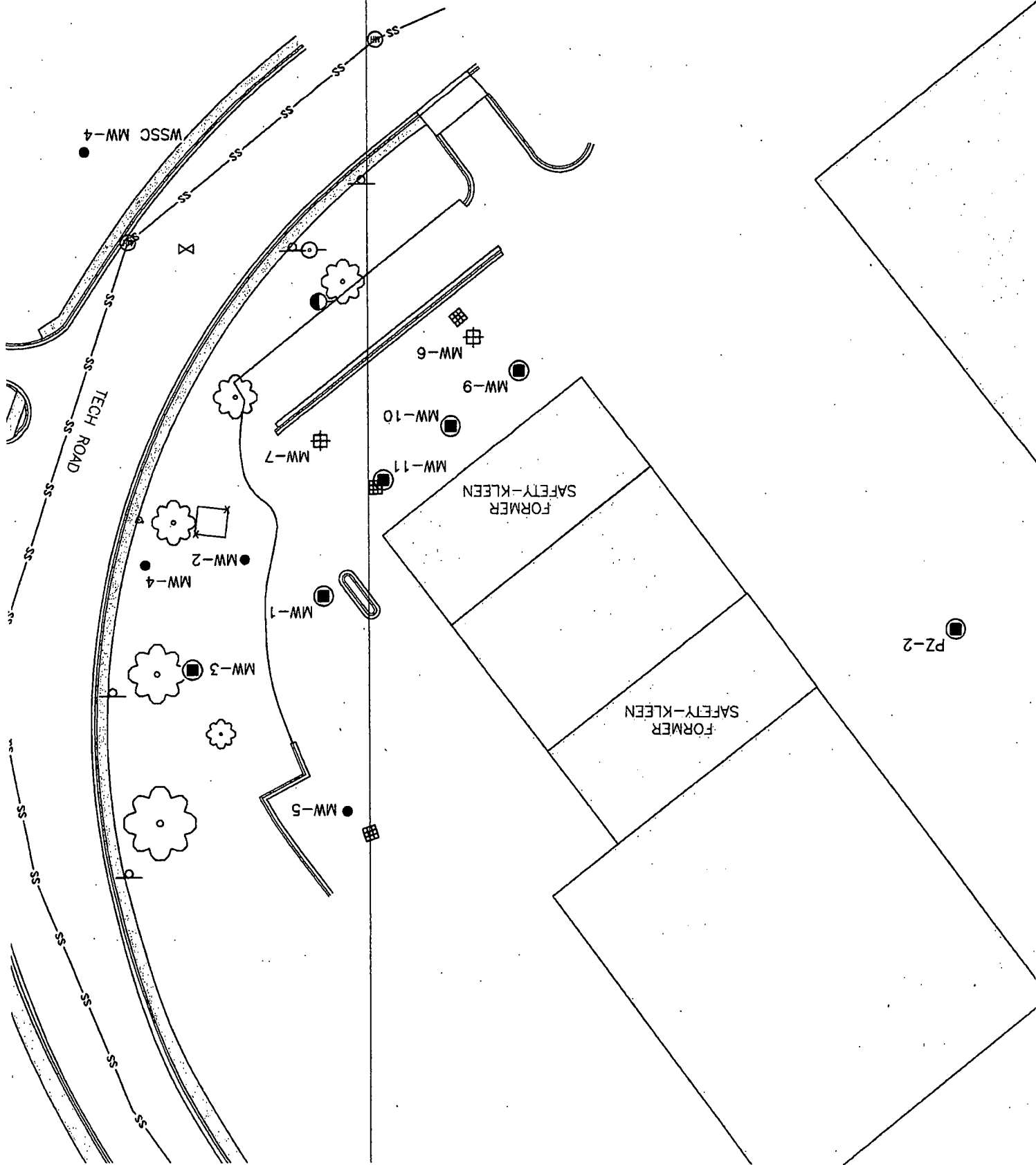
CONSTITUENT TABLE EXPLANATION

WELL DESIGNATION	MW-6	10/29/13	0.0535	PCE
AVERAGE BACK CONCENTRATIC				
SAMPLE DATE				

- MW-9 
- MW-6 
- MW-13 
- MW-6 

SENTINEL MONITORING WELL AND DESIGNATION
 BACKGROUND MONITORING WELL AND DESIGNATION
 MONITORING WELL AND DESIGNATION

EXPLANATION



MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0215, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

FINAL DECISION AND RESPONSE TO COMMENTS

SAFETY KLEEN SYSTEMS INC.

SILVER SPRING, MARYLAND

EPA ID NO. MDD000737395

Prepared by
Office of Remediation
Land and Chemicals Division
November 2014

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List of Acronyms

AR	Administrative Record
COC	Contaminant of Concern
COMAR	Code of Maryland Regulations
EI	Environmental Indicator
EPA	Environmental Protection Agency
FDRTC	Final Decision Response to Comments
GPRA	Government Performance and Results Act
IC	Institutional Control
MCL	Maximum Contaminant Level
MDE	Maryland Department of the Environment
MIP	Membrane Interface Probe
MTBE	Methyl Tert-Butyl Ether
RCRA	Resource Conservation and Recovery Act
SB	Statement of Basis
SL	Screening Level
SSL	Soil Screening Level
SVE	Soil Vapor Extraction
SVOC	Semi Volatile Organic Compound
TPH	Total Petroleum Hydrocarbons
UST	Underground Storage Tank
VOC	Volatile Organic Compound

Section 1: Introduction

The United States Environmental Protection Agency (EPA) is issuing this Final Decision and Response to Comments (FDRTC or Final Decision) in connection with the Safety Kleen Facility located in Silver Spring, MD (Facility). The Final Decision is issued pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, and the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S.C. §§ 6901 et seq.

On May 30, 2014, EPA issued a Statement of Basis (SB) in which EPA proposed a remedy for the Facility. EPA held a thirty (30)-day public comment period which began on May 30, 2014 and ended on June 29, 2014. The only comments EPA received during the public comment period were submitted by Safety-Kleen Systems, Incorporated of Plano, Texas (Safety-Kleen) and the owner, BDC Spectrum LLC.

EPA has determined that it is not necessary to make significant modifications to the final remedy as proposed in the SB. Based on comments received during the public comment period EPA is, however, making minor modifications to the final remedy as described in more detail in Attachment A, EPA Response to Comments. This Final Decision and the remedy selected herein incorporate those minor modifications and clarifications.

Section 2: Facility Background

2.1 Introduction

The Facility is currently owned by BDC Spectrum LLC. From approximately 1982 until April 1996, Safety-Kleen operated the Facility as an accumulation point for spent solvents and other fluids generated by Safety-Kleen customers. Safety Kleen occupied two warehouses in a building with other tenants in adjacent offices. Safety Kleen occupied the 12158 and 12164 Tech Road tenant spaces. Currently the former warehouses are rented to a Credit Union and a flower shop.

The Facility is situated on 10 acres with a parking lot and an area where two underground storage tanks (USTs or tanks), a return and fill station area, and associated piping trench had been located (UST Area). The Facility is situated in an operating industrial and commercial park. Neighboring properties are involved in various forms of industrial and commercial activities.

2.2 Areas of Investigation

2.2.1 UST Area

Previously, two 12,000-gallon USTs were used at the Facility. The USTs were located in a tank pit on the northeast side of the Facility building. One UST was used to store spent parts washer solvents and the other UST stored product, a mineral spirits based solvent. Two loading units, called drum washers, were used to transfer the solvents to the USTs. There were also two areas designated for container storage. The UST used to store spent parts washer solvents was under a Controlled Hazardous Substances permit issued by MDE.

The USTs were removed in April 1996 when Safety Kleen ceased operations. During the removal activities, soil was excavated from the tank pit and confirmatory soil samples were taken from the walls and floor of the excavation and along the trench containing the pipes running from the return and fill station to the USTs. The results from these samples detected total petroleum hydrocarbons (TPH) as mineral spirits and a number of volatile organic compounds (VOCs) in the soil. Groundwater monitoring at this Facility has been on-going since July 1989 and has historically shown detections of TPH, benzene, toluene, ethylbenzene, xylene, chlorinated compounds such as perchloroethylene (PCE) and other VOCs.

Results for TPH sample analysis at this Facility represent the total mass of hydrocarbons present in the sample without identifying individual compounds. EPA has published screening levels (SLs) for individual fractions of TPH with similar physical

and chemical properties; however, these SLs for TPH fractions cannot be compared to results for the aggregate total concentrations. While no comparison of reported TPH concentrations to EPA SLs can be made, note that MDE has a groundwater cleanup standard for TPH of 0.1 mg/L and a soil cleanup standard for TPH of 100 parts per million (ppm) in the Facility Post Closure Permit.

Safety-Kleen has operated a Soil Vapor Extraction (SVE) system at the Facility from August 1993 until sometime in 2011. It was located just south of the UST Area. The Maryland Department of the Environment (MDE) issued a Post Closure Permit for the area in February 2001, which includes remediation goals and requirements for the cleanup of TPH, VOCs, organic compounds and metals in the groundwater and soil. The contaminant concentrations in groundwater have shown an overall decreasing trend over the past five years, although there have been some fluctuations from the overall trend. Trend charts for perchloroethylene (PCE) and TPH in groundwater are located in the Safety Kleen Semiannual Progress Report July 1 – December 31, 2013. The concentrations of a number of contaminants have already dropped, and have remained, below the groundwater protection standards specified by the Post Closure Permit. However, TPH concentrations, although significantly reduced, still remain above the groundwater protection standards in the Post Closure Permit.

The SVE system recovery rate had diminished to zero asymptotically. An attempt was made to recover additional contaminants by operating the system in a pulsing mode by turning it off for a period of time and then on again. However, there were no significant additional recoveries. In 2011, the SVE motor burned out and the SVE has not been operating since with approval from MDE.

MDE is currently reviewing a request from Safety-Kleen to terminate the Facility's Post Closure Permit.

2.2.2 Safety Kleen Building and Parking Lot

The Facility building contained two solvent storage areas. Each area was located in the warehouse part of the building, one of which also housed the Facility's offices and is referred to as the east container storage area. The second area is located in the other Facility warehouse and is called the west container storage area. These areas consisted of a concrete floor and curbing. Each container storage area included a spill containment trench at the entrance or entrances of the area (the east container storage area has one entrance and containment trench, and the west container storage area has two entrances and containment trenches).

Safety-Kleen also stored PCE product for distribution to local dry cleaners and collected and temporarily stored spent PCE from local customers. The PCE operations

included four 550-gallon product storage tanks (which were located inside a concrete secondary containment area in the Facility building), and drums of immersion cleaner and waste PCE that were stored in a concrete secondary containment area prior to being shipped off-site for recycling and/or disposal. In addition, PCE was spilled in the parking lot area from loading and unloading of solvents. MDE inspection reports also include details of leaking containers and problems with secondary containment for the PCE tanks in the building.

The Facility is impacted by PCE contamination in groundwater from the neighboring former International Fabricare Institute (IFI) facility to the north. The PCE plume associated with the IFI facility covers approximately 30 acres and impacts groundwater to the southeast of the Facility.

Section 3: Summary of Environmental Investigations

3.1 Environmental Investigations

For all environmental investigations, groundwater concentrations were compared to federal Maximum Contaminant Levels (MCLs) promulgated pursuant to Section 42 U.S.C. §§ 300f et seq. of the Safe Drinking Water Act and codified at 40 CFR Part 141, or EPA Region III Screening Levels (SL) for tap water for chemicals for which there are no applicable MCLs. Soil concentrations were screened against EPA SLs for residential soil and industrial soil. EPA also has Soil Screening Levels (SSLs) to evaluate the potential for transfer of contamination from soil to groundwater and soil concentrations were also screened against these SSLs.

3.1.1 UST Area

Closure Report and Certification, May 1996

April 1996 - the two USTs were removed at the Facility. Elevated TPH concentrations were observed at each of the April 1996 soil UST excavation soils samples, at concentrations ranging from 840 milligram per kilogram (mg/kg) along the south wall, to 11,000 mg/kg along the west wall of the tank pit. Low concentrations of nine volatile organic compounds (VOC), which included PCE, were also detected above the laboratory detection limit in the April 1996 soil UST excavation soil samples. The VOC concentrations were below EPA Region 3 SLs for residential soils.

Tetrachloroethene Investigation Report, July 2, 2008.

In April 2008, Safety Kleen advanced two soil borings outside of the backfill material, along the north and former UST excavation. The objective of the soil sampling was to confirm residual soil quality, following operation of the SVE system at the Facility. TPH concentrations in the former tank basin area were non-detect. Two VOCs (1,2-dichlorobenzene at 0.0099 mg/kg and 1,4-dichlorobenzene at 0.034 mg/kg) were detected in one of the April 2008 samples, but the concentrations were below the applicable SLs for residential soil. These results indicate that the SVE system has effectively reduced soil impacts in the source zone.

3.1.2 Safety Kleen Warehouse and Parking Lot

December 18, 2008 Report for MDE

MDE performed a sub-slab vapor and indoor air sampling event, Membrane Interface Probe (MIP) survey, and soil boring program at the Facility. The findings of this

work included the following:

- Soil gas beneath the Facility building has been impacted by subsurface PCE contamination. The highest sub-slab PCE vapor concentration (1,190 micrograms per cubic meter (ug/m³)) was detected in a sample collected from beneath Safety-Kleen's former 12158 Tech Road tenant space.
- The highest Electron Capture Detector (ECD) reading was recorded in the MIP boring (MIP-12) advanced closest to the former location of the PCE storage tanks in the 12158 Tech Road tenant space. MIP-12 is surrounded by wells MW-6, 7, 9, 10 and 11.
- The highest PCE groundwater concentration (91 micrograms per liter (ug/L)) was detected in the groundwater sample obtained from SB-12, which is also the area with the highest ECD response.
- PCE was detected (0.032 mg/kg) in soil in SB-04 (34'), but not in any of the other soil samples and is below the SL residential soil for PCE (22 mg/kg).
- Subsurface PCE contamination exists in the area of 12158 Tech Road tenant space. The sub-slab vapor sample collected in this space (VMP-01) at 12158 Tech Road exhibited the highest PCE vapor concentration detected at the Facility. The second highest ECD reading recorded at the Facility occurred in MIP-01 installed next to the 12158 Tech Road tenant space. A confirmatory groundwater sample (SB-01(20')) collected at the same location contained PCE at a concentration of 6.3 ug/L (the MCL for PCE is 5 ug/L).
- MIP, soil, and groundwater data collected for this investigation did not identify evidence of a PCE source area in the open area between the southeast side of the Facility building and Tech Road.
- PCE in groundwater was detected in SB-01 (20'), SB-04 (38'), and SB-12 (30') at concentrations of 6.3 ug/L, 11 ug/L, and 91 ug/L, respectively (the MCL for PCE is 5 ug/L).

3.1.3 Facility Wide Conditions

Soil Gas Survey Results and Proposed Soil Boring locations, June 1991

In April 1991, Safety-Kleen conducted a soil gas survey, which revealed the presence of a petroleum-based solvent, tetrachloroethene, 1,1,1-trichloroethane and trichloroethene at the Facility.

Elevated contaminants in the soil gas were centered near the dispenser, at the

southeast parking lot, and between the end of the tank pit and Tech Road. No vapors of PCE were detected at the grassy strip between the end of the parking lot and Tech Road on the South side of the Facility.

Tetrachloroethene Investigation Report, July 2, 2008

In order to dismiss the Facility as the source of tetrachloroethene (PCE) in monitoring well WSSC MW-4 (south and down gradient of the Facility), the Facility voluntarily agreed to conduct additional assessment and evaluation activities, specifically focused on determining the potential impact (if any) of the Facility's historic PCE operations. Three specific and targeted lines of evidence were considered as part of the additional evaluation, including:

1. Review of historic documents and reports pertaining to the historic on-site PCE operations;
2. Additional soil assessment in areas of potential PCE spills; and
3. Supplemental groundwater assessment immediately down-gradient of the former PCE operations, targeted in the same water-bearing zone as WSSC well MW-4.

A total of 18 shallow borings (SB-1 through SB-18) were advanced between the former Facility building and Tech Road, in the direction of WSSC well MW-4. PCE was not detected in 12 of the 18 submitted soil samples, and the maximum PCE detection was 83 micrograms per kilogram (ug/kg) or .083 mg/kg. This concentration is lower than the SL for residential soil of 22 mg/kg.

A supplemental groundwater investigation was completed to determine if the Facility's historic PCE operations and above ground PCE storage areas could have been the source of elevated PCE impacts in Washington Suburban Sanitation Commission (WSSC) well MW-4. Three new wells (MW-9, MW-10, and MW-11) were advanced near the Facility building and completed within the same screened interval as WSSC MW-4 (30-40 feet (ft) below ground surface (bgs)). Additionally, MDE had installed a well (TR-2) in the 30-40 ft bgs interval immediately down-gradient (east) of the Facility building. The maximum detected PCE concentration in the groundwater samples from the three new Facility wells was 390 ug/L, which is over 23 times less than the PCE concentration (9,300 ug/L) observed in WSSC well MW-4 in December 2007. The results of these additional groundwater samples, and the Facility historical groundwater sampling results, provide further verification that the Facility's historic PCE operations are not the source of elevated PCE impacts in WSSC well MW-4.

Other well concentrations above the MCL for PCE were MW-9 at 140 ug/L and MW-10 at 350 ug/L. These wells were adjacent to the Facility building and downgradient. Figure 9 of the Tetrachloroethene Investigation Report also had

monitoring well results shown detecting PCE. The upgradient and background well MW-5 had concentrations of PCE at 77 ug/L. MW-4 which is east of the Facility and near Tech Road had concentrations of 76 ug/L. Wells in the parking lot, MW-6 and 7, had values of 240 ug/L and 16 ug/L, respectively. MW-8 which is east of MW-4 and offsite had a value of 28 ug/L.

Semiannual Progress Report (July - December 2012) December 18, 2012

Sampling results from 2012 show MW-4 thru 8 having VOCs above their respective MCLs. The most common VOC detected was PCE (MCL of 5 ug/L). MW-4 had 68 ug/L PCE. MW-5 had 46 ug/L PCE. MW-6 had 220 ug/L PCE. MW-7 had 5.2 ug/L PCE. MW-8 had 330 ug/L PCE. The other VOCs above their applicable MCLs were as follows: MW-7 had 99 ug/L of cis-1,2-dichloroethene (MCL of 70 ug/L), 8.2 ug/l of trichloroethene (MCL of 5 ug/L), and 31 ug/l of vinyl chloride (MCL of 2 ug/L). Semi Volatile Organic Compounds (SVOCs) and metals were not detected above their respective MCLs.

Semiannual Progress Report (January - June 2013), June 13, 2013

PCE concentrations in five wells (MW-4 at 56 ug/l, MW-5 at 56 ug/l, MW-6 at 200 ug/l, MW-7 at 8.6 ug/l and MW-8 at 350 ug/l) were greater than the MCL of 5 ug/L. PCE concentrations in these wells have been stable or decreasing with the marked exception of off-site well MW-8, which has had increasing PCE concentrations over time.

Groundwater Monitoring Event, October 29, 2013

Safety-Kleen completed installation of two new up-gradient wells, 13 and 14, as well as piezometers PZ-1 and 2 in October 2013. The new wells and existing wells were sampled in October 2013 for PCE. The following table shows the results:

Well ID	PCE
	ug/L
Shallow Overburden Wells	
MW-1	ND(5)
MW-2	ND(5)
MW-3	ND(5)
MW-4	76
MW-5	93
MW-6	170

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MW-7	8.4
Off-site, Side Gradient	
MW-8	300
Deep Overburden Zone Wells	
MW-9	170
MW-10	260
MW-11	210
Up-Gradient, On-Site	
MW-13	6.4
MW-14	24
Up-gradient, west side of building	
PZ-2	55
PZ-1	ND(5)
MCL (ug/L)	5

ND (5)—not detected with a quantitation limit of 5 ug/L

The data establish that there is an upgradient off-site source of PCE from IFI as shown by the PCE concentrations in groundwater at wells MW-13 and MW-14. The PCE in these wells ranged from 6.4 to 24 ug/L of PCE. To evaluate the upgradient and downgradient PCE concentrations, EPA will compare PCE concentrations in the groundwater with a calculated background concentration after each sampling event from wells MW-13 and MW-14 according to the Groundwater Monitoring Plan, which may be amended with EPA approval.

Indoor Air and Sub Slab Characterization Report November 2013

The consulting firm GES was retained by BDC Spectrum LLC (Spectrum), the owners of the Facility, to perform indoor air (IA) and sub-slab vapor (SSV) sampling within the building located at 12144-12164 Tech Road (Safety Kleen occupied 12158 and 12164 Tech Road tenant spaces) in Silver Spring, MD. The building currently has seven tenants. The objective of the sampling was to characterize and delineate potential contaminant vapor sources (PCE, trichloroethylene, dichloroethylene and vinyl chloride) beneath the building foundation at the Facility while also assessing the indoor air quality for potential contaminants and VOCs.

Spectrum installed 13 vapor monitoring points (VMPs). The conclusions reached were:

- PCE was detected above the method detection limit in 12 of 13 sampled indoor air locations at all seven tenant space locations, but none exceeded the industrial EPA SL (47 $\mu\text{g}/\text{m}^3$).
- The highest PCE concentration was 38 $\mu\text{g}/\text{m}^3$ (sample IA-4R at 12158 Tech Rd). PCE in indoor air at the building reduces from this highest concentration in successive sample locations moving both northwest and southeast from highest concentration location.
- The indoor air concentrations of trichloroethene (TCE) occurring at VMP-12 (210 $\mu\text{g}/\text{m}^3$) and VMP-14 (240 $\mu\text{g}/\text{m}^3$) tenant space exceed the EPA industrial SL of 3 $\mu\text{g}/\text{m}^3$ for indoor air. The occurrence of TCE within the indoor air space reduces in successive tenant spaces moving southeast from the dry cleaner location.
- Benzene was detected above the EPA industrial SL of 1.6 $\mu\text{g}/\text{m}^3$ for indoor air at several tenant spaces. Benzene was also detected in the two outdoor air samples collected for this investigation which may contribute to the indoor presence of this constituent.
- Benzene, TCE and 1,2-dichloroethane concentrations were generally elevated in the IA samples but were low-level to non-detect in the SSV samples at corresponding paired locations. This indicates that possible sources of these constituents exist above-grade as opposed to constituents sourced from impacted soil or groundwater.
- The highest concentration of PCE was measured in sub-slab vapor (SSV) in sample VMP-4R (24,000 $\mu\text{g}/\text{m}^3$) near the center of the Facility building.
- As seen with PCE indoor air distribution, peak PCE concentrations in SSV samples diminish in both the northwest and southeast directions, with the exception of SSV sample VMP-13 which revealed a PCE concentration of 210 $\mu\text{g}/\text{m}^3$.
- Comparison of recent sub-slab PCE concentrations (24,000 $\mu\text{g}/\text{m}^3$) with values obtained from corresponding tests collected below the tenant space in 2008

(1,190 µg/m³) indicate that PCE vapor continues to exist beneath the Phase IB building.

- During the 2013 IA / SS Investigation, possible PCE preferential vapor flow along an existing gas utility entering the Facility from Tech Road was evaluated at the IA-9 / VMP-9 utility room location. While detectable, the sub-slab PCE concentration noted beneath the utility room was three orders of magnitude lower than the peak sub-slab concentration sampled found below the former Safety Kleen tenant space (12158 Tech Road).

- A summary of these EPA industrial SL exceedances in IA is presented below:

Benzene (EPA industrial SL for IA= 1.6 µg/m³)

- IA-5 at 3.0 µg/m³
- IA-11 at 1.7 µg/m³
- IA-12 at 4.4 µg/m³

1,2,4-Trimethylbenzene (EPA industrial SL for IA = 31 µg/m³).

- IA-12 at 45 µg/m³

1,2-Dichloroethane (EPA industrial SL for IA = 0.47 µg/m³)

- IA-4R at 16 µg/m³
- IA-5 at 13 µg/m³
- IA-6 at 1.6 µg/m³
- IA-7 at 1.4 µg/m³
- IA-8 at 1.4 µg/m³
- IA-9 at 0.81 µg/m³
- IA-11 at 3.8 µg/m³
- IA-12 at 1.6 µg/m³
- IA-15 at 0.45 µg/m³

Trichloroethene (TCE) (EPA industrial SL for IA = 3.0 µg/m³)

- IA-13 at 210 µg/m³
- IA-14 at 240 µg/m³

3.2 Environmental Indicators

Under the Government Performance and Results Act (GPRA), EPA has set national goals to address RCRA corrective action facilities. Under GPRA, EPA evaluates two key environmental clean-up indicators for each facility: (1) Current Human Exposures Under Control and the facility met this indicator on May 22, 2002, and (2)

Migration of Contaminated Groundwater Under Control and the facility met this indicator on February 5, 2003. The environmental indicator determinations are available at <http://www.epa.gov/reg3wcmd/ca/md.htm>.

Section 4: Corrective Action Objectives

EPA's Corrective Action Objectives for the specific environmental media at the Facility are the following:

1. Soils

EPA has determined that EPA's screening levels for residential soils for direct contact with soils are protective of human health and the environment for individual contaminants.

2. Groundwater

EPA expects final remedies to return usable groundwater to its maximum beneficial use within a timeframe that is reasonable given the particular circumstances of the project. For facilities associated with aquifers that are either currently used for water supply or have the potential to be used for water supply, EPA will require the groundwater be remediated to National Primary Drinking Water Standard Maximum Contaminant Levels (MCLs) promulgated pursuant to Section 42 U.S.C. §§ 300f et seq. of the Safe Drinking Water Act and codified at 40 CFR Part 141. However, data establish that there is an upgradient off-site source of PCE at the Facility. Therefore, EPA's Corrective Action Objectives for Facility groundwater is to restore the groundwater to a calculated background level based on groundwater monitoring data and to control exposure to the hazardous constituents remaining in the groundwater by requiring the continued implementation of the groundwater monitoring program, the installation of vapor intrusion control systems where necessary, and compliance with and maintenance of groundwater use restrictions.

Section 5: Final Remedy

A. Soils

EPA has made a Corrective Action Complete without Controls determination for Facility soils because based on the available information, there are currently no unacceptable risks to human health and the environment from Facility soils for the present and anticipated use of Facility property including residential use.

B. Groundwater

Monitoring at the Facility has shown that the extent of contamination in groundwater attributable to the Facility is not increasing and concentrations of those contaminants are declining over time. Therefore, the final remedy for groundwater consists of natural attenuation with continued monitoring until background concentrations are met, and compliance with and maintenance of groundwater use restrictions, to be implemented through institutional controls, at the Facility to prevent exposure to contaminants while concentrations remain above drinking water standards. If performance monitoring indicates that the current extent of contamination in groundwater begins to expand or concentrations in groundwater begin to increase, EPA may require additional corrective actions.

These restrictions will be implemented through an enforceable mechanism which shall consist of an order, environmental covenant and/or regulations and local ordinances, such as the State of Maryland Well Construction Regulations, Article Title 9, Subtitle 13, Annotated Code of Maryland; Code of Maryland Regulation (COMAR), Title 26, Subtitle 4, Chapter 4, COMAR 26.04.04. If an environmental covenant is implemented as part of the final remedy, it will be recorded in the chain of title for the Facility property and, once recorded, will be enforceable against future land owners.

EPA's final remedy includes the following groundwater use restrictions:

1. Groundwater at the Facility shall not be used for any purpose other than the operation, maintenance, and monitoring activities required by MDE and/or EPA, unless it is demonstrated to EPA, in consultation with MDE, that such use will not pose a threat to human health or the environment or adversely affect or interfere with the final remedy, and EPA, in consultation with MDE, provides prior written approval for such use;
2. The Facility shall not be used in a way that will adversely affect or interfere with the integrity and protectiveness of the final remedy;

3. No new wells shall be installed on Facility property unless it is demonstrated to EPA, in consultation with MDE, that such wells are necessary to implement the final remedy, and EPA provides prior written approval to install such wells;
4. A vapor intrusion control system, the design of which shall be approved in advance by EPA, shall be installed in each current and new structure constructed at the facility unless it is demonstrated to EPA that vapor intrusion does not pose a threat to human health and EPA provides prior written approval that no vapor intrusion control system is needed;
5. Compliance with the EPA-approved groundwater monitoring program.
6. The then current owner and/or operator shall submit an annual written certification as part of the semiannual reports to EPA documenting; (1) an evaluation of the effectiveness of the remedy reducing contaminant concentrations and restoring groundwater to MCLs or background concentrations and (2) that the use restrictions are in place and effective;
7. Within one month after any of the following events, the then current owner and/or operator of the Facility shall submit to EPA written documentation describing the following: observed noncompliance with the groundwater use restrictions; transfer of the Facility; changes in use of the Facility; or filing of applications for building permits for the Facility and any proposals for any site work, if such building or proposed site work will affect the contamination on the Facility.

C. Additional Requirements

In addition, the Facility shall provide EPA with a coordinate survey as well as a metes and bounds survey, of the Facility boundary. Mapping the extent of the land use restrictions will allow for presentation in a publicly accessible mapping program such as Google Earth or Google Maps.

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Section 6: Evaluation of Final Remedy

This section provides a description of the criteria EPA used to evaluate the final remedy consistent with EPA guidance. The criteria are applied in two phases. In the first phase, EPA evaluates three decision threshold criteria as general goals. In the second phase, for those remedies which meet the threshold criteria, EPA then evaluates seven balancing criteria.

Threshold Criteria	Evaluation
1) Protect human health and the environment	<p>With respect to groundwater, while low levels of contaminants remain in the groundwater beneath the Facility, the contaminants are contained in the aquifer and decreasing through attenuation at the Facility as shown by groundwater monitoring. In addition, groundwater monitoring will continue until groundwater clean-up standards are met. Groundwater monitoring will also track background levels of PCE entering the site. The existing State of Maryland well construction regulations will aid in minimizing exposure to contaminated groundwater by restricting the installation of wells in contaminated water sources. Montgomery County, Maryland does not allow new drinking water wells to be installed in Silver Spring; potable water is provided to homes by Washington Suburban Sanitation Commission. With respect to future uses, the final remedy requires groundwater use restrictions to minimize the potential for human exposure to contamination and protect the integrity of the remedy. Results from indoor air and sub slab vapor monitoring show that contaminants are above or near industrial EPA SLs. Vapor intrusion controls for existing and new construction shall be installed where EPA determines they are necessary.</p>
2) Achieve media cleanup objectives	<p>The Facility has achieved the EPA's residential SLs for soils. The groundwater plume appears to be stable (not migrating); although contaminants are above MCLs, they are either stable or declining over time. In addition, groundwater monitoring will continue until groundwater clean-up standards are met. There is upgradient background PCE migrating onto the Facility. Background levels of PCE will be taken into account</p>

	<p>to determine a clean up standard. The Facility meets the EPA risk guidelines for human health and the environment. The EPA final remedy requires the implementation and maintenance of institutional controls to ensure that groundwater beneath Facility property is not used for any purpose except to conduct the operation, maintenance, and monitoring activities required by MDE and EPA. EPA will require vapor intrusion controls for current and future development at the Facility if EPA determines it is necessary.</p>
<p>3) Remediating the Source of Releases</p>	<p>In all final remedies, EPA seeks to eliminate or reduce further releases of hazardous wastes and hazardous constituents that may pose a threat to human health and the environment. As shown in the Request for Permit Termination Report, the Facility met this objective. Contaminants are declining through attenuation. There are no remaining large, discrete sources of waste from which constituents would be released to the environment. Groundwater is not used for potable purposes at the Facility or at neighboring facilities. In addition, groundwater monitoring will continue until groundwater clean-up standards are met through attenuation. The existing State of Maryland well construction regulations will aid in minimizing exposure to contaminated groundwater by restricting the installation of wells in contaminated water sources. Montgomery County, Maryland does not allow new drinking water wells to be installed in Silver Springs as potable water is provided to homes by Washington Suburban Sanitation Commission. Therefore, EPA has determined that this criterion has been met.</p>

Section 6: Evaluation of Final Remedy (continued)

Balancing Criteria	Evaluation
4) Long-term effectiveness	Groundwater is not used on the Facility for drinking water, and no downgradient users of off-site groundwater exist. Therefore, the long term effectiveness of the remedy for the Facility will be maintained by the continuation of the groundwater monitoring program, and implementation of land use controls (institutional controls).
5) Reduction of toxicity, mobility, or volume of the Hazardous Constituents	The reduction of toxicity, mobility and volume of hazardous constituents will continue by attenuation at the Facility. Reduction has already been achieved, as demonstrated by the data from the groundwater monitoring. In addition, the groundwater monitoring program already in place will continue.
6) Short-term effectiveness	EPA's final remedy does not involve any activities, such as construction or excavation that would pose short-term risks to workers, residents, and the environment. In addition, EPA anticipates that the groundwater use restrictions will be fully implemented shortly after the issuance of the Final Decision and Response to Comments. The groundwater monitoring program is already in place and will continue in accordance with the approved Groundwater Monitoring Plan.
7) Implementability	EPA's final decision is readily implementable. All of the engineering components of final remedy, namely, the groundwater monitoring program is already in place and operational. EPA does not anticipate any regulatory constraints in implementing its final remedy. EPA proposes to implement the institutional controls through an enforceable mechanism such as an Environmental Covenant
8) Cost	EPA's final decision is cost effective. The costs associated with this final remedy and the continuation of groundwater monitoring have already been incurred and the remaining costs are minimal or under \$2,000 per year. The costs for a vapor mitigation system at the Facility are minimal or estimated at \$14,000. The costs to record an environmental covenant in the chain of title to the Facility property are minimal. The costs associated with issuing an order are also minimal.

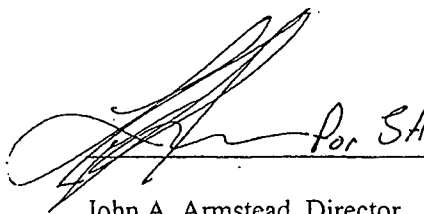
9) Community Acceptance	The only comments EPA received on its proposed remedy for the Facility were from Safety Kleen and the owner. Based on those comments, EPA has made minor modifications and clarified certain aspects of the proposed remedy as described in Attachment A, EPA Response to Comments.
10) State/Support Agency Acceptance	MDE has reviewed and concurred with the final remedy for the Facility.

Section 7: Financial Assurance

EPA has evaluated whether financial assurance for corrective action is necessary to implement EPA's final remedy at the Facility. The costs to obtain orders or environmental covenants are minimal. Given that EPA's final remedy does not require any further engineering actions to remediate soil or groundwater contamination at this time and given that the costs of implementing institutional controls, vapor intrusion controls and the continuation of groundwater monitoring at the Facility will be minimal, EPA is proposing that no financial assurance be required.

Date:

11/21/2014



John A. Armstead, Director
Land and Chemicals Division
US EPA, Region III

Attachments

Figure 1: Site Location Map

Attachment A: EPA Response to Comments

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Section 8: Index to Administrative Record

Soil Gas Survey Results and Proposed Soil Boring locations, Safety Kleen Corporation, Silver Spring Service Center, 12164 Tech Road, Silver Spring, Maryland June 1991

Closure Report and Certification May 1996

Controlled Hazardous Substance Permit A-302 for Safety Kleen Systems Inc. Silver Spring, MD February 1, 2001

Tetrachloroethene Investigation Report, Former Safety Kleen Systems, Inc. Service Center, 12164 Tech Road, Silver Spring, Maryland, July 2, 2008

Compilation of Spill and Incident Reports from Review of MDE files for Safety Kleen's Tech Road facility by Art O'Connell MDE, July 10, 2008

Remedial Alternatives Evaluation Report, Former Safety-Kleen Corp. Service Center, 12164 Tech Road, Silver Spring, Maryland (MDD000737395), Controlled Hazardous Substance Permit No. A-302 December 11, 2008

Chesapeake Geoscience December 18, 2008 Report for MDE

Semiannual Progress Report Former Safety Kleen Corp. Service Center (January 1- June 30, 2011) June 30, 2011

Request for Permit Termination, Former Safety Kleen Service Center 12164 Tech Road, Silver Spring, MD, June 11, 2012

Semiannual Progress Report Former Safety Kleen Corp. Service Center (January 1- June 30, 2012) June 26, 2012

Technical Review and Summary Regarding Sources of Regional Tetrachloroethene, Former Safety Kleen Service Center, 12164 Tech Road, Silver Spring, Maryland (MDD000737395) October 9, 2012

Semiannual Progress Report Former Safety Kleen Corp. Service Center (July 1- December 31, 2012) December 18, 2012

Semiannual Progress Report Former Safety Kleen Corp. Service Center (January 1- June 30, 2013) June 13, 2013

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Groundwater Monitoring Event October 29, 2013

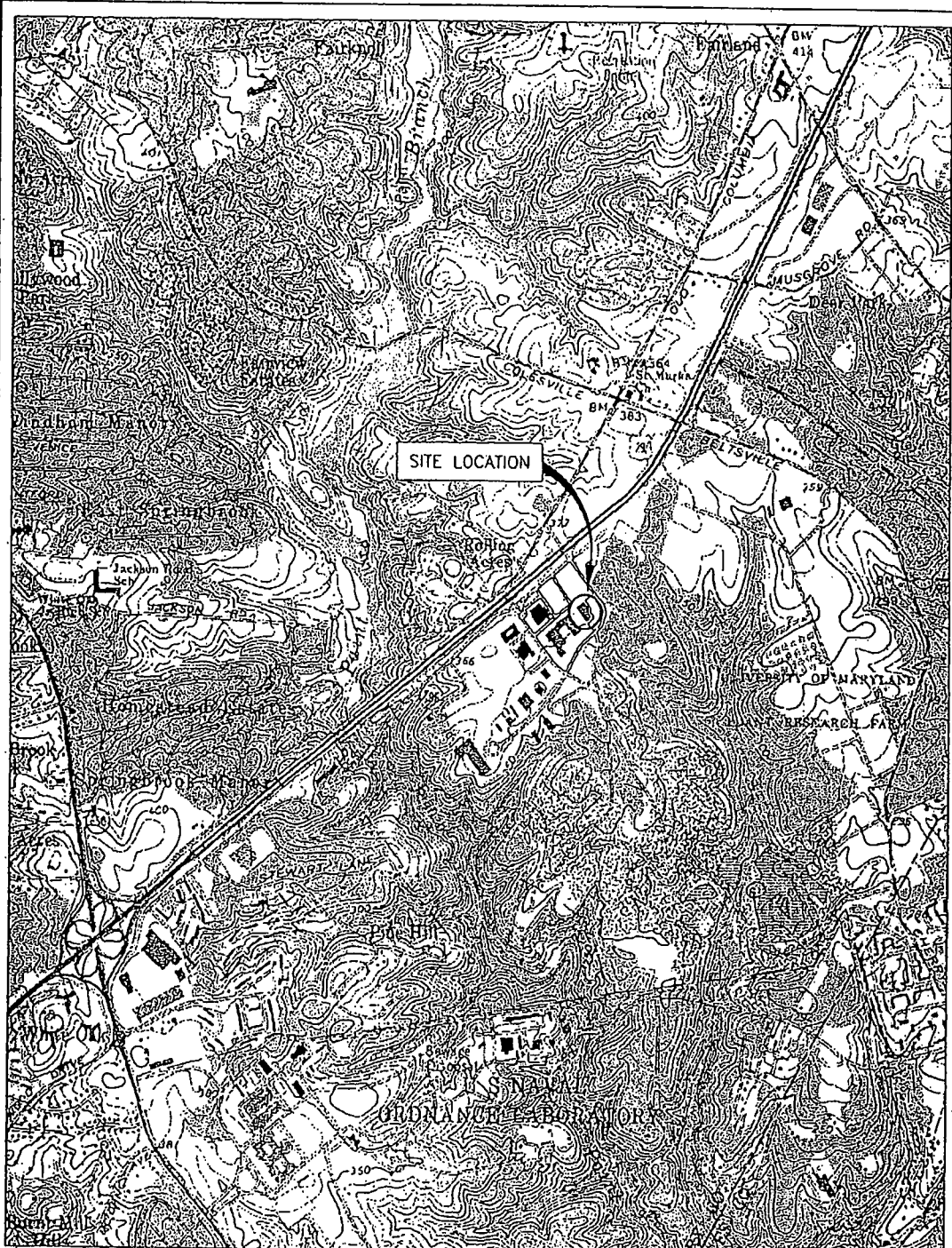
Indoor Air and Sub Slab Characterization Report November 2013

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Figures

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Base map: U.S.G.S. 7.5 Min. Quadrangle, Beltsville, MD, 1964 Photorevised 1979

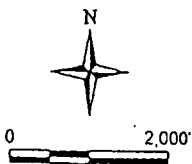
FIGURE 1

SITE LOCATION MAP

FORMER SAFETY-KLEEN CORP. SERVICE CENTER
SILVER SPRING, MARYLAND



Trihydro
CORPORATION
1252 Commerce Drive
Laramie, Wyoming 82070
www.trihydro.com
(P) 307/745 7474 (F) 307/745 7729



Drawn By: REP	Checked By: AR	Scale: 1" = 2,000'	Date: 3/11/09	File: 198USGSSITE
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MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0241, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

**Attachment A to
Safety Kleen Silver Spring, Md
FDRTC**

EPA Response to Comments

During the comment period, EPA received comments from Safety-Kleen Systems, Incorporated (Safety Kleen), a former lessee of the Facility, and BDC Spectrum LLC (BDC), the current owner of the Facility, on the Statement of Basis. EPA's summary of Safety Kleen and BDC's comments and EPA's responses to those comments are set forth below.

Safety Kleen Comment No. 1 (Introduction)

Move the facility description to the introduction.

EPA's Response

It is EPA's practice to explain the RCRA Corrective Action program in the Introduction section of the SB. The placement of the Facility description does not affect EPA's remedy decision.

Safety Kleen Comment No. 2 (Facility Background)

The space formerly leased by Safety Kleen is rented to a Credit Union and a flower shop.

EPA's Response

EPA accepts this comment and has incorporated language into the Facility Background section of the FDRTC in response to this comment

Safety Kleen Comment No. 3 (Facility Background)

Insert: A Post-Closure Permit Application was submitted by S-K to the MDE in March 1997 to provide conceptual remediation plans to address the virgin and spent mineral spirit contamination remaining on the site in the area of the former USTs. In February 2000, S-K appealed the final draft permit through the State Office of Administrative Hearings based on several issues, including concerns over the regional PCE impacts caused by IFI and leaking sewers in the vicinity of the former S-K property. The appeal was settled through an agreement by MDE to eliminate the inclusion of a PCE action level in the Post Closure Permit because of 1) the regional PCE impacts, and 2) the fact that the mineral spirits impacts present at the S-K facility could not have caused the documented elevated PCE concentrations in well WSSC MW-4. PCE remains in the Post Closure Permit as a constituent of concern, but no action level is established for S-K in recognition of the regional PCE impacts.

EPA's Response

The Facility's post-closure permit application and the related appeal had no bearing on EPA's remedy proposal. Therefore, EPA has not included information about the application and appeal in the FDRTC.

Safety Kleen Comment No. 4 (Facility Background)

Delete the following sentence:

"In addition, PCE was spilled in the parking lot area from loading and unloading of solvents. MDE inspection reports also include details of leaking containers and problems with secondary containment for the PCE tanks in the building."

Replace it with:

"Based upon spill records from the site (Table 1 of the Tetrachloroethene Investigation Report dated July 2, 2008), it appears that only a very limited quantity of PCE was ever spilled outside the chemically resistant coated secondary containment areas (less than 17 gallons), and that these spills occurred over paved areas, which both limited potential impacts to subsurface soil and facilitated subsequent clean-up.

The secondary containment for the container storage areas were inspected by a licensed professional engineer for cracks or other potential lapses in integrity at the time of closure. The results of the CSA inspections conducted on April 15, 1996 indicated that, "there were no cracks, corrosion, fissures, or other failures present that had the potential to contaminate underlying soils."

EPA's Response

The Statement of Basis is a summary of the information EPA considered in proposing a remedy for the Facility Facility. Adding Safety Kleen's proposed statements would not change the remedy nor, with regards to spills, explain completely what happened at the Facility. Therefore, EPA has not included the proposed language in the FDRTAC. EPA will add to the Administrative Record the document "Compilation of Spill and Incident Reports from Review of MDE files for Safety Kleen's Tech Road facility by Art O'Connell MDE, July 10, 2008" which is the basis for EPA's statements about the PCE spills.

Safety Kleen Comment No. 5 (Environmental Investigations)

The PCE storage tanks were in Warehouse B, at 12158 Tech Road.

EPA's Response

EPA has corrected the location of the PCE tanks.

Safety Kleen Comment No. 6 (Environmental Investigations)

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Delete the following paragraph because levels of contaminants are below MCLs and Region 3 screening levels:

Methyl tert-butyl ether (MTBE) was detected in two of the samples at concentrations of 2.6 and 3.9 ug/L, respectively (tap water SL of 12 ug/L). Toluene was detected in one sample at a concentration of 2.8 ug/L (MCL of 1000 ug/L). 1,1,2-Trichloro-1,2,2-trifluoroethane was detected in one sample at a concentration of 1.7 ug/L (tap water SL of 53,000 ug/L).

EPA's Response

EPA included the paragraph as a summary of what contaminants were found at the Facility. Since those contaminants were below their respective MCLs, EPA has not included the paragraph in the FDRTC.

Safety Kleen Comment No. 7 (Environmental Investigations)

Well PZ-1 is not a deep overburden well but an up gradient well.

EPA's Response

EPA has made the correction in the table.

Safety Kleen Comment No. 8 (Environmental Investigations)

Insert in the last paragraph on page 9 of the Statement of Basis "according to the Groundwater Monitoring Plan, which may be amended with USEPA approval."

EPA's Response

EPA has made the proposed change.

Safety Kleen Comment No. 9 (Corrective Action Objectives)

Amend the paragraph so drinking water standards are not the objective for the facility.

EPA's Response

EPA has clarified that a calculated background standard is the groundwater cleanup standard for the Facility.

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Safety Kleen Comment No. 10 (Corrective Action Objectives)

Insert: Safety-Kleen may propose alternate cleanup objectives through completion of a human health risk assessment which takes into account the current restrictions placed on the use of groundwater as a drinking water source by Montgomery County.

EPA's Response

EPA has not included a Risk Based Cleanup Standard as an option in the FDRTC. Wherever practicable, EPA expects final remedies to return usable groundwater to drinking water standards otherwise known as Maximum Contaminant Levels (MCLs) even when there are use restrictions in place prohibiting potable uses of the groundwater. However, groundwater monitoring data establish that there is an upgradient off-site source of PCE at the Facility so that further remediation of that contaminant would not provide a significant reduction in risks to actual or potential receptors. Therefore, EPA's final remedy uses a calculated background standard as the cleanup standard for Facility groundwater.

Safety Kleen Comment No. 11 (Proposed Remedy)

Due to the comingled groundwater plumes, the distinction between plumes will be impossible to make for the determination if vapor intrusion controls should be installed. The installation of vapor intrusion controls should be based on the following paragraph:

A vapor intrusion control system, the design of which shall be approved in advance by EPA, shall be installed in each current and new structure located or constructed on the Facility, as necessary based on the results of indoor air sampling or using the most current USEPA Vapor Intrusion Screening values for groundwater, unless it is demonstrated to EPA that vapor intrusion does not pose a threat to human health and EPA provides prior written approval that no vapor intrusion control system is needed;

EPA's Response

EPA has clarified the sentence by requiring vapor intrusion controls for any future buildings constructed on the entire Facility. EPA will consider several factors to determine whether vapor intrusion controls are needed as stated in the Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils Nov 2002 and not one method as Safety Kleen suggests.

Safety Kleen Comment No. 12 (Proposed Remedy)

The following changes which are underlined for the following proposed remedy:

"The then current owner shall submit an annual written certification as part of the routine semiannual reports to EPA documenting; (1) an evaluation of the effectiveness of the remedy

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maintaining stable or reducing contaminant concentrations and restoring groundwater to MCLs and (2) that the use restrictions are in place and effective;"

EPA's Response

EPA agrees with the first insertion, but disagrees with the second. EPA's final remedy uses a calculated background standard as the cleanup standard for Facility groundwater. Currently, on-site groundwater monitoring data show that Facility groundwater contains concentrations of PCE above the calculated background standard. Therefore, maintaining stable PCE concentrations at this time will not be sufficient.

Safety Kleen Comment No. 13 (Evaluation of Proposed Remedy)

For the last sentences under Threshold Criteria: Protection of Human Health and the Environment and Achieve Media Cleanup Objectives, Safety Kleen would like the sentence to read: "Vapor intrusion controls for existing and new construction shall be installed as necessary based on current EPA guidance."

EPA's Response

EPA disagrees with the proposed change. The installation of vapor controls should be based upon EPA approval as the regulatory authority based on the Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils Nov 2002. The sentences will stay the same.

Safety Kleen Comment No. 14 (Evaluation of Proposed Remedy)

For the last sentence under Balancing Criteria, Short term Effectiveness, Safety Kleen would like the sentence to read:

"The groundwater monitoring program is already in place and will continue in accordance with the approved Groundwater Monitoring Plan."

EPA's Response

EPA agrees with the proposed change and has modified the sentence in the FDRTC.

BDC Spectrum LLC Comment No. 1

1. Safety Kleen's Responsibility for the Proposed Remedy

First, the Statement of Basis should be revised to make clearer that Safety Kleen is the party responsible for implementing the remedy described in the Statement of Basis. Safety Kleen is the source of the releases and the sole current holder of the post closure permit (Controlled

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Hazardous Substances Permit No. A-302) and all other permits issued by the Maryland Department of the Environment ("MDE") pursuant to MDE's delegated authority under the federal Resource Conservation and Recovery Act ("RCRA"). The Environmental Protection Agency ("EPA") has the authority to require Safety Kleen to implement the proposed remedy pursuant to the permit, among other means. The responsibilities that should be enumerated as Safety Kleen's include monitoring well installation or replacement if required by EPA or necessitated by property development, the implementation of the monitoring program, installation of new or replacement wells if required by EPA or necessitated by development on the property, sampling, installation of vapor control systems, any reports to EPA, including but not limited to any annual certification, provision of coordinate and metes and bounds surveys, all other measures necessary to implement the Statement of Basis, and the proper handling or disposal of soil contaminated by Safety Kleen's releases as needed in the course of excavation during development of the property.

EPA's Response

The purpose of the Statement of Basis is to describe EPA's proposed remedy and summarize the information considered in proposing the remedy. The Statement of Basis does not establish liability for implementing the remedy. EPA has clarified the language in the FDRTC to distinguish the Facility's current owners from the owners at the time of hazardous waste operations at the Facility.

BDC Spectrum LLC Comment No. 2

2. The Evidence of Safety Kleen's Releases, including Perchloroethylene ("PCE")

Second, the Statement of Basis should provide more background detail on Safety Kleen's responsibility for the releases on the property, including but not limited to Safety Kleen's handling and spillage of PCE, and data showing that on-site releases relating to Safety Kleen's operations are sources of PCE contamination currently present beneath the property as evidenced by, among other things, increased levels of PCE in groundwater located directly downgradient from the property and the presence of significant PCE vapor beneath the specific locations where Safety Kleen historically handled and stored the chemical. The Statement of Basis should provide additional detail on Safety Kleen's releases not only of PCE, but other volatile organic compounds ("VOCs"), including, but not limited to, trichloroethylene ("TCE"), mineral spirits, and petroleum products.

EPA's Response

The Statement of Basis provides a summary, supported by the Administrative Record, of the information considered by EPA to propose a remedy to addresses potential unacceptable risk from releases of hazardous constituents. The Statement of Basis does not address issues of liability.

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BDC Spectrum LLC Comment No. 3

3. More Specificity that the Proposed Remedy is Not Intended to Preclude Residential Development

Third, the Statement of Basis should provide more specifically that the proposed remedy and associated restrictions will not preclude residential development of the property, whether as part of a mixed use development or otherwise. We understand that the Statement of Basis reflects this intent, but the document should state this explicitly.

EPA's Response

EPA agrees with the suggested clarification and has clarified that residential or commercial uses of the Facility property are acceptable.

BDC Spectrum LLC Comment No. 4

Section 1: Introduction

Safety Kleen's proposed edit of this section would narrow the definition of "Facility," and thus the area applicable to the Statement of Basis and Safety Kleen, and should not be adopted. Safety Kleen's responsibility should not be limited to the footprints of its buildings and operations, and should include any area impacted by a release from Safety Kleen.

EPA's Response

EPA defines the Facility to include all of the contiguous property associated with the Facility and has not narrowed the definition of Facility based on comments suggested.

BDC Spectrum LLC Comment No. 5

Section 2: Facility Background

The current owner of the property is BDC Spectrum LLC, not "Spectrum Partners L.L.C."

EPA's Response

EPA has included language in the FDRTC to reflect that the Facility is currently owned by BDC Spectrum LLC, not "Spectrum Partners L.L.C."

BDC Spectrum LLC Comment No. 6

Section 2: Facility Background

It is not correct that "the Facility is situated in an operating industrial park." The property is currently a commercial business park ("Tech Center 29") which includes a credit union, retail

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and service businesses, and professional office space. BDC plans mixed residential and commercial development of the property.

Similarly, it is not accurate to characterize the "neighboring properties" as "involved in various forms of industrial activities." The neighboring properties and associated businesses include food, retail & service centers, office space, a hotel, a gym, and a church.

EPA's Response

EPA agrees with this comment and has incorporated language into the Facility Background section to reflect so.

BDC Spectrum LLC Comment No. 7

Section 2.2.1 UST Area

Please add the underlined language below as follows: "Groundwater monitoring at the facility has been on-going since July 1989 and has historically shown detections of TPH, benzene, toluene, ethylbenzene, xylene and some other VOCs, including chlorinated compounds such as perchloroethylene (PCE)."

EPA's Response

EPA agrees with this comment and has incorporated language into the Facility Background Section to reflect so.

BDC Spectrum LLC Comment No. 8

Section 2.2.1 UST Area

With respect to Safety Kleen's mark up, it should be clarified that part of the purpose of the actions proposed in the Statement of Basis is to determine the PCE levels that the releases from Safety Kleen operations are contributing to the groundwater as compared with any impact from regional background levels, for purposes of determining remedial objectives relating to the Safety Kleen releases. The data show that PCE originated from sources in addition to IFI.

EPA's Response

See EPA's response to Safety Kleen Comments # 4, 10 and 12.

BDC Spectrum LLC Comment No. 9

Section 2.2.1 UST Area

It would be premature to terminate Safety-Kleen's post closure permit in light of the remaining remedial action.

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EPA's Response

The post closure permit was issued and is overseen by MDE. EPA has multiple enforcement authorities under which it may require implementation of the Final Remedy at the Facility.

BDC Spectrum LLC Comment No. 10Section 2.2.2 Safety Kleen Building and Parking Lot

BDC requests that EPA decline to make the revision proposed in Safety Kleen's mark-up with respect to the discussion of Safety Kleen's spillage of PCE at the end of this section. EPA's description more accurately reflects the observations recorded in MDE inspection reports. Among other things, Safety Kleen's assertion that paved areas limited potential impacts is incorrect; PCE can penetrate concrete and other paved surfaces.

EPA's Response

See EPA's response to Safety Kleen Comment # 4.

BDC Spectrum LLC Comment No. 11Section 3.1.1 Environmental Investigations -UST Area- Closure Report and Certification, May 1996

Please revise the second to last sentence as follows: "Low[er] concentrations of nine volatile organic compounds (VOCs), which included chlorinated solvent constituents, were also detected above the laboratory detection limit in the April 1996 soil UST excavation samples."

EPA's Response

EPA partially agrees with this comment as PCE was the only chlorinated solvent detected and has incorporated language into the Facility Background section to reflect so.

BDC Spectrum LLC Comment No. 12Section 3.1.2 Environmental Investigations -UST Area- Dec.18, 2008

Please note that the sub-slab sampling phase of the 2008 MDE investigation delineated localized PCE "hotspots" below and between the two tenant spaces of the former S-K facility (12158 Tech Rd and 12164 Tech Rd.).

EPA's Response

The statement provided in the Statement of Basis is an accurate summary of the 2008 MDE investigation. The 2008 MDE investigation in its entirety is included in the Administrative Record.

BDC Spectrum LLC Comment No. 13Section 3.1.3 Facility Wide Conditions —Soil Gas Results and Proposed Soil Boring Locations
June 1991

The report and corresponding soil gas concentration contour maps generated for the April and June 1991 soil gas investigation conducted by Target Environmental Services, Inc. ("Target") show a region of pervasive petroleum hydrocarbon and chlorinated solvent vapor constituents, including PCE, delineated around the north-east and south-east walls of the former Safety Kleen facility, highlighting that the facility is an evident source of such substances. Also pointing to Safety Kleen as a source, the data for the area immediately downgradient of the former Safety Kleen tank field demonstrated soil vapor impacts from these constituents. Consistent with this, soil gas concentrations dropped off substantially as sampling moved east and away from the building and tank field toward the regional IFI PCE plume. Data from thirteen soil vapor samples that were collected on the adjacent properties to the east of the Tech Road sewer line in an area historically associated with the regional IFI PCE groundwater plume, showed no soil vapor contamination above detection limits.

EPA's Response

The soil gas survey was used to determine soil sampling locations and not the locations of the source of contamination. The soil gas locations do not always correspond to contamination in soil. EPA used the report as an indicator of the presence of contaminants.

BDC Spectrum LLC Comment No. 14Section 3.1.3 Facility Wide Conditions Groundwater Monitoring Event, October 29, 2013

This section notes that "Safety-Kleen completed installation of three upgradient wells, MW-12, 13 and 14, as well as piezometer PZ-2 and 2 in October 2013." However, during the review of the draft Groundwater Monitoring Plan developed for the Final Remedy, EPA noted, in a memorandum dated February 11, 2014, that MW-12 was "not upgradient of the former S-K building nor is it upgradient of the contaminated groundwater impacting monitoring wells immediately adjacent to the former building." Thus, EPA declined to adopt S-K's proposal to use well MW-12 as an upgradient well during implementation of the Final Remedy. The Statement of Basis should be revised accordingly, and MW-12 should not be characterized as upgradient.

EPA's Response

EPA agrees with this comment and has incorporated language into the Facility Background section to reflect so.

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BDC Spectrum LLC Comment No. 15Section 3.1.3 Facility Wide Conditions Groundwater Monitoring Event, October 29, 2013

The Statement of Basis should be modified to recognize that four of the five highest PCE groundwater concentrations measured during the October 29, 2013 sampling event (MWs-6, 9, 10 and 11) were located downgradient and in proximity to the south-east wall of the former Safety Kleen tenant space (12164 Tech Rd.) It should also be noted that these findings were consistent both with the peak detections found in the same area in the Target 1991 soil gas study and with the elevated MIP ECD detector responses noted in the area during the MIP Survey, Soil Boring Program and Sub-Slab Vapor and Indoor Air Sampling Event directed by MDE in 2008. In addition, it should be noted that during the October 29, 2013 sampling event, the PCE concentrations in downgradient monitoring wells 6, 9, 10 and 11 were one to two orders of magnitude higher than the PCE concentrations found in wells positioned upgradient of the Facility building, including EPA-approved background wells MW-13 and MW-14. Such data point directly to Safety Kleen as a source of PCE in the subsurface at the facility.

EPA's Response

The Statement of Basis is a summary of the information EPA relied on to propose a remedy for the Facility. The documents in the Administrative Record provide the details of the environmental investigations. The addition of the proposed changes will not affect the proposed remedy. Therefore, EPA has not made the proposed change.

BDC Spectrum LLC Comment No. 16Section 3.1.3 Facility Wide Conditions Groundwater Monitoring Event, October 29, 2013

It should be made clear in the last paragraph of this section that the purpose of EPA's comparison of PCE concentrations in the groundwater monitoring plan proposed for the Final Remedy is to account for upgradient, background well concentrations when determining suitable cleanup levels in the downgradient compliance wells identified for the Facility. EPA states instead that the purpose is "[t]o evaluate whether PCE in on-site groundwater is attributable to the Facility or coming from off-Site." We had understood that instead the purpose is to distinguish between what, if any PCE is coming from off-site and what originates on-site. The foregoing quoted clause should accordingly be deleted and the paragraph should be modified to more clearly state the purpose of comparing the upgradient and downgradient PCE concentrations.

EPA's Response

EPA agrees with this comment and has incorporated language into Section the Facility Background to reflect so.

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BDC Spectrum LLC Comment No. 17Section 3.1.3 Facility Wide Conditions—Indoor Air ("IA") and Sub Slab ("SS") Characterization Report November 2013

This section should be revised to note that in summary, the results noted in the 2013 IA and SS Characterization Report confirm that the localized sub slab and indoor air vapor "hot spots" were detected in the same areas as those delineated during MDE's 2008 investigation. Sub-slab concentrations of PCE located below the former Safety Kleen tenant space (12158 Tech Rd) and between the Safety Kleen tenant spaces actually increased by one order of magnitude (from 1,900 ug/m³ to 24,000 ug/m³) between the 2008 and 2013 investigations. Sub-slab gas beneath the building has not sufficiently attenuated over time.

EPA's Response

The number of samples taken are too few to establish a trend in sub slab PCE concentration especially in light of the wide range of PCE detected in the sub slab. EPA does state in the Statement of Basis:

"Comparison of recent sub-slab PCE concentrations (24,000 µg/m³) with values obtained from corresponding tests collected below the tenant space in 2008 (1,190 µg/m³) indicate that PCE vapor continues to exist beneath the Phase IB building."

EPA has clarified in the FDRTC that this sampling confirmed that the localized sub slab and indoor air vapor "hot spots" were detected in the same areas as those delineated during MDE's 2008 investigation.

BDC Spectrum LLC Comment No. 18Section 3.1.3 Facility Wide Conditions—Indoor Air ("IA") and Sub Slab ("SS") Characterization Report November 2013

This section should be revised to note that while PCE did not exceed the EPA industrial screening level (47 ug/m³) in any indoor air samples during the 2013 evaluation, it approached the EPA industrial SL value at the former Safety Kleen tenant space (12158 Tech Rd.), with a concentration of 38 ug/m³.

EPA's Response

EPA did consider the PCE value of 38 ug/m³ in proposing a remedy that requires vapor intrusion controls. EPA has accordingly revised the Threshold Criteria, 1. Protect Human Health and the Environment Section.

BDC Spectrum LLC Comment No. 19Section 3.1.3 Facility Wide Conditions—Indoor Air ("IA") and Sub Slab ("SS") Characterization Report November 2013

The following should be noted: The VOC 1,2-Dichloroethane (1,2-DCA) exceeded the corresponding EPA industrial SLs for indoor air in five of seven tested tenant spaces during the June 2013 IA and SS investigation. In historic Safety Kleen correspondence (Technical Review and Summary Regarding Sources of Regional Tetrachloroethene, October 2012), Safety Kleen has identified this constituent, along with 1,2,4-Trimethylbenzene (1,2,4-TMB) as associated with waste mineral spirits. It is established in the historic record for the former S-K facility that mineral spirits were used and released during Safety Kleen's operations. (MDE Controlled Hazardous Substances (CHS) Permit A-302- Effective Date December 11, 2008 —December 10, 2018.)

EPA's Response

1,2-Dichloroethane and 1,2,4-Trimethylbenzene (1,2,4-TMB) were not found in the sub slab samples. EPA has therefore determined that the source of those contaminants is not contaminated soil or groundwater.

BDC Spectrum LLC Comment No. 20Section 3.1.3 Facility Wide Conditions—Indoor Air ("IA") and Sub Slab ("SS") Characterization Report November 2013

The following should be added: During the 2013 IA / SS Investigation, possible PCE "preferential" vapor flow along an existing gas utility entering the facility from Tech Road was evaluated at the IA-9 / VMP-9 utility room location. While detectable, the sub-slab PCE concentration noted beneath the utility room was three orders of magnitude lower than the peak sub-slab concentration sampled found below the former Safety Kleen tenant space (12158 Tech Road).

EPA's Response

EPA agrees with this comment and has incorporated language into the Facility Background section to reflect so.

BDC Spectrum LLC Comment No. 21Section 4 —Corrective Action Objectives

In light of the indoor air issues and the proposed vapor intrusion system, indoor air should be added as a specific environmental media. The exceedances and near exceedances of industrial

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screening levels for constituents associated with previous Safety Kleen activities at the Facility should be noted. Overall, a compliance indoor air sampling program should be implemented by Safety Kleen with the Final Remedy to assure that the required vapor intrusion controls are providing adequate vapor mitigation to tenants.

EPA's Response

The proposed remedy requires the installation of a vapor control system (Section 5.B.4) as part of the remedy for the groundwater contamination. As stated in the Statement of Basis (Section 5.B), EPA will pursue one or a combination of mechanisms and authorities to ensure that the Final Remedy is implemented and complied with.

BDC Spectrum LLC Comment No. 22

Section 5 -Proposed Remedy

Soils

The remedy should require Safety-Kleen to treat or remove contaminated soils that as may be necessary during use or development of the property.

EPA's Response

EPA has made a Corrective Action Complete without Controls determination for Facility soils because based on the available information, there are currently no known unacceptable risks to human health and the environment from Facility soils. However, it is the intent of Section 5.B.2 and 5.B.6, 5.B.7 to prevent and/or identify changes at the Facility that could affect to the protectiveness of the Final Remedy, and that the Agency be notified of such event.

BDC Spectrum LLC Comment No. 23

Section 5 -Proposed Remedy

Groundwater

There has been no study of the feasibility of biodegradation attenuation processes for the Facility to date. Safety Kleen should be required to undertake such a study in order to assure that the proposed remedy will be effective.

EPA's Response

Reliance on natural attenuation processes to achieve site-specific remediation objectives within a time frame that is reasonable compared to that offered by other more active methods is acceptable as a remedy. The natural attenuation processes that are at work in such a remediation approach include a variety of physical or chemical processes that, under favorable conditions, act without human intervention to reduce the mass, toxicity, mobility, volume, or concentration of contaminants in soil or groundwater. These in-situ processes include:

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dispersion; dilution; sorption; volatilization; and chemical stabilization, transformation, or destruction of contaminants.

As stated in the Statement of Basis:

Monitoring at the Facility has shown that the extent of contamination in groundwater attributable to the Facility is not increasing and concentrations of those contaminants are declining over time. Therefore, the final remedy for groundwater consists of natural attenuation with continued monitoring until background concentrations are met, and compliance with and maintenance of groundwater use restrictions, to be implemented through institutional controls, at the Facility to prevent exposure to contaminants while concentrations remain above drinking water standards.

Safety Kleen's Semiannual Progress Report Former Safety Kleen Corp. Service Center (January 1- June 30, 2013) June 13, 2013 describing the degradation of PCE and TPH demonstrates that onsite PCE concentrations in the wells have been stable or decreasing. An additional study is not needed to establish that the contaminants at the site are degrading by natural attenuation and a study is not needed for biodegradation. This report is part of the Administrative Record.

EPA has clarified that if performance monitoring indicates that the current extent of contamination in groundwater begins to expand or concentrations in groundwater begin to increase, EPA may require additional corrective actions.

BDC Spectrum LLC Comment No. 24

Section 5 -Proposed Remedy

Groundwater

Safety Kleen's mark-up proposes the addition of language on page 12 stating that Safety Kleen may propose alternate clean up objectives though completion of a human health risk assessment taking account of current Montgomery County restrictions on groundwater use. It is inappropriate to include this in the Statement of Basis, particularly in light of EPA's stated clean up goals and previous rejection of Safety Kleen's approach as reflected in the Statement of Basis.

EPA's Response

Please see EPA's response to Safety Kleen Comment No. 10.

BDC Spectrum LLC Comment No. 25

Section 5 -Proposed Remedy

Safety Kleen's mark-up proposes revisions to the paragraph on page 14 numbered 4 do limit the installation of vapor intrusion control systems to structures installed on the "facility," which Safety Kleen has defined elsewhere very narrowly without reference to its releases. This is an

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inappropriate limitation because such systems should be installed wherever warranted due to Safety Kleen's releases regardless of where those releases have had an impact.

EPA's Response

See EPA's response to BDC Comment No. 4

BDC Spectrum LLC Comment No. 26

Section 6 —Evaluation of Proposed Remedy

The cost of installing an adequate vapor mitigation system to correct S-K derived impacts at any building located on the property would likely substantially exceed the projected estimate of \$14,000. Our consultant, GES, has estimated that such costs for one building could be in the range of \$10,000 to \$50,000. Operation and maintenance of such a system, compliance and performance sampling for both the system and the indoor air tenant spaces, and groundwater sampling and subsequent reporting would also likely exceed the noted \$2,000 per year projection. GES estimates that the actual cost could be in the range of \$5,000 to \$15,000 per year overall.

EPA's Response Please note that these costs are "estimates". EPA uses \$1M, over a ten year term, as a threshold to require financial assurance and as part of its remedy implementation oversight monitors the financial capacity and health of responsible party implementing the remedy. If circumstances change and a need for financial assurance develops during the implementation of the remedy, EPA will reevaluate its decision.

BDC Spectrum LLC Comment No. 27

Section 7 —Financial Assurance

In light of the costs noted in our discussion of Section 6 above, Safety Kleen should be required to provide financial assurance to cover current and future buildings at the site. We request that these comments be included in the administrative record. We appreciate EPA's consideration of our comments and attention to this matter.

EPA's Response

See EPA Response to BDC Comment 26.

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Exhibit 2

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CPJ Charles P. Johnson & Associates, Inc.

Civil and Environmental Engineers • Planners • Landscape Architects • Surveyors

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September 25, 2015

Tax ID No. 05-02563531

EXHIBIT 'A'
DESCRIPTION OF
TECH CENTER 29 CONDOMINIUM, UNIT 3B
BEING THE PROPERTY OF
BDC SPECTRUM LLC, A MARYLAND LIMITED LIABILITY COMPANY
COLESVILLE (5th) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

Being a piece or parcel of land, hereinafter described, lying on the westerly side of Tech Road, between Columbia Pike (U.S. Rte. 29) and Industrial Parkway, situate in Silver Spring, and being part of the property acquired by BDC Spectrum LLC, a Maryland limited liability company, by virtue of a Deed from Tech Center 29 Limited Partnership and Tech Center 29 Phase II Limited Partnership, each a Maryland limited partnership, dated June 1, 2012 and recorded among the Land Records of Montgomery County, Maryland in Liber 44120 at Folio 359, said property also being identified as Unit 3B as shown on a Condominium Plat entitled "Tech Center 29 Condominium" and recorded among the aforesaid Land Records as Plat Number 4167, and being more particularly described in the Maryland Coordinate System NAD83 (NSRS 2007) as follows

Beginning for the said piece or parcel of land at a point on the North 38°12'06" West, 599.83 feet Westerly Right-of-Way line of the aforesaid Tech Road (70' wide) as shown on a Record Plat entitled "Lot 11, Outlot 'G' and Dedication of Tech Road, Montgomery Industrial Park" and recorded among the aforesaid Land Records as Plat Number 8824, distant 186.88 feet northerly from the Southerly end thereof, said point also being at the Easterly end of the Common or South 51°47'54" West, 277.40 feet line between the aforesaid Unit 3B and Unit 3C as shown on the aforesaid Condominium Plat, thence leaving the aforesaid Common line between Unit 3B and Unit 3C, and running reversely with and binding on the aforesaid Westerly Right-of-Way line of Tech Road, and also running with and binding on the outline of the aforesaid Unit 3B, the following three courses and distances, as now surveyed,

1. South 38°12'06" East, 186.88 feet to a point of curvature, thence
2. 416.20 feet along the arc of a tangent curve, deflecting to the right, having a radius of 265.00 feet and a chord bearing and distance of South 06°47'31" West, 374.72 feet to a point of tangency, thence along a tangent line

Description of Tech Center 29 Condominium, Unit 3B
Being the Property of BDC Spectrum LLC, a Maryland limited liability company
Page 2 of 2

3. South 51°47'08" West, 72.51 feet to a point at the Southerly end of the Common or North 38°12'06" West, 451.90 feet line between the aforesaid Unit 3B and Unit 3A as shown on the aforesaid Condominium Plat, thence leaving the aforesaid Westerly Right-of-Way line of Tech Road, and running with and binding on the aforesaid Common line between Unit 3A and Unit 3B the following course and distance, as now surveyed,
4. North 38°12'06" West 451.89 feet to a point on the Northerly or North 51°47'54" East, 667.27 feet plat line as shown on the aforesaid Condominium Plat, distant 60.05 feet westerly from the Easterly end thereof, thence leaving the aforesaid Common line between Unit 3A and Unit 3B, and running with and binding on the aforesaid Northerly plat line as shown on the Condominium Plat, and also running reversely with and binding on the aforesaid Common line between Unit 3B and Unit 3C, the following course and distance, as now surveyed,
5. North 51°47'54" East, 337.45 feet to the point of beginning, containing 137,418 square feet or 3.1547 acres of land.

This description and the Survey on which it is based were prepared under my responsible charge and are in compliance with COMAR Reg. 09.13.06.12.

DATE:

9/25/15



[Handwritten Signature]

Steven W. Jones

Professional Land Surveyor

MD Lic. No. 21072 Exp. 02/08/2017

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 55264, p. 0260, MSA_CE63_55221. Date available 11/30/2017. Printed 12/04/2017.

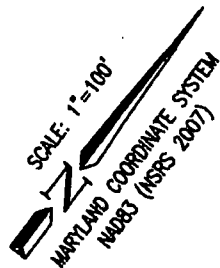


EXHIBIT 'B'
DESCRIPTION OF
TECH CENTER 29 CONDOMINIUM, UNIT 3B
BEING THE PROPERTY OF
BDC SPECTRUM LLC, A MARYLAND LIMITED LIABILITY COMPANY
COLESVILLE (5th) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND

LOT 2
LOT 2 & OUTLOT "B"
MONTGOMERY
INDUSTRIAL PARK
P. No. 5846

UNIT 3C

E 1,321.350
N 506.100

POINT OF BEGINNING
LEGAL DESCRIPTION

N51°47'54"E 337.45'

470'± TO OLD
COLUMBIA PIKE

TECH CENTER 29
CONDOMINIUM
P. No. 4167

186.88'

S38°12'06"E

N 506.100
E 1,321.800

UNIT 3A

E 1,321.350
N 505.550

451.89'

N38°12'06"W

UNIT 3B

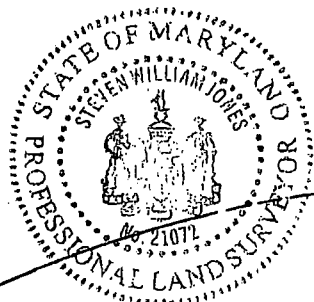
AREA: 137,418 s.f.
or 3.1547 Ac.

A=416.20'

TECH ROAD
(70' WIDE)
P.No. 8824

R=265.00'

S51°47'08"W
72.51'



[Handwritten Signature]
9/25/15

STEVEN W. JONES
PROFESSIONAL LAND SURVEYOR
MD LIC. No. 21072 Exp. 02/08/2017

CURVE TABLE

CURVE	RADIUS	ARC	DELTA	TANGENT	BEARING	CHORD
C1	265.00'	416.20'	089°59'14"	264.94'	S06°47'31"W	374.72'

CPJ Charles P. Johnson & Associates, Inc.
Civil and Environmental Engineers • Planners • Landscape • Architects • Surveyors
1791 Elton Rd., Ste 300 Silver Spring, MD 20903 301-434-7000 Fax: 301-434-9394
www.cpj.com • Silver Spring, MD • Gaithersburg, MD • Annapolis, MD • College Park, MD • Frederick, MD • Fairfax, VA

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Exhibit 3

See Attachment 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Mr. Stephen Fleming PE
Senior Environmental Remediation Manager
Safety-Kleen Systems, Inc.
A Clean Harbors Company
4120 Thunderbird Lane, Fairfield, OH 45014

September 23, 2015

VIA Electronic Mail

Re: Work Plan for Vapor Intrusion Control System, Former Safety-Kleen Systems, Inc. Service Center, Silver Spring, Maryland (EPA ID No. MDD000737395)

Dear Mr. Fleming:

EPA Region III has completed its review of your September 3, 2015 Work Plan for a Vapor Intrusion Control System (System) at the Former Safety-Kleen Systems, Inc. Service Center, Silver Spring, Maryland.

EPA hereby approves the plan for the installation of the System subject to Safety Kleen's proposal, and EPA's approval, of an Operation and Maintenance Plan for it. Safety Kleen is required to ensure the proper operation and maintenance of the System.

Proper maintenance and periodic inspections and monitoring will ensure the System is operating as designed and is effective at reducing indoor air concentrations to (or below) target levels.

The installation of the System can start prior to the submittal and approval of the Operation and Maintenance Plan.

If you have any questions please call me at 215-814-5778 or email me at Hotham.Leonard@epa.gov.

Thank you

Leonard E. Hotham
Project Manager
EPA Region III

cc: Ed Hammerberg MDE
Neil Markus BDC Spectrum
Sean Sullivan BDC Spectrum



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STEPHEN D. FLEMING, PE, CHMM
SENIOR REMEDIATION MANAGER



September 3, 2015

Mr. Leonard Hotham
United States Environmental Protection Agency – Region 3
Remedial Project Manager
1650 Arch Street
Philadelphia, PA 19103

RE: Work Plan for Vapor Intrusion Control System, Former Safety-Kleen Systems, Inc. Service Center, Silver Spring, Maryland (EPA ID No. MDD000737395)

Dear Mr. Hotham,

Safety-Kleen Systems, Inc. (S-K) has been working with the United States Environmental Protection Agency (USEPA) Region 3 regarding groundwater impacts at the former service center located in Silver Spring, Maryland. The USEPA Region 3 issued a Statement of Basis for the facility in May 2014 and a Final Decision and Response to Comments in November 2014 (the FDRTC). The final remedy in the FDRTC included a requirement for installation of a vapor intrusion control system for existing structures at the site as one of the required groundwater use restrictions. S-K submitted a request for determination on vapor intrusion control system on July 7, 2015, which indicated the vapor sampling data collected to date does not appear to support the need for additional sampling or vapor mitigation. However, on August 4, 2015, the USEPA clarified that additional sampling would be required (a minimum of six events conducted seasonally) to support the conclusion that vapor intrusion of PCE from below 12158 Tech Road is not a significant contributor to indoor air concentrations. While S-K does not believe that this degree of sampling is necessary based on the *OSWER Technical Guide For Assessing And Mitigating The Vapor Intrusion Pathway From Subsurface Vapor Sources To Indoor Air* (USEPA 2015), it has agreed to accept USEPA's offer of installing to install a vapor intrusion control system below the 12158 Tech Road property (Figure 1) in lieu of the additional testing. The purpose of this brief work plan is to provide basic details regarding the proposed sub-slab depressurization system.

Preparatory Activities

S-K will work with the landowner to notify the tenants of the upcoming SSDS installation activities, including anticipated timing and duration of work. S-K and its contractors will consult with the tenant and landowner to discuss the potential system layout as described below. The Maryland Miss Utility call before you dig system will be notified prior to initiating intrusive activities. S-K will also submit notification to the USEPA of the installation timing.

Mr. Leonard Hotham
September 3, 2015
Page 2

Proposed System Design

The proposed sub-slab depressurization system (SSDS) is an active depressurization system which creates a pressure differential across the concrete slab of the building to limit the potential for subsurface vapors from entering the building. First, through-going cracks in the existing concrete slab will be sealed to the extent practical to minimize short-circuiting of the system. Pre-installation diagnostic testing will also be performed to define the properties of the fill below the concrete slab in approximately four locations; the exact location and number of point will be dependent on site conditions. The results of the diagnostic testing will be used to site one or more locations for sub-slab depressurization. At each sub-slab depressurization location, 4.5-inch diameter holes will be cut into the slab, and a plenum box approximately 12-inches in diameter and 6-inches deep will be excavated below the concrete slab. The plenum box will be connected by a 4-inch diameter Schedule 40 foam core PVC vertical suction pipe, then sealed with mortar or non-shrinking grout to match grade and to create an air-tight depressurization point. The vertical suction pipe(s) will be connected to a radon mitigation fan (Radon Away RP-265, 6" or similar) rated for outdoor use. A specification sheet for the proposed fan has been included in Attachment A. The fan will be mounted on the roof or exterior wall of the building based on consultation with the landowner.

Post-installation diagnostic testing will be conducted by installing at least four temporary sub-slab monitoring points to verify at least 0.03-inches of water negative pressure differential between the sub-slab and indoor air. Depressurization of 0.025 to 0.035-inches of water is generally required to maintain sufficient pressure gradient across the slab as per ITRC guidance (ITRC 2007). After completion of testing, the monitoring points will be removed and filled and sealed to match surrounding grade. Additional suction pits will be installed should diagnostic testing indicate the required pressures are not created using one suction pit. A potential schematic of the proposed SSDS configuration is included as Figure 2. However, the exact location of the sub-slab depressurization and diagnostic points will be determined in the field in collaboration with the landowner in an effort to minimize disruption to occupants and existing infrastructure.

A manometer will be mounted on the system to allow personnel to verify operation of the fan. Verification of the operation of the SSDS will be the responsibility of the landowner. Contact information will be labeled on the system for maintenance personnel. The SSDS will be installed by a licensed radon contractor (Radon Abatement Services) experienced with installation of vapor mitigation systems specifically to address volatile organic compounds. A list of the relevant contractor license numbers is included as Attachment B, for reference.

Schedule and Reporting

S-K intends to install the proposed SSDS in September 2015, pending USEPA approval of this brief work plan. After installation of the SSDS, S-K will submit a brief letter documenting the layout of the final system and results of post-diagnostic testing to verify the system is functioning to the specifications outlined above. No indoor air testing is proposed to monitor indoor air concentrations, since indoor air concentrations already meet the June 2015 commercial/industrial standard for tetrachloroethylene (PCE). Additionally, the expressed purpose of the sub-slab depressurization system is to reduce the potential for subsurface vapors to enter the building, and the results of the sub-slab pressure monitoring provide the

Mr. Leonard Hotham
September 3, 2015
Page 3

best and most direct demonstration that the sub-slab depressurization system is effective in creating a negative pressure differential between the subsurface conditions and indoor air.

S-K appreciates your review of this brief work plan. Please feel free to contact me at (513) 227-5340 should you have any questions.

Sincerely,
SAFETY-KLEEN SYSTEMS, INC.



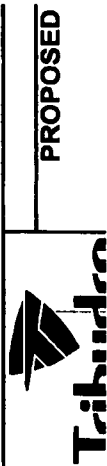
Mr. Stephen Fleming, P.E.
Senior Remediation Manager

198-002-016

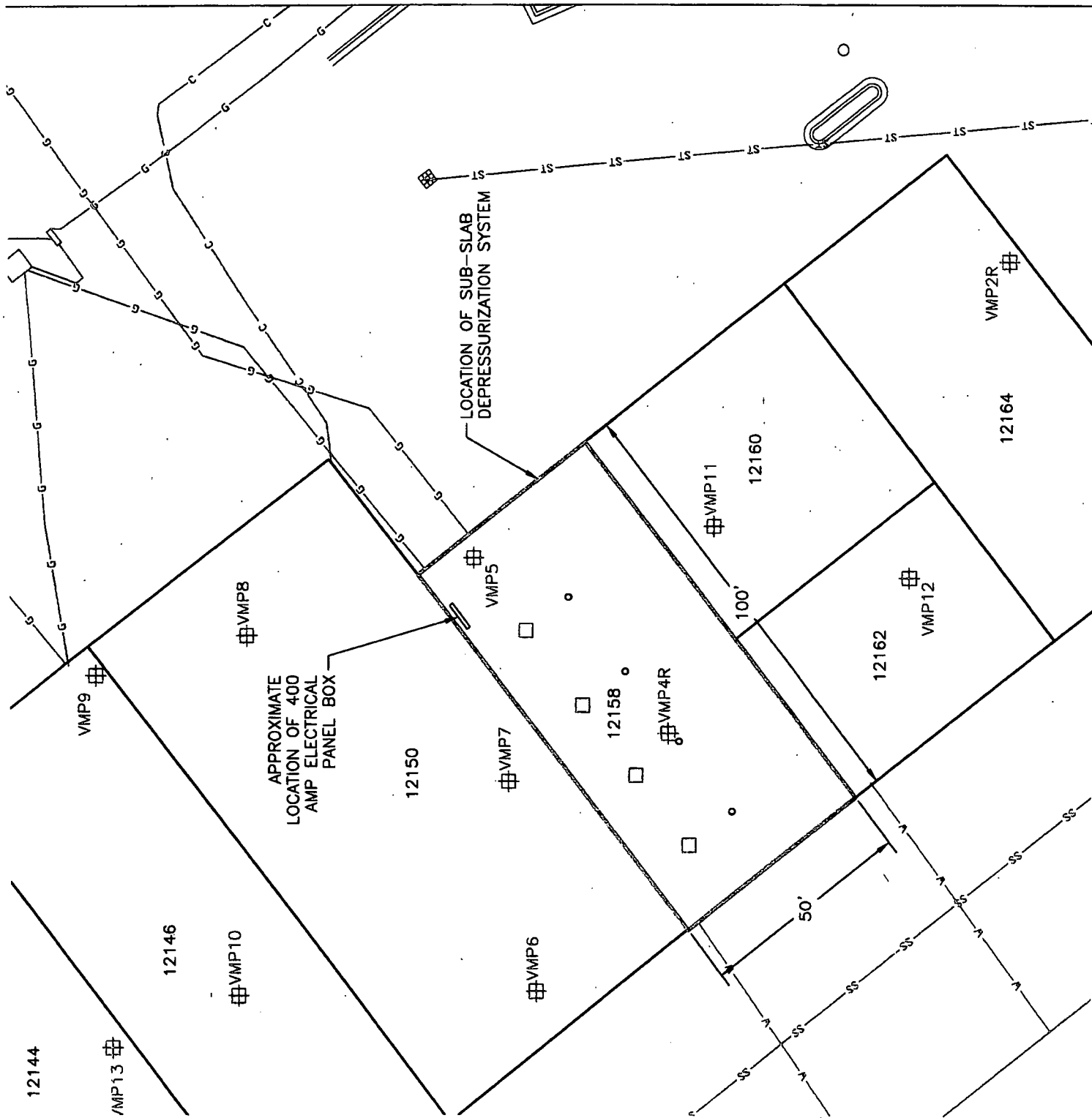
Attachments

cc: Tim Henderson (Rich & Henderson) – electronic copy
Neil Marcus (Spectrum Partners, LLC) – electronic copy
Luis Pizarro (USEPA Region 3) – electronic copy
Todd Blake (S-K)
Norman Nelhuebel (Clean Harbors) - CD
Trihydro Corporation

FIGURES

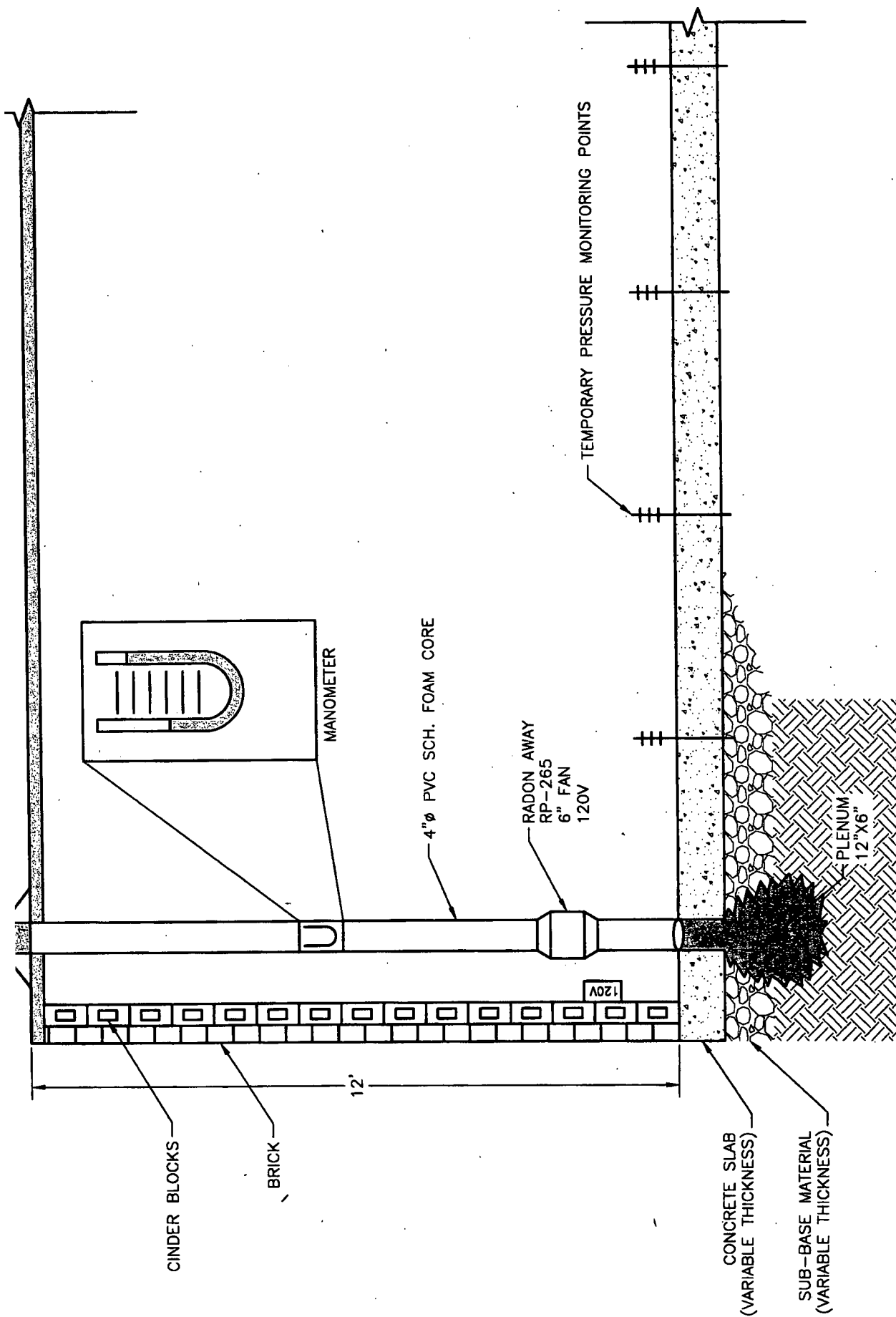


SYMBOL	DESCRIPTION
⊞	GRATE
○	APPROXIMATE LOCATION OF ELECTRICAL PANEL
—SS—	SANITARY
—G—	GAS LINE
—ST—	STORM DRAIN
—V—	WATER LINE
—C—	COMMUNICATION
—E—	ELECTRIC



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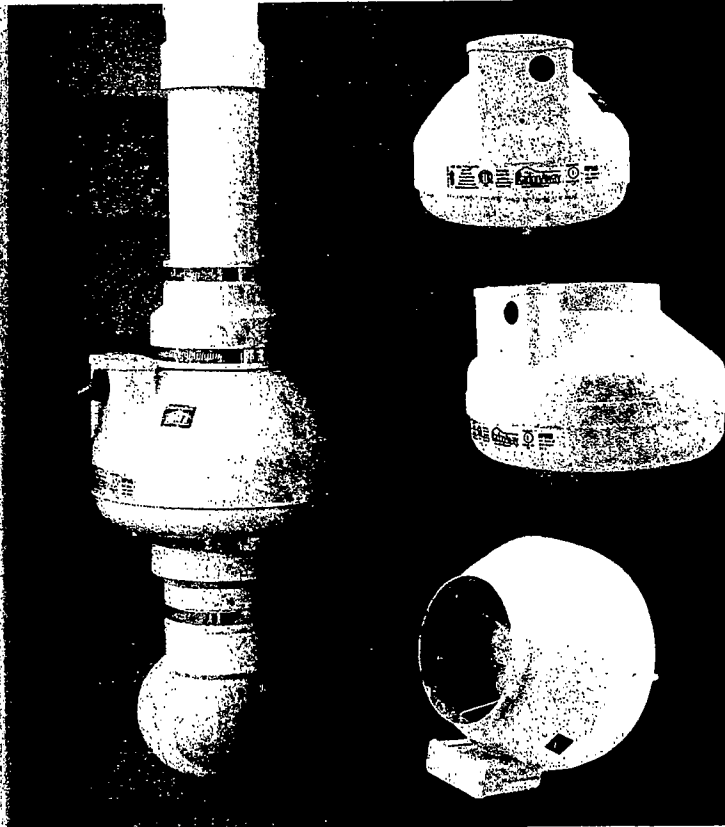


PROPOSED

ATTACHMENT A



RP Series



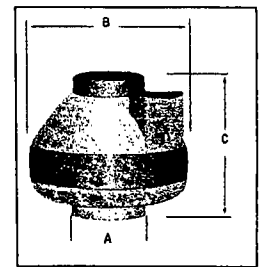
Radon Mitigation Fan

All RadonAway fans are specifically designed for radon mitigation. RP Series Fans provide superb performance, run ultra-quiet and are attractive. They are ideal for most sub-slab radon mitigation systems.

Features

- Energy efficient
- Ultra-quiet operation
- Meets all electrical code requirements
- Water-hardened motorized impeller
- Seams sealed to inhibit radon leakage (RP140 & RP145 double snap sealed)
- ETL Listed - for indoor or outdoor use
- Thermally protected motor
- Rated for commercial and residential use

MODEL	P/N	FAN DUCT DIAMETER	WATTS	MAX. PRESSURE"WC	TYPICAL CFM vs. STATIC PRESSURE WC				
					0"	.5"	1.0"	1.5"	2.0"
RP140	23029-1	4"	15-21	0.8	135	70	-	-	-
RP145	23030-1	4"	41-72	2.1	166	126	82	41	3
RP260	23032-1	6"	50-75	1.6	272	176	89	13	-
RP265	23033-1	6"	91-129	2.3	334	247	176	116	52
RP380	28208	8"	95-152	2.3	497	353	220	130	38



Model	A	B	C
RP140	4.5"	9.7"	8.5"
RP145	4.5"	9.7"	8.5"
RP260	6"	11.75"	8.6"
RP265	6"	11.75"	8.6"
RP380	8"	13.41"	10.53"



Made in USA with US and imported parts



ETL Listed Intertek



All RadonAway inline radon fans are covered by our 5-year, hassle-free warranty

For Further Information Contact

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ATTACHMENT B

Radon Repair

- [Home](#)
- [About Us](#)
- [Frequently Asked Questions](#)
- [Resources](#)
- [Contact](#)
- [En Espanol](#)

- [What is Radon?](#)
- [Mitigating Radon](#)
- [Choosing a Contractor](#)
- [Locations We Serve](#)
- [Request An Estimate](#)

REQUEST AN ESTIMATE

About Us

We are Radon Abatement Services, a radon removal contractor serving the greater DC area.

We're licensed and insured. Don't get burned, make sure your radon contractor is both licensed and insured!

Radon Abatement Services:

- [NEHA NRPP Certified Radon Mitigation Provider #101103](#)
- [NRSB Certified Radon Mitigation Provider #1G0006](#)
[and Certified Radon Measurement Technician RMT #101105](#)
- [MHIC #52013 \(MD\)](#)
- [VA License #2705-059056 \(VA\)](#)
- EPA #18781-1

For more information on radon mitigation methods, and to see examples of our work please click to see our [Gallery](#).

Radon Abatement Services / Chevy Chase, Maryland 20825 / 301.718.6200 info@radonrepair.com



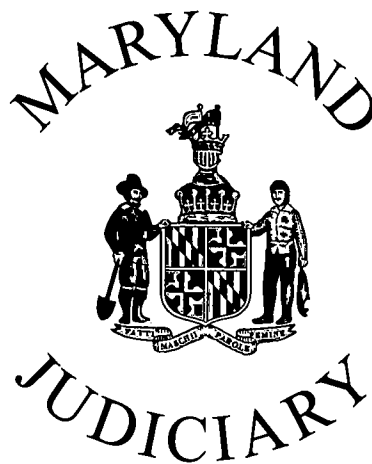
[NEHA Certified Radon Mitigation Provider #101103RMT and #101105RMT](#)
[NRSB Certified Radon Mitigation Provider #1G0006](#)
[MHIC #52013 \(MD\) and VA License #2705-059056 \(VA\)](#)

EPA Trained and Tested

LR - Agreement
Recording Fee 75.00
Name: BDC SPECTRUM LLC
Ref:
LR - Agreement
Surcharge 40.00
=====

SubTotal:	115.00
=====	
Total:	115.00

11/22/2017 01:16
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#9447618 CC0602 -
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County/CC06.02.04 -
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