



PO Box 448 • Seymour, Indiana 47274
Tel. 812-522-2224

Rosy
25216

RECEIVED
JAN 19 2017
DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT
OFFICE OF LAND QUALITY

January 17, 2017

Ms. Rosy Hansell
Leaking Underground Storage Tank Section
Underground Storage Tank Branch
Indiana Department of Environmental Management
100 N. Senate Avenue
Indianapolis, Indiana 45204

RE: **Request for No Further Action with ERC**
Former Kocolene #144
3355 Moller Road
Indianapolis, Indiana 46224
Project Number 86751.01
Facility ID Number 25216
IDEM Incident Number 201121228 / 201111506

Dear Ms. Hansell:

We are pleased to present this request for No Further Action (NFA) for the above referenced site with an Environmental Restrictive Covenant (ERC). This submittal was prepared in accordance with the Remediation Closure Guide (RCG) of March 22, 2012 with corrections of July 9, 2012. Analytical groundwater findings were compared to the analytical tables in the RCG 2014 Screening Levels Table as posted on IDEM's website.

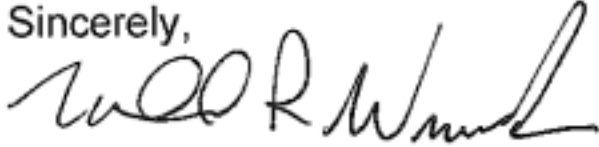
Based upon the groundwater analytical results collected over the last four quarters, stability of groundwater flow direction and benzene plume, we recommend a NFA be granted for the site. Because the site still may contain levels of benzene in excess of IDEM's RCG Migration to Groundwater (MTG) for benzene at the site, we submitted an ERC for IDEM for review and approval. On December 8, 2016, we received an email approval from you to use the ERC.

A final executed copy of the ERC for the site has been included as **Attachment A**.

Upon approved of the NFA, we will properly close all monitoring wells on the site per Department of Natural Resources (DNR) and file a final report with the IDEM.

If you have any questions, please contact me at (317) 697-9650 or email me at mikerwomack@gmail.com. Thank you for the opportunity to complete this project for you.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. Womack". The signature is fluid and cursive, with the first name being the most prominent.

Michael R. Womack
Senior Project Scientist

cc: 1 copy to the IDEM LUST Section Project Manager, Ms. Rosy Hansell
1 electronic copy to the IDEM LUST Section

ATTACHMENT A

Executed Environmental Restrictive Covenant

A201700004951

01/11/2017 9:37 AM
KATHERINE SWEENEY BELL
MARION COUNTY IN RECORDER
FEE: \$ 40.50
PAGES: 10
By: K.

Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT ("Covenant") is made this 4TH day of January, 2017, by Saini Brothers & Sons, Inc., located at 3355 Moller Road Indianapolis, Indiana 46224. ("Owner").

WHEREAS: Owner is the fee owner of certain real estate in the County of Marion, Indiana, which is located at 3355 Moller Road, Indianapolis, Marion County, Indiana, 46224 and more particularly described in the attached Exhibit "A" ("Real Estate"), which is hereby incorporated and made a part hereof. This Real Estate was acquired by deed on June 17, 2011, and recorded on June 29, 2011, as Deed Record A2011000057973, in the Office of the Recorder of Marion County, Indiana. The Real Estate consists of approximately 1.162 acres and has also been identified by the county as parcel identification number 49-05-24-107-015 000-001.

WHEREAS: Corrective action was implemented in accordance with IC 13-23 and other applicable Indiana law as a result of a release of petroleum relating to the former Kocolene Service Station #144 in Indianapolis, Indiana. The incident number assigned by the Indiana Department of Environmental Management ("Department" or "IDEM") for the release is 201111506, and the relevant facility identification number is 25216.

WHEREAS: Certain contaminants of concern (COC's) remain in the groundwater of the Real Estate following completion of corrective action. The Department has determined that the COC's will not pose an unacceptable risk to human health at the remaining concentrations, provided that the land use restrictions contained herein are implemented to protect human health and the environment. These COC's are benzene and naphthalene.

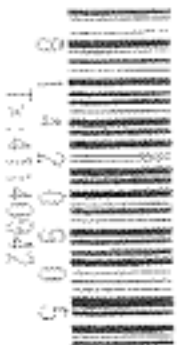
WHEREAS: Environmental investigation reports and other related documents are hereby incorporated by reference and may be examined at the offices of the Department, which is located in the Indiana Government Center North building at 100 N. Senate Avenue, Indianapolis, Indiana. The documents may also be viewed electronically in the Department's Virtual File Cabinet by accessing the Departments Web site (currently www.in.gov/idem).

NOW THEREFORE, Saini Brothers & Sons, Inc. subject the Real Estate to the following restrictions and provisions, which shall be binding on the current Owner and all future Owners:

I. RESTRICTIONS

1. Restrictions. The Owner:

- (a) Shall not use or allow the use or extraction of groundwater at the Real Estate for any purpose, including, but not limited to: human or animal consumption, gardening, industrial processes, or agriculture, except that groundwater may be extracted in conjunction with environmental investigation and/or remediation activities.



II. GENERAL PROVISIONS

2. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees and their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control (hereinafter "Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in or right to occupancy in all or any part of the Real Estate by any person shall affect the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.
3. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent Owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.
4. Access for Department. The Owner shall grant to the Department and its designated representatives the right to enter upon the Real Estate at reasonable times for the purpose of monitoring compliance with this Covenant and ensuring its protectiveness; this right includes the right to take samples and inspect records.
5. Written Notice of the Presence of Contamination. Owner agrees to include in any instrument conveying any interest in any portion of the Real Estate, including but not limited to deeds, leases and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances), the following notice provision (with blanks to be filled in):

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED _____ 20__, RECORDED IN THE OFFICE OF THE RECORDER OF MARION COUNTY ON _____, 20__, INSTRUMENT NUMBER (or other identifying reference) _____ IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.
6. Notice to Department of the Conveyance of Property. Owner agrees to provide notice to the Department of any conveyance (voluntary or involuntary) of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide the Department with the notice within thirty (30) days of the conveyance and: (a) include a certified copy of the instrument conveying any interest in any portion of the Real Estate, and (b) if it has been recorded, its recording reference, and (c) the name and business address of the transferee.
7. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.

III. ENFORCEMENT

8. Enforcement. Pursuant to IC 13-14-2-6 and other applicable law, the Department may proceed in court by appropriate action to enforce this Covenant. Damages alone are insufficient to compensate IDEM if any owner of the Real Estate or its Related Parties breach this Covenant or otherwise default hereunder. As a result, if any owner of the Real Estate, or any owner's Related Parties, breach this Covenant or otherwise default hereunder, IDEM shall have the right to request specific performance and/or immediate injunctive relief to enforce this Covenant in addition to any other remedies it may have at law or at equity. Owner agrees that the provisions of this Covenant are enforceable and agrees not to challenge the provisions or the appropriate court's jurisdiction.

IV. TERM, MODIFICATION AND TERMINATION

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

V. MISCELLANEOUS

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

party desires or is required to give to the other pursuant to this Covenant shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner:

Saini Brothers and Sons, Inc.
12913 Broncos Drive, Fishers
Indiana 46037

To Department:

IDEM, Office of Land Quality
100 N. Senate Avenue
IGCN 1101
Indianapolis, IN 46204-2251
Attn: Section Chief, Leaking Underground Storage Tank Program

An Owner may change its address or the individual to whose attention a notice is to be sent by giving written notice via certified mail.

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

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

IN WITNESS WHEREOF, Saini Brothers and Sons, Inc., the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 4TH day of January, 2017.

Saini Brothers and Sons, Inc.

Paragjit Saini, President
Owner

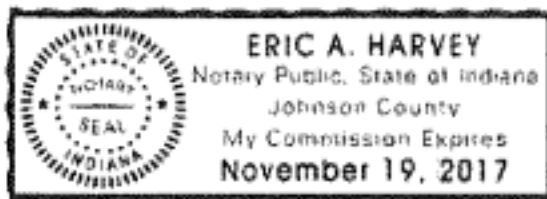
STATE OF Indiana)

) SS:

COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Paranjit Singh, the President of the Owner, Sains Brothers and Sons, Inc. who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this 4TH day of January, 2017.



Eric A. Harvey
Eric A. Harvey, Notary Public

Residing in Johnson County, Indiana

My Commission Expires:

This instrument prepared by:

Michael R. Womack

KoMack Environmental, LLC 11234 N 900 W Carthage, IN 46115

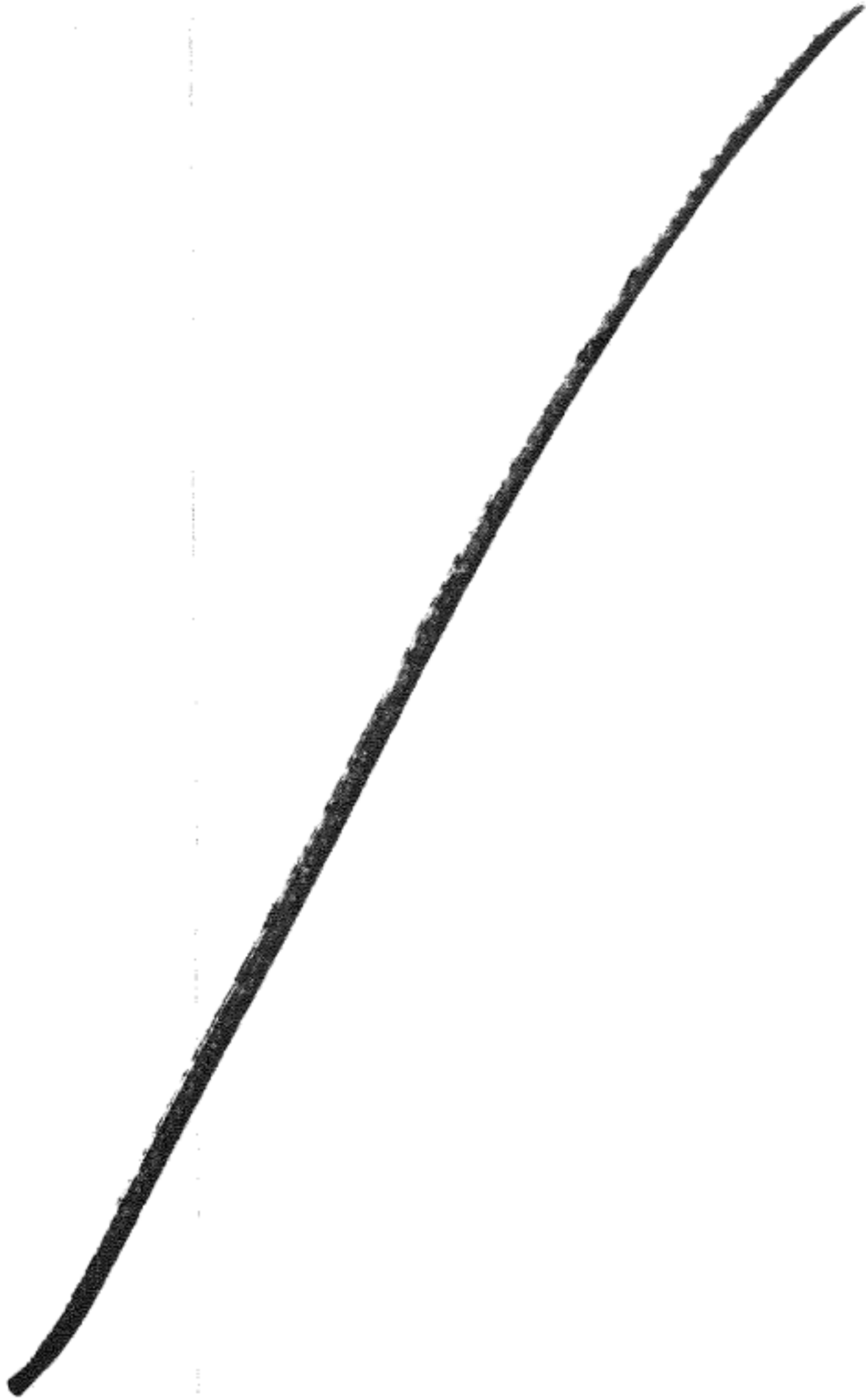
I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law:

Michael R. Womack

Michael R. Womack KoMack Environmental, LLC

11234 N 900 W, Carthage, IN 46115

Exhibit A



A201100057973

June 29, 2011 3:12 PM
John L. Voorhes
Marion County Recorder



Pages: 4
Fee: \$27.50
By: LPP

004193

JOSEPH R. PITTS
MAR 29 2011
2011 JUN 29 P 1:29

④
JP

GENERAL WARRANTY DEED

THIS INDENTURE WITNESSETH, that Salem Four LLC, an Indiana limited liability company ("Grantor"), CONVEYS and WARRANTS to Sam Brothers & Sons, Inc., an Indiana corporation ("Grantee"), for the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, the real estate commonly known as 3355 N. Moller Road, Indianapolis, Indiana, 46224, being more particularly described on the attached exhibit A (the "Real Estate").

THIS CONVEYANCE IS MADE, and the Real Estate is SUBJECT TO:

- (1) real estate taxes and public assessments due and payable, beginning with the installment payment in November 2012, and all such taxes and assessments payable thereafter;
- (2) all rights-of-way and easements of record.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed this 17th day of June, 2011

GRANTOR,
SALEM FOUR LLC,
an Indiana limited liability company


Sohail Shakir, Member

Marion County Recorder
JUN 29 2011
Received - 600

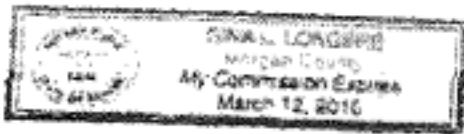


491480 1

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared **Sohail Shakir**, as Member of Salem Four, LLC., an Indiana limited liability company, who acknowledged execution of the foregoing General Warranty Deed this 17 day of June, 2011 and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 17 day of June, 2011.



NOTARY PUBLIC:

Sina L. Lopez

Printed _____

My Commission Expires _____

My County of Residence _____

Address of Transferred Property: 3355 N. Moller Road, Indianapolis, Indiana

Tax Parcel Number: 49-05-24-107-015.000-901

Mail Tax Statements To: Saini Brothers & Sons, c/o Paramjit Singh, 3355 N. Moller Road, Indianapolis, Indiana 46224.

Return Deed To: Eric A. Harvey, 6910 N. Shadeland Ave, Suite 200, Indianapolis, IN 46220.

This instrument was prepared by:

Eric A. Harvey, Esq.
E. A. HARVEY & ASSOCIATES, P.C.
a professional corporation
6010 N. Shadeland Avenue, Suite #200
Indianapolis, IN 46220

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

Exhibit A

Commitment No.: NCS-491480-INDY

Legal Description: PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 16 NORTH OF RANGE 2 EAST IN MARION COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT THE SOUTHWEST CORNER OF THE SAID HALF-QUARTER SECTION, RUNNING THENCE NORTH 89 DEGREES 47 MINUTES 25 SECONDS EAST UPON AND ALONG THE NORTH LINE OF THE SAID HALF QUARTER SECTION, A DISTANCE OF 225.00 FEET TO A POINT; RUNNING THENCE SOUTH 00 DEGREES 03 MINUTES 52 SECONDS EAST AND PARALLEL WITH THE WEST LINE OF THE SAID HALF QUARTER SECTION, A DISTANCE OF 225.00 FEET TO A POINT; RUNNING THENCE SOUTH 89 DEGREES 47 MINUTES 25 SECONDS WEST AND PARALLEL WITH THE NORTH LINE OF THE SAID HALF QUARTER SECTION, A DISTANCE OF 225 FEET TO A POINT ON THE WEST LINE OF THE SAID HALF QUARTER SECTION; RUNNING THENCE NORTH 00 DEGREES 03 MINUTES 52 SECONDS WEST UPON AND ALONG THE WEST LINE OF THE SAID HALF QUARTER SECTION, A DISTANCE OF 225.00 FEET TO THE PLACE OF BEGINNING, CONTAINING 1.162 ACRES, MORE OR LESS.