



west virginia department of environmental protection

Division of Land Restoration
601 57th Street SE
Charleston, WV 25304
P: 304-926-0455

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
dep.wv.gov

December 8, 2014

Certified Mail #91-7199-9991-7034-3218-2763

Union Carbide Corporation
437 MacCorkle Ave S.W.
Charleston, WV 25303

Re: Former UCC Technology Park Land Use Covenants
Tracts A and B, West Virginia Higher Education Policy Commission Property
Tract D-1, United Disciples of Christ Church Property
Tract D-2, Union Carbide Corporation

Dear Mr. Cibrik:

Enclosed please find the signed and notarized Land Use Covenants for the subject parcels.

Please make arrangements to have the Land Use Covenants properly recorded with the Kanawha County Clerk, and request the clerk return a copy of each recorded instrument to my attention:

Ms. Patricia A. Hickman, Interim Director
WVDEP Division of Land Restoration
601 57th Street SE
Charleston, WV 25304

Once recorded, the Land Use Covenants will become a part of the Administrative Record for the subject site.

Thank you for your attention to this matter. Please contact me if you have any questions.

Sincerely,

Patricia A. Hickman
Interim Director

Page 2

Enclosure

cc: WVDEP File #WVD060682291
Charles Armstead, Program Manager, WVDEP/OER

ENVIRONMENTAL COVENANT

This is an environmental covenant executed pursuant to the Uniform Environmental Covenants Act, West Virginia Code Chapter 22, Article 22B, to restrict the activities on, and uses of, the following described property:

Tract B of the Union Carbide Corporation (UCC) Technology Park in South Charleston, West Virginia as described in the legal description in Attachment 1. A map of the property is provided as Figure 1 in Attachment 2.

Activities on and uses of the above described property that may result in excessive human exposure or in the release of a contaminant that was contained as part of the remedial action related to this covenant are prohibited. Those activities and uses include, but are not limited to:

- A. Extraction of groundwater from the property for any purpose other than monitoring or remediation approved by the West Virginia Department of Environmental Protection (WVDEP) is prohibited.
- B. Monitoring wells installed and operated under the Resource Conservation and Recovery Act (RCRA) Corrective Action Program shall not be removed, disturbed, or damaged without written approval from UCC and WVDEP. If the use of any of these monitoring wells is discontinued, the monitoring well shall be properly abandoned by the owner in accordance with Title 47 Series 60 of the West Virginia Code of State Rules or other applicable laws and regulations in effect at the time of the well abandonment.
- C. A vapor control system shall be installed in all new structures which are to be occupied in the area of the property designated as having vapor intrusion restrictions as shown on Figure 2 in Attachment 2 by properly trained and appropriately licensed personnel in full compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances. The design of the vapor control system must be approved by a West Virginia registered Professional Engineer. The legal description for the vapor intrusion restriction area is provided in Attachment 1.
- D. Residential or quasi-residential use of the property, or any portion thereof, is prohibited. The prohibited uses include but are not limited to the following uses and all other uses that are in any way connected with or similar to the following uses: single-family or multiple-family dwellings, dormitories, apartments, condominiums, and cooperatives, hotels/motels or comparable facilities, assisted living facilities, hospitals or other health care facilities that provide for overnight occupancy by patients or staff, convention centers that provide facilities for overnight stays, day care facilities of any kind, etc.

The current owner of record of the property, and its contact information, is:

West Virginia Higher Education Policy Commission
1018 Kanawha Blvd, East
Suite 700
Charleston, WV 25301

Any person, including a person that owns an interest in the real property, the state or federal agency determining or approving the environmental response project pursuant to which an

environmental covenant is created, or a municipality or other unit of local government may be a holder of an environmental covenant. The following are all of the holders of this covenant:

West Virginia Higher Education Policy Commission
1018 Kanawha Blvd, East
Suite 700
Charleston, WV 25301

The facts regarding the remediation response project at this property are:

UCC is the current or previous owner of the parcels that make up the UCC Technology Park (the "site"), comprising approximately 574 acres (of which 10 acres are in Tract B) in the city of South Charleston, West Virginia. UCC entered the site into a RCRA Facility Lead Agreement with the United States Environmental Protection Agency (USEPA) effective December 15, 1999.

Based on the proximity of the property to the landfills at the site, there is the potential for vapor intrusion into new buildings constructed adjacent to the landfills.

USEPA issued a Final Decision on December 15, 2010 identifying the approved corrective actions for the property. The corrective action for the property requires recording an Environmental Covenant to eliminate potentially complete exposure pathways.

WVDEP issued a Corrective Action Permit (USEPA ID# WVD060682291) to UCC for the site on February 2, 2012. The permit contains provisions requiring corrective action that fulfill the requirements for the approved corrective actions defined in the Final Decision issued by USEPA.

The owner of the property shall provide written notice to all holders, UCC, the Secretary of the WVDEP, and USEPA within 10 days following transfer of a specified interest in the property subject to this covenant, changes in use of the property, application for building permits regarding the property, or proposals for any site work affecting the contamination on the property.

UCC or their designated representatives shall conduct inspections of the property to monitor compliance with this Environmental Covenant at least once per year, and shall submit two (2) signed copies of the inspection monitoring report to the WVDEP, Division of Land Restoration headquarters in Charleston, within 30 days of the inspection.

This covenant shall not be amended, modified or terminated except by written instrument executed in accordance with W. VA. Code § 22-22B-10, by and between the owner at the time of the proposed amendment, modification or termination, the Secretary of the WVDEP, USEPA, the holders of this covenant, and UCC. Within 5 days of executing an amendment, modification or termination of this Environmental Covenant, the owner shall record such amendment, modification or termination with the Clerk of the County Commission, and within 5 days thereafter, the owner shall provide a true copy of the recorded amendment, modification or termination to the Secretary of the WVDEP.

The administrative record for the environmental response project reflected in this covenant is maintained at the WVDEP Division of Water and Waste Management (DWWM) address below and is titled, UCC Technology Park, South Charleston, ID# WVD060682291.

WVDEP
DWWM
601 57th Street
Charleston, WV, 25304

WVDEP is granted full right of access to the property for the purpose of implementation or enforcement of this covenant. In addition, UCC, its employees, representatives, and contractors are granted full right of access to the property for the purpose of monitoring compliance with the covenant.

All restrictions and other requirements described in this covenant shall run with the land and shall be binding upon all holders and their grantees, lessees, authorized agents, employees or persons acting under their direction or control.

IN WITNESS WHEREOF, the following have executed this covenant on the dates indicated.

SIGNED:

Date:

Paul Hill

11.05.14

Chancellor

West Virginia Higher Education Policy Commission

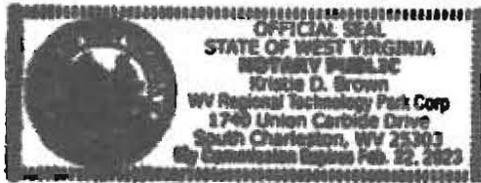
I, Kristie D. Brown, a Notary Public in and for the County of Kanawha, State of WV, do hereby certify that Paul Hill the holder(s) whose (name is) (names are) signed above, as the authorized representative of the West Virginia Higher Education Policy Commission, signed above, this day executed this document in my presence or this day acknowledged same to be said holder(s) true act and deed.

Given under my hand this the 05 day of November, 2014.

My commission expires Feb. 22, 2023.

Kristie D. Brown

Notary Public



SIGNED:

Date:

James E. [Signature]

11/10/14

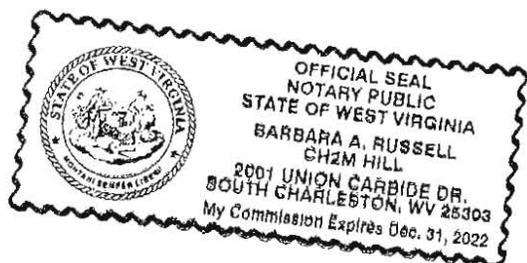
Remediation Leader
Union Carbide Corporation

I, Barbara Russell, a Notary Public in and for the County of Kanawha State of WV, do hereby certify that Jerome Cibrik whose name is signed to the writing above, as the authorized representative of the Union Carbide Corporation, signed above, this day executed this document in my presence or this day acknowledged same to be the true act and deed.

Given under my hand this the 10 day of Nov., 2014.

My commission expires Dec. 31, 2022

Barbara Russell
Notary Public



SIGNED:

Date:

Patricia A. Hickman

12-8-14

Interim Director
West Virginia Department of Environmental Protection

I, Jessica A. Henson, a Notary Public in and for the County of Kanawha
State of WV, do hereby certify that Patricia A. Hickman do certify that
representatives of the agency, has this day executed this document in my presence or this day
acknowledged same to be the true act and deed of said agency.

Given under my hand this the 8th day of December, 2014.

My commission expires April 7, 2020

Jessica A. Henson
Notary Public

The Clerk will return the recorded document to:
Ms. Patricia A. Hickman, Interim Director
WVDEP, DLR
601 57th Street
Charleston, West Virginia 25304



Attachment 1
Legal Descriptions



Description of 9.947 acres

Property hereby described as being on the waters of the Davis Creek, in the city of South Charleston, Kanawha County, West Virginia, bounded and described as following.

Beginning at a point (Northing = 493857.87 Easting = 1768551.15) in the southern right of way Woodland Drive, a corner to OODA LLC. (Deed Book 2826 Page 939).

Thence leaving said Woodland Drive and with said OODA LLC the following three (3) bearings and distances;

- 1) S 06°37'00" E 178.98' to a 5/8" rebar w/cap found;
- 2) S 17°44'10" W 182.15' to a 5/8" rebar w/cap found;
- 3) S 55°59'40" W 142.46' to a point, a corner to said OODA LLC. and Union Carbide;

Thence with said Union Carbide (Deed Book 776 Page 240) the following eighteen (18) bearings and distances;

- 1) N 82°42'40" W 17.17' to a point;
- 2) N 79°13'40" W 30.31' to a point;
- 3) S 61°19'40" W 35.43' to a point;
- 4) S 59°15'50" W 79.89' to a point;
- 5) S 61°36'50" W 47.21' to a point;
- 6) N 30°29'20" W 265.97' to a 5/8" rebar w/cap found;
- 7) N 21°17'30" W 182.94' to a 5/8" rebar w/cap found;
- 8) N 05°00'10" E 214.79' to a 5/8" rebar w/cap found;
- 9) N 20°04'20" E 165.82' to a 5/8" rebar w/cap found;
- 10) N 47°27'40" E 91.64' to a 5/8" rebar w/cap found;
- 11) N 37°13'50" E 50.30' to a point;
- 12) N 19°14'50" E 76.23' to a point;
- 13) N 12°01'50" E 88.86' to a point;
- 14) N 18°11'00" E 166.27' to a point;
- 15) N 13°03'00" E 69.89' to a point;
- 16) N 03°54'10" E 62.49' to a point;
- 17) N 12°52'50" W 83.54' to a point;
- 18) N 73°56'40" E 98.79' to a 5/8" rebar w/cap found, a corner to said Union Carbide., and Marshall University Foundation, Inc.;

Thence with said Marshall University Foundation, Inc. (Deed Book 2715 page 290) the following four (4) bearings and distances;

- 1) S 13°11'30" E 45.79' to a point;
- 2) S 45°59'50" W 67.82' to a 5/8" rebar w/cap sound;
- 3) S 09°44'20" W 52.57' to a point;

- 4) S 74°09'40" E 107.96' to a 5/8" rebar w/cap found, a corner to said Marshall University Foundation, Inc., and Staunton Avenue;

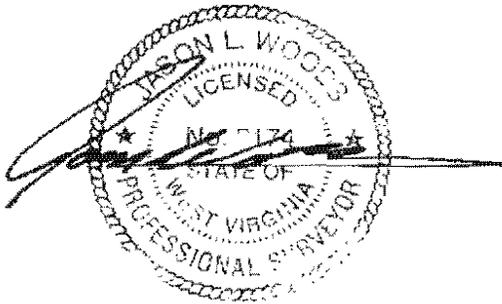
Thence with Staunton Avenue S 12°58'30" W 54.90' to a point, a corner to said Staunton Avenue and Frank Evans Jr.;

Thence with Frank Evans Jr.(Deed Book 2307 Page 160) S 02°55'20" W 206.81' to a point, a corner to said Frank Evans Jr., and in the right of way of Woodland Drive;

Thence with Woodland Drive the following four (4) bearings and distances;

- 1) S 42°11'20" W 42.80' to a concrete monument found;
- 2) S 27°10'00" E 150.42' to a 5/8" rebar w/cap found;
- 3) S 09°01'40" E 324.45' to a concrete monument found;
- 4) S 84°28'30" E 52.55' to the place of beginning.

Containing **9.947 acres**, and being shown as Tract B, upon that certain plat made as a result of survey by Paramount Surveying. A copy of said plat, dated October 20, 2014 is attached hereto and made a part of this description.





Description of 2.098 acres

Property hereby described as being on the waters of the Davis Creek, South Charleston District, Kanawha County, West Virginia, bounded and described as following.

Beginning at a 5/8" rebar w/cap found (Northing 493426.91 Easting = 1768398.19), a corner to the OODA LLC. (Deed Book 2826 Page 939), and Union Carbide;

Thence with said Union Carbide (Deed Book 776 Page 240) the following seven (7) bearings and distances:

- 1) N 82°42'40" W 17.17' to a point;
- 2) N 79°13'40" W 30.31' to a point;
- 3) S 61°19'40" W 35.43' to a point;
- 4) S 59°15'50" W 79.89' to a point;
- 5) S 61°36'50" W 47.21' to a point;
- 6) N 30°29'20" W 265.97' to a 5/8' rebar w/cap found;
- 7) N 21°17'30" W 182.94' to a 5/8' rebar w/cap found;
- 8) N 05°00'10" E 214.79' to a 5/8' rebar w/cap found;
- 9) N 20°04'20" E 165.82' to a 5/8' rebar w/cap found;
- 10) N 47°27'40" E 91.64' to a 5/8' rebar w/cap found;
- 11) N 37°13'50" E 24.96' to a 5/8' rebar w/cap found;

Thence leaving said Union Carbide, and with new lines through the parent tract the following eleven (11) bearings and distances:

- 1) S 25°04'10" E 32.76' to a point;
- 2) S 06°03'40" E 32.71' to a point;
- 3) S 10°36'30" W 78.18' to a point;
- 4) S 20°04'20" W 128.22' to a point;
- 5) S 05°00'10" W 178.21' to a point;
- 6) S 21°17'30" E 151.54' to a point;
- 7) S 30°29'20" E 209.79' to a point;
- 8) N 70°10'10" E 40.52' to a point;
- 9) N 75°53'00" E 51.89' to a point;
- 10) N 83°37'50" E 52.84' to a point;
- 11) S 88°34'00" E 60.33' to a point in a line of said OODA LLC.;



Thence with said OODA LLC. S 55°59'40" W 90.41' to the place of beginning;

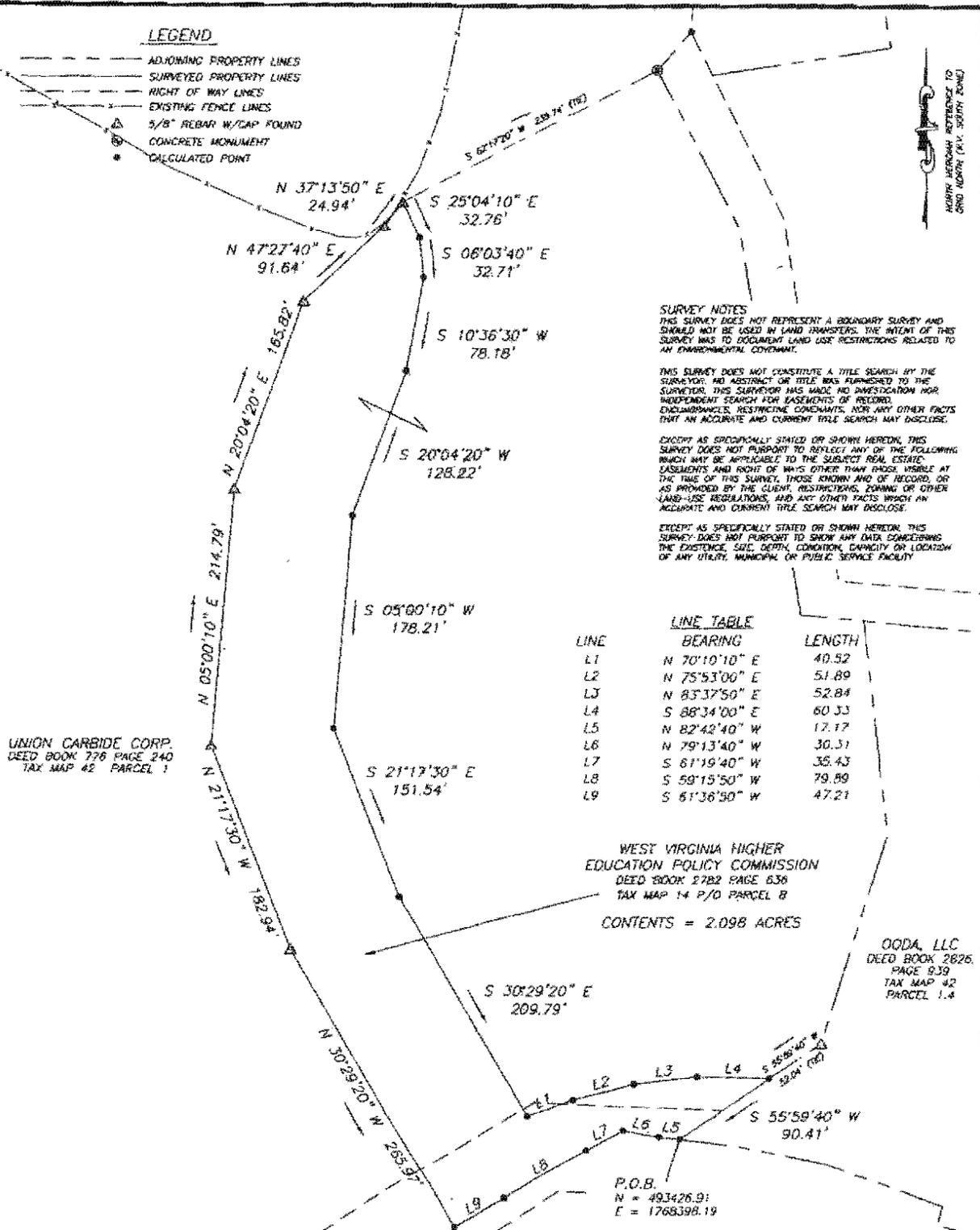
Containing 2.098 acres, and being shown as the Vapor Intrusion Restriction Area upon that certain plat made as a result of survey by Paramount Surveying. A copy of said plat, dated October 21, 2014 is attached hereto and made a part of this description.

Attachment 2
Figures

LEGEND

- ADJOINING PROPERTY LINES
- SURVEYED PROPERTY LINES
- RIGHT OF WAY LINES
- EXISTING FENCE LINES
- △ 5/8" REBAR W/CAP FOUND
- ⊙ CONCRETE MONUMENT
- CALCULATED POINT

ADJOINING PROPERTY TO GRID NORTH (N.V. SURVEY ZONE)



SURVEY NOTES
 THIS SURVEY DOES NOT REPRESENT A BOUNDARY SURVEY AND SHOULD NOT BE USED IN LAND TRANSFERS. THE INTENT OF THIS SURVEY WAS TO DOCUMENT LAND USE RESTRICTIONS RELATED TO AN ENVIRONMENTAL COVENANT.

THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY THE SURVEYOR. NO ABSTRACT OR TITLE WAS FURNISHED TO THE SURVEYOR. THIS SURVEYOR HAS MADE NO INVESTIGATION NOR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, NOR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

EXCEPT AS SPECIFICALLY STATED OR SHOWN HEREON, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS AND RIGHT OF WAY'S OTHER THAN THOSE VISIBLE AT THE TIME OF THIS SURVEY, THOSE KNOWN AND OF RECORD, OR AS PROVIDED BY THE CLIENT, RESTRICTIONS, ZONING OR OTHER LAND-USE REGULATIONS, AND ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

EXCEPT AS SPECIFICALLY STATED OR SHOWN HEREON, THIS SURVEY DOES NOT PURPORT TO SHOW ANY DATA CONCERNING THE EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY OR LOCATION OF ANY UTILITY, MUNICIPAL, OR PUBLIC SERVICE FACILITY.

| LINE | BEARING | LENGTH |
|------|---------------|--------|
| L1 | N 70°10'10" E | 40.52 |
| L2 | N 75°53'00" E | 51.89 |
| L3 | N 83°37'50" E | 52.84 |
| L4 | S 88°34'00" E | 60.33 |
| L5 | N 82°42'40" W | 17.17 |
| L6 | N 79°13'40" W | 30.31 |
| L7 | S 61°19'40" W | 35.43 |
| L8 | S 59°15'50" W | 79.89 |
| L9 | S 61°38'50" W | 47.21 |

UNION CARBIDE CORP.
 DEED BOOK 776 PAGE 240
 TAX MAP 42 PARCEL 1

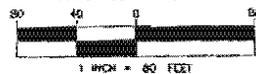
WEST VIRGINIA HIGHER
 EDUCATION POLICY COMMISSION
 DEED BOOK 2782 PAGE 638
 TAX MAP 14 P/O PARCEL B
 CONTENTS = 2.098 ACRES

OODA, LLC
 DEED BOOK 2826
 PAGE 839
 TAX MAP 42
 PARCEL 1.4

TECHNOLOGY PARK DRIVE
 75' JOINT RIGHT-OF-WAY

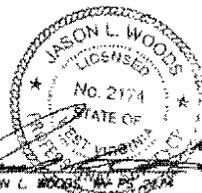
P.O.B.
 N = 493426.91
 E = 1768398.19

GRAPHIC SCALE



SURVEYOR'S CERTIFICATION:
 THE UNDERSIGNED SURVEYOR HEREBY CERTIFIES THAT THE PROPERTY LINES SHOWN BY HEAVY SOLID LINES HAVE BEEN SURVEYED AND MONUMENTED, AND THAT THIS PLAT IS A TRUE AND ACCURATE REPRESENTATION OF THAT SURVEY.

FIGURE 2
 PLAT SHOWING SURVEY OF
 VAPOR INTRUSION
 RESTRICTION AREA
 CONTAINING 2.098 ACRES
 BEING PART OF A LARGER PARCEL
 OWNED BY: WEST VIRGINIA HIGHER
 EDUCATION POLICY COMMISSION
 DEED BOOK 2782 PAGE 638
 SOUTH CHARLESTON DISTRICT,
 KANAWHA COUNTY, WEST VIRGINIA



| | |
|----------------|------------|
| Dwg. No. | 14R-25 B-1 |
| Scale | 1"=80' |
| Date | 10/27/2014 |
| Field Work by: | JLE |
| Drawn by: | J.E. |

J. SURVEYING, LLC
 506 S. CHURCH STREET
 ASPLET, WV 25271
 (304)-372-3224