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west virginia department of environmental protection

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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 57<sup>th</sup> 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 D-2 of the Union Carbide Corporation (UCC) Technology Park in South Charleston, West Virginia (herein after the "property") 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 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: single-family or multiple-family dwellings, schools, pre-schools, dormitories, apartments, condominiums, 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, recreation, etc.

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

Union Carbide Corporation  
437 MacCorkle Avenue SW  
South Charleston, WV 25303

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:

Union Carbide Corporation  
437 MacCorkle Avenue SW  
South Charleston, WV 25303

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 2 acres are in Tract D-2) 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 corrective action permit for the site 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 UCC (if they are no longer the owner), all holders, the Secretary of 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, and the 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 57<sup>th</sup> Street  
Charleston, WV, 25304

WVDEP is hereby granted full right of access to the property for the purpose of implementation or enforcement of this 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:

*James E. Go*

10/31/14

Remediation Leader

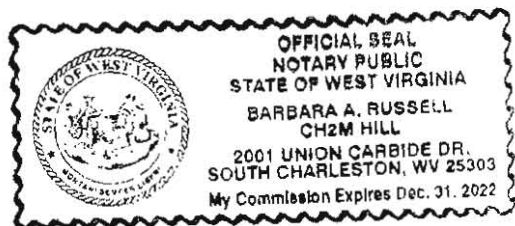
Union Carbide Corporation

I, Barbara Russell, a Notary Public in and for the County of Kanawha, State of WV, do hereby certify that Jerome Cibrik the holder(s) whose name is signed above, as the authorized representative of the Union Carbide Corporation, 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 31 day of October, 2014.

My commission expires 12-31-2022

*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 whose name is signed  
above as the representative of the agency, this day executed this document in my presence or this  
day acknowledged same to be true act and deed of said agency.

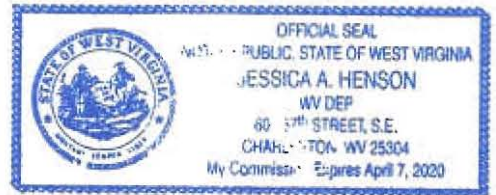
Given under my hand this the 8<sup>th</sup> day of December, 2014.

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 57<sup>th</sup> Street  
Charleston, West Virginia 25304



Attachment 1  
**Legal Descriptions**

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Description of 2.00 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.

Commencing at a 5/8" rebar w/cap found, a corner to the West Virginia Higher Education Policy Commission (Deed Book 2782 Page 636) and OODA LLC. (Deed Book 2826 Page 939) S 87°39'00" E 642.20' to a point in a line of said OODA LLC. (Northing = 493480.27 Easting = 1769157.95) being the true point of beginning.

Thence with said Ooda LLC. the following two (2) bearings and distances:

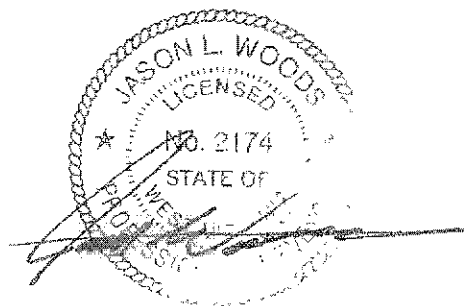
- 1) N 17°34'40" E 102.78' to a point;
- 2) N 30°37'30" E 325.64' to a point in the southern right of way of Woodland Drive;

Thence with said southern right of way of Woodland Drive S 59°13'00" E 161.60' to a point;

Thence with new lines through the parent tract for the following three (3) bearing and distances:

- 1) S 25°08'50" W 528.91' to a point;
- 2) N 45°21'20" W 66.33' to a point;
- 3) N 25°01'30" W 150.83' to the place of beginning.

Containing 2.00 acres, and being shown as the Tract D-2 upon that certain plat made as a result of survey by Paramount Surveying. A copy of said plat, dated August 21, 2014 is attached hereto and made a part of this description.







**Description of 0.119 acres**

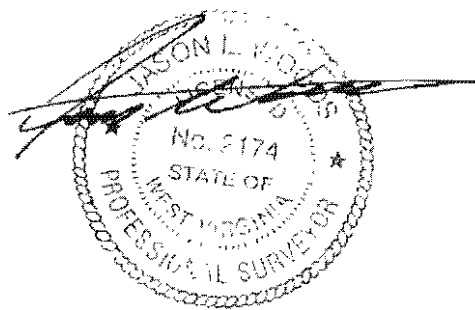
Property hereby described as being on the waters of the Davis Creek, South Charleston District, Kanawha County, West Virginia, bounded and described as following.

Commencing at a 5/8" rebar w/cap found, a corner to the West Virginia Higher Education Policy Commission (Deed Book 2782 Page 636) and OODA LLC. (Deed Book 2826 Page 939) S 78°45'30" E 739.68' to a point, thence N 17°34'40" E 232.73' to a point in a line of said OODA LLC., thence S 25°01'30" E 125.90' to a point (Northing = 493366.19 Easting = 1769211.20) being the true point of beginning.

Thence with new lines through the parent tract for the following six (6) bearings and distances:

- 1) N 69°24'50" E 66.60' to a point;
- 2) N 73°52'10" E 33.61' to a point;
- 3) N 67°55'40" E 14.62' to a point;
- 4) S 25°08'50" W 118.70' to a point;
- 5) N 45°21'20" W 66.33' to a point;
- 6) N 25°01'30" W 24.93' to the place of beginning;

Containing **0.119 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 August 21, 2014 is attached hereto and made a part of this description.

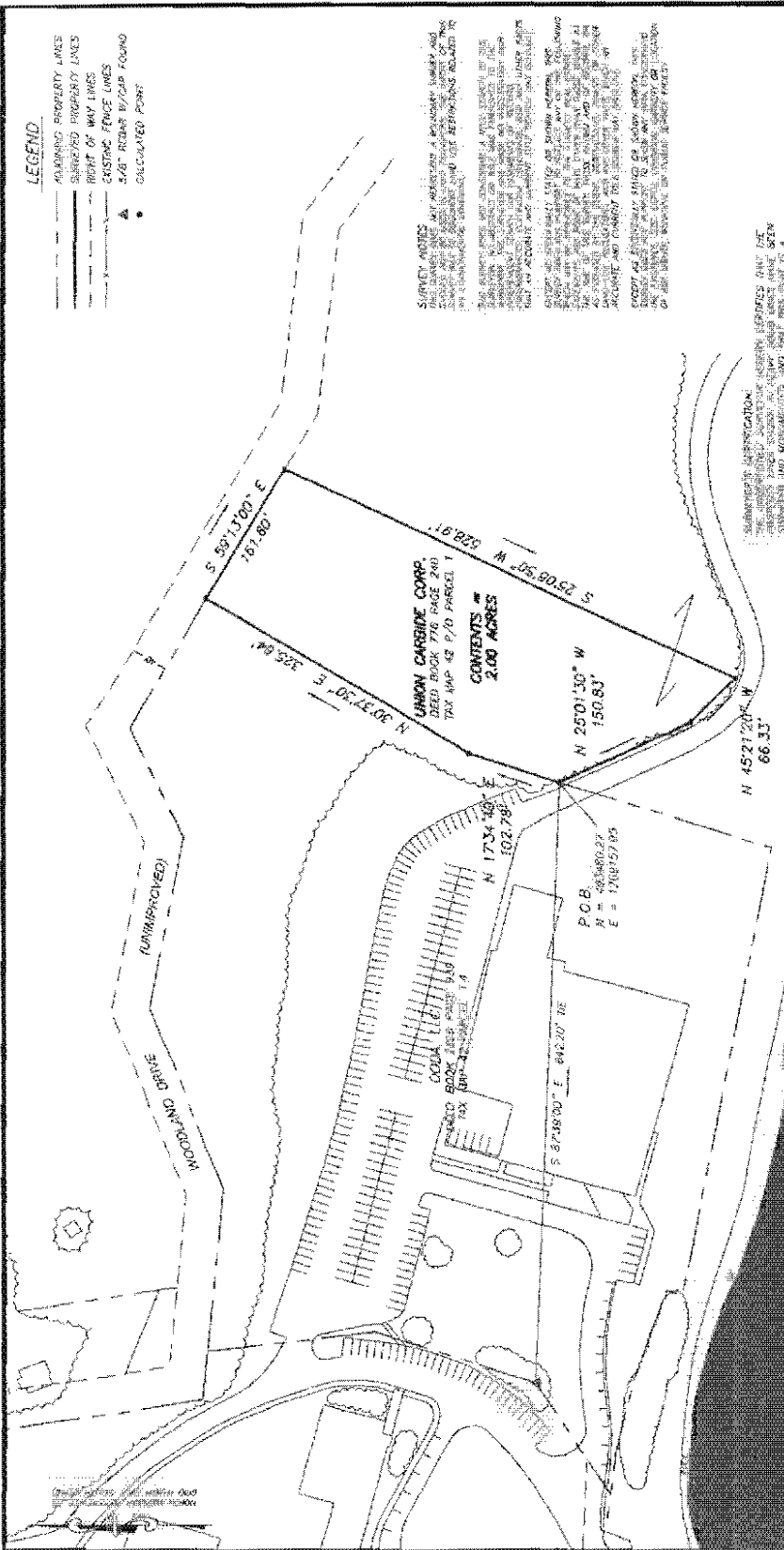


Attachment 2  
**Figures**

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**LEGEND**

- ADJOINING PROPERTY LINES
- SURVEYED PROPERTY LINES
- RIGHT OF WAY LINES
- EXISTING FENCE LINES
- 5/8" ROUND B/CAP FOUND
- CALCULATED POINT



**SURVEY NOTES**

1. THIS SURVEY WAS MADE BY MEASUREMENT OF DISTANCES, BEARINGS AND ANGLES AND BY THE USE OF A TOTAL STATION AND GPS. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT, CHAPTER 17, SECTION 17.01, F.S.

2. THE SURVEY WAS MADE ON THE 21ST DAY OF FEBRUARY, 2014.

3. THE SURVEY WAS MADE AT THE REQUEST OF UNION CARBIDE CORP.

4. THE SURVEY WAS MADE FOR THE PURPOSE OF SURVEYING THE BOUNDARIES OF THE PROPERTY SHOWN ON THIS PLAT.

5. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT, CHAPTER 17, SECTION 17.01, F.S.

6. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT, CHAPTER 17, SECTION 17.01, F.S.

7. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT, CHAPTER 17, SECTION 17.01, F.S.

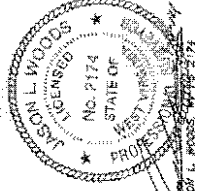
8. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT, CHAPTER 17, SECTION 17.01, F.S.

9. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT, CHAPTER 17, SECTION 17.01, F.S.

10. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT, CHAPTER 17, SECTION 17.01, F.S.

**DISCLAIMER:**

THIS SURVEY IS FOR INFORMATIONAL PURPOSES ONLY. THE SURVEYOR DOES NOT WARRANT, REPRESENT OR GUARANTEE THE ACCURACY OF THE INFORMATION AND MEASUREMENTS SHOWN HEREON. THE SURVEYOR IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS SURVEY AND ACCURATE REPRESENTATION OF THE SURVEY.



Plat No. 14P-25 TRACT D-2

Scale 1" = 100'

Date 2/21/2014

Drawn by JLE

Checked by JLE

**BSURVEYING, LLC**  
 3500 N.W. 21ST ST.  
 MIAMI, FL 33157  
 (305) 332-5524

WITH MERIDIAN REFERENCE TO  
2011 NORTH (NAD 83) ZONE

WEST VIRGINIA HIGHER  
EDUCATION POLICY  
COMMISSION  
DEED BOOK 2783 PAGE 630  
TAX MAP 42 PARCEL 1.3

OODA, LLC  
DEED BOOK 2828 PAGE 939  
TAX MAP 42 PARCEL 1.4

UNION CARBIDE CORP  
DEED BOOK 776 PAGE 240  
TAX MAP 42 P/O PARCEL 1

CONTENTS = 0.119 ACRES

P.O.B.  
X = 402108.19  
Y = 176821.20

N 45°21'20" W  
66.33'

S 25°08'50" W  
188.70'

**LEGEND**

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

**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 CONVICTION.

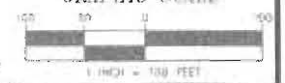
THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY THE SURVEYOR. NO ABSTRACT OR TITLE WAS FURNISHED TO THE SURVEYOR. THE SURVEYOR HAS MADE NO INVESTIGATION NOR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, NOR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH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

EXCEPT AS SPECIALLY 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 RIGHTS OF THIRD PARTIES OTHER THAN THOSE VISIBLE AT THE TIME OF THIS SURVEY; ZONING ORDINANCES AND RECORDS, OR AS PROVIDED BY THE CLIENT, INSTRUCTIONS, ZONING OR OTHER LAND-USE REGULATIONS, AND ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

EXCEPT AS SPECIALLY 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 25°11'30" W	24.93
L2	N 89°24'50" E	85.60
L3	N 73°52'10" E	33.61
L4	N 87°55'40" E	74.62

**GRAPHIC SCALE**



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



Jason L. Woods, WV PS 2174

**FIGURE 2**  
PLAT SHOWING SURVEY OF  
VAPOR INTRUSION RESTRICTION AREA  
CONTAINING  
0.119 ACRES

OWNED BY: UNION CARBIDE CORP  
DEED BOOK 776 PAGE 240  
SOUTH CHARLESTON DISTRICT;  
KANAWHA COUNTY, WEST VIRGINIA

Dwg. No. 14R-25 TRACT D-2V	
Scale	1" = 100'
Date	8/21/2014
Field Work by: JLE	Drawn by: J.E.

**PARAMOUNT SURVEYING LLC**  
306 E. GARFIELD STREET  
MARTINSBURG, WV 26101  
(304) 432-3524