



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

October 17, 2014

Certified Mail #91-7199-9991-7034-3218-2619

University of Charleston
2300 MacCorkle Ave., S.E.
Charleston, WV 25304

Re: Land Use Covenant, University of Charleston Tracts 1, 2, 3, 6 and 7
Former UCC Building 82 Area, South Charleston, Kanawha County

Dear Harless:

Enclosed please find the signed and notarized Land Use Covenant for the subject parcel.

Please make arrangements to have the Land Use Covenant properly recorded with the Kanawha County Clerk, and request the clerk to return a copy of the 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 Covenant 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

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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:

Tracts 1, 2, 3, 6, and 7 in South Charleston, West Virginia as described in the legal description in Attachment 1. The property is shown on the map 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 as follows:

- A. Groundwater at the property shall not be accessed or used at any time for any purpose other than extraction of groundwater from installation, modification, operation, repair, or removal of monitoring and/or remediation wells, or in conjunction with construction activity where access to or contact with groundwater is unintended and/or incidental to and not otherwise for the purpose of using the groundwater.
- B. Monitoring wells installed and operated under the RCRA Corrective Action Program shall not be removed, disturbed, or damaged without written approval from the West Virginia Department of Environmental Protection (WVDEP). If the use of any of these wells is discontinued, the monitoring well shall be properly abandoned by the owner of the well in accordance with Title 47 Series 60 of the West Virginia Code of State Rules (CSR) or other applicable laws and regulations in effect at the time of the well abandonment.
- C. All occupied structures shall have a vapor control system installed 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 (PE).
- D. The soil from Tracts 3 and 6 shall not be disturbed, excavated, relocated, or removed unless such activity will not pose a threat to human health or the environment or adversely affect or interfere with the final remedy as reflected in WVDEP's Final Decision (referenced below) and all such activities are in compliance with all applicable federal, state, and local requirements.
- E. Except as provided in paragraph E.1, below, Tracts 3 and 6 shall not be used for any residential or quasi-residential use. 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. Tracts 3 and 6 are shown on the map in Attachment 2.

1. In the event Tract 6 is remediated in a manner and to the extent that WVDEP, in consultation with the United States Environmental Protection Agency (USEPA), deems Tract 6 safe for residential use and provides written approval for such use, this Environmental Covenant shall be modified in accordance with WV Code § 22-22B-10.

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

University of Charleston, Inc.
2300 MacCorkle Ave. SE
Charleston, WV 25304

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:

University of Charleston, Inc.
2300 MacCorkle Ave. SE
Charleston, WV 25304

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

Union Carbide Corporation (UCC) is the current or former owner of the parcels that make up the UCC South Charleston Facility (hereafter called the "site"), comprising approximately 200 acres in the city of South Charleston, West Virginia. UCC entered the site into a RCRA Facility Lead Agreement with USEPA Region III effective December 15, 1999. UCC formerly owned Tracts 1, 2, 3, 6 and 7 that comprises of 6.45 acres of the site.

As a result of site investigations, it was determined that shallow soil and/or shallow groundwater are impacted by constituents exceeding USEPA regional screening levels protective of human health on portions of Tracts 1, 2, 3, 6 and 7.

WVDEP issued a Final Decision on March 26, 2013 identifying the approved corrective actions for the subject property. The corrective action for the property requires recording an Environmental Covenant to eliminate potentially complete exposure pathways.

The owner of the property shall provide written notice to all holders, the Secretary of the Department of Environmental Protection, USEPA, and UCC 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. The notice shall be addressed as follows:

WVDEP
RCRA CA Program Manager
West Virginia Department of Environmental Protection
Office of Environmental Remediation
601 57th Street
Charleston, WV 25301

USEPA

EPA Project Manager
United States Environmental Protection Agency, Region III
Land and Chemicals Division
1650 Arch Street
Philadelphia, PA 19103-2029
(3LC20)

UCC

UCC Remediation Leader
437 MacCorkle Avenue
South Charleston, WV 25303

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, the USEPA, UCC and the holders of this covenant. 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 Department of Environmental Protection.

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 South Charleston Facility, 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.

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.

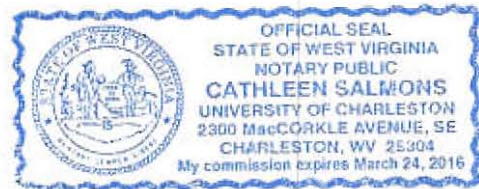
SIGNED:

Date:

Cleta Mae Harless 10/15/14
Executive Vice President and Chief Financial Officer,
University of Charleston, Inc.

I, Cathleen Salmons, a Notary Public in and for the County of Kan,
State of WV, do hereby certify that Cleta Mae Harless whose name is signed
above, as the authorized representative of University of Charleston, Inc., signed above, this day
executed this document in my presence or this day acknowledged same to be his/her (*as
appropriate*) true act and deed.

Given under my hand this the 15 day of Oct., 2014.



SIGNED:

Date:

[Signature]
Remediation Leader,
Union Carbide Corporation

10/15/14

I, Barbara Russell, a Notary Public in and for the County of Kan,
State of WV, do hereby certify that Jerome Cibrik whose name is signed
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 his/her (as
appropriate) true act and deed.

Given under my hand this the 15 day of October, 2014.



SIGNED:

Date:

Patricia A. Hickman
Interim Director

10-17-14

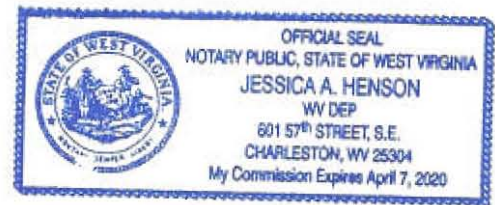
West Virginia Department of Environmental Protection

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 authorized representative of the West Virginia Department of Environmental Protection, signed above, this day executed this document in my presence or this day acknowledged same to be his/her *(as appropriate)* true act and deed.

Given under my hand this the 17th day of October, 2014.

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 Description

Description of Tracts Nos. 1, 2, 3, 6, and 7 Located on the Southerly Side of MacCorkle Avenue & Fourth Avenue in the City of South Charleston, Kanawha County, West Virginia

Tract No. 1

Beginning at a railroad spike (set) in asphalt at the intersection of the southerly line of Fifth Avenue with the easterly line of "C" Street, said point being the northwest corner of Lot No. 26 - Block "B-4" as shown on map of Kanawha Land Company South Charleston recorded in the office of the Clerk of the County Commission of Kanawha County Court in Photostatic Map Book 2, at page 1, revised on map recorded in Photostatic Map Book 5, at page 106, and running thence from said beginning point with the southerly line of Fifth Avenue with part of Lot No. 19 and all of Lots Nos. 20 thru 26 of Block "B-4",

1. N. 63°00'13" E., 365.95 feet to a railroad spike in asphalt at the intersection of the southerly line of Fifth Avenue with the westerly line of 20' Public Drive, said drive being dedicated for public use by deed dated November 6, 1946 from Carbide and Carbon Chemicals Corporation to the Town of South Charleston recorded in said clerk's office in Deed Book 772, at page 50; thence running with the westerly of 20' Public Drive,
2. S. 12°44'06" W., 131.74 feet to a railroad spike (set) in asphalt; thence continuing with line of 20' Public Drive with a curved line to the left with one chord thereof,
3. S. 07°10'35" E., 30.49 feet to a railroad spike (set) at the intersection of the westerly line of 20' Public Drive with the northerly line of a 15' Public Alley (open), said 15' Public Alley runs east and west in Block "B-4"; thence running with the northerly line of 15' Public Alley with Part of Lot No. 21 and all of Lots Nos. 22 thru 26 inclusive,
4. S. 63°00'16" W., 264.33 feet to a railroad spike (set) at the intersection of the northerly line of said alley with the easterly right-of-way line of "C" Street, said point being the southwest corner of Lot No. 26 and Tract No. 1 hereby described; thence running with the easterly line of "C" Street and west line of Lot No. 26,
5. N. 30°06'41" W., 130.19 feet to the point of beginning, containing 40,229.49 square feet or 0.92 acre, more or less.

Tract No. 1 being comprised of parts of Lots Nos. 19, 20, & 21 and all of Lots Nos. 22, 23, 24, 25 & 26 of Block "B-4" of Town of South Charleston.

Tract No. 2:

Beginning at an old concrete monument (found) in the northerly line of Fourth Avenue at the southerly common corner to Lots Nos. 13 and 14 of Block "B4" of Kanawha Land Company South Charleston Property hereinbefore referred to, said beginning point also being located N. 63°00'16" E., 59.60 feet from the intersection of the easterly line of "C" Street with the northerly line of Fourth Avenue, said beginning point being a common corner to parcel of land owned by R & I, LLC being described in Deed Book 2528, at page 776, South Charleston Tax Map No. 18, Tax Parcel No. 11, and running thence from said beginning point leaving northerly line of Fourth Avenue with the common line between Tract No. 2 hereby described and R & I, LLC and common line between Lots Nos. 13 and 14 of Block "B-4",

1. N. 26°59'44" W., 130.00 feet to a rebar (set) in the southerly line of 15' Public Alley; thence running with the southerly line of said alley with part of the northerly line of Lot No. 10 and all of Lots Nos. 11, 12 & 13,
2. N. 63°00'16" E., 196.84 feet to a railroad spike (set) in asphalt at the intersection of the southerly line of 15' Public Alley with the westerly line of 20' Public Drive created by deed from Carbide and Carbide Chemicals Corporation to the Town of South Charleston dated November 6, 1946 recorded in Deed Book 772, at page 50; thence running with the westerly line of 20' Public Drive,
3. S. 26°59'44" E., 130.00 feet to a rebar with cap (set) at the intersection of said alley with the northerly line of Fourth Avenue, said point being the southeast corner of Lot No. 10 - Block "B-4" and Tract No. 2 hereby described; thence running with the northerly line of Fourth Avenue being part of Lot No. 10 and all of Lots Nos. 11, 12 & 13,
4. S. 63°00'16" W., 196.84 feet to the point of beginning, containing 25,589.98 square feet or 0.59 acre, more or less.

Tract No. 2 being comprised of part of Lot No. 10, and all of Lots Nos. 11, 12 & 13 Block "B-4" of Kanawha Land Company South Charleston Property.

Tract No. 3:

Beginning at a railroad spike in asphalt at the intersection of the easterly line of a 20' Public Drive and the northerly line of Fourth Avenue, said point being the southwest corner of Tract No. 3 hereby described and further being located N. 63°00'16" E., 20.00 feet from the southeast corner of Tract No. 2 hereby described, and N. 63°00'16" E., 164 feet from the original common southerly corner of Lots Nos 9 & 10 Block "B-4" of Kanawha Land Company South Charleston Property as shown on map recorded in said clerk's office in Map Book 2, at page 1 and revised map recorded in Map Book 5, at page 106, and running thence from said beginning point with the easterly line of 20' Public Alley Described in Deed Book 772,, at page 50,

1. N. 26°59'44" W., passing a railroad spike (set) in asphalt in the original southerly boundary line of 15' abandoned alley which ran north and south in Block "B-4" at 130.00 feet, and continuing on in the same straight line, in all a distance of 145.00 feet to a railroad spike (set) in asphalt in the original northerly line of 15' abandoned alley; thence running with the easterly line of 20' Public Drive with a curved line to the right with one chord thereof,
2. N. 07°12'41" W., a chord distance of 16.90 feet to a railroad spike (set) in asphalt; thence continuing with 201 Public Drive,
3. N. 12°44'06" E., 148.36 feet to a P. K. nail (set) in asphalt at the intersection of the easterly line of said drive with the southerly line of Fifth Avenue; thence running with the southerly line of Fifth Avenue,
4. N. 63°00'16" E., 54.66 feet to a P. K. nail (set) at the intersection of the southerly line of Fifth Avenue with the southerly line of MacCorkle Avenue S. W.; thence running with the southerly line of MacCorkle Avenue S. W. with parts of Lots Nos. 15, 16, and 17 of Block "B- 4",
5. S. 77°19'41" E., 177.16 feet to a railroad spike (set) in asphalt at the intersection of the southerly line of MacCorkle Avenue S. W. with the westerly line of 20' Public Drive which is situated to the east of Building No. 82; thence leaving said line of MacCorkle Avenue S. W. And running with the westerly line of said drive,
6. S. 12°44'06" W., 211.51 feet to a railroad spike (set) in asphalt at the intersection of the westerly line of 20' Public Drive with the northerly line of Fourth Avenue; thence running with the northerly line of Fourth Avenue,

7. S. 66°10'49" W., 13.67 feet to a rebar (set) at the original southeast corner of Lot No. 7 of Block "B-4"; thence continuing with the northerly line of Fourth Avenue being the southerly lines of Lots Nos. 7, 8 & part of Lot No. 9,
8. S. 63°00'16" W., 142.76 feet to the point of beginning, containing 55,497.20 square feet, more or less.

Tract No. 3 being comprised of Parts of Lots Nos. 5, 6, 9, 15, 16, 17, 18, 19 & 20, all of Lots Nos. 7, 8 and parts of abandoned 15' alleys which originally ran east and west and north and south through Block "B-4".

Tract No. 6:

BEGINNING at an old iron pin (found) at the intersection of the northerly line of Third Avenue with the westerly line of "B" Street, said point also being located at the southeast corner of Lot No. 1 of Block "B-3" of Kanawha Land Company South Charleston Property and also being the southeast corner of Tract No. 6 hereby described, and running thence from said beginning point with the northerly line of Third Avenue with the southerly lines of Lots Nos. 1 thru 8 (inclusive) of Block "B-3",

1. S. 69°47'35" W., 376.33 feet to an old iron pin (found) at the intersection of the northerly line of Third Avenue with the easterly line of a 15' Public Alley, and being the southwest corner of Tract No. 6 hereby described; thence running with the easterly line of 15' Public Alley and being the westerly lines of Lots Nos. 8, 24 and abandoned 15' foot alley originally running east and west in said Block "B-3",
2. N. 23°32'44" E., 275.05 feet to a railroad spike (set) at the intersection of the easterly Line of said alley with the southerly line of Fourth Avenue, and being the northwest corner of Tract No. 6 hereby described; thence running with the southerly line of Fourth Avenue and being the northerly lines of Lots Nos. 17 thru 24 (inclusive) of Block "B-3",
3. N. 69°47'35" E., 407.80 feet to an old iron pin (found) at the intersection of the southerly line of Fourth Avenue with the westerly line of "B" Street, and being the northeast corner of Tract No. 6 hereby described; thence running with the westerly line of "B" Street,
4. S. 16°59'01" E., 275.02 feet to the point of beginning, containing 107,808.49 square feet or 2.474 acres, more or less.

Tract No. 6 being comprised of Lots Nos. 1 thru 8 (inclusive) and Lots Nos. 17 thru 24 (inclusive) of Block "B-3" together with abandoned 15' alley.

Tract No. 7:

BEGINNING at an old concrete monument (found) at the intersection of the easterly line of "C" Street with the southerly line of Fourth Avenue, and being the northwest corner of Tract No. 7 hereby described, said point further being the northwest corner of Lot No. 32 of Block "B-3: of Kanawha Land Company South Charleston Property hereinbefore referred to, and running thence from said beginning point with the southerly line of Fourth Avenue and being the northerly lines of Lots Nos. 25 through 32 of Block "B-311, "B-3",

1. N. 63°00'16" E., 407.80 feet to a railroad spike (set) at the intersection of the southerly line of Fourth Avenue with the westerly line of a 15' Public Alley and being the northeast corner of Tract No. 7 hereby described, said point further being the northeast corner of Lot No. 25 of Block "B-3"; thence running with the westerly line of said alley,
2. S. 23°32'44" E., 130.20 feet to a railroad spike (set) in asphalt at the intersection of said alley with the northerly line of a 15' Public Alley which runs north and south in Block " B-3" and being the southeast corner of Tract No. 7 hereby described; thence running with the northerly line of 15' Public Alley and being the southerly lines of Lots Nos. 25 thru 32 inclusive,

3. S. $63^{\circ}00'16''$ W., 392.87 feet to a rebar (set) at the intersection of the .15' Public alley with the easterly line of "C" Street, said point being the southwest corner of Tract No. 7 hereby described; thence running with the easterly line of "C" Street.
4. N. $30^{\circ}06'41''$ W., 130.16 feet to the point of beginning, containing 52,030.44 square feet or 1.194 acre, more or less.

Tract No. 7 being comprised of Lots Nos. 25 thru 32 (inclusive) of Block "B-3".

Attachment 2
Map



Figure 1
 Approximate Boundaries of Building 62 Area Tracts 1, 2, 3, 6, and 7
 UCC South Charleston Facility
 South Charleston, West Virginia