

AUG 01 2016
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LAND USE COVENANT
Environmental
Remediation

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

The Site consists of Parcel 13 recorded on Tax Map F14, Parcel 1 and Parcel 133 recorded on Tax Map F14G, and Parcel 1 recorded on Tax Map F14L, Follansbee Corporate District of Brooke County, West Virginia. A map is attached as Exhibit A.

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) Residential use as defined in the Voluntary Remediation and Redevelopment Act, West Virginia Code Chapter 22, Article 22, including the housing of human beings, schools, day cares, nursing houses, or other residential-style facilities or recreational areas.
- b) Extraction of groundwater for potable use; residential use (showering, washing dishes and utensils); swimming; or any activity that would result in oral contact. Use of groundwater for any non-potable or non-residential use such as truck washing, dust suppression or sale for use in fracking fluid, and such similar industrial non-contact and non-oral use will be allowed and certified and demonstrated to WVDEP on an annual site inspection report.
- c) Excavation, drilling, or penetration of subsurface soils, greater than two feet below ground surface, unless such excavation, drilling, or penetration is conducted by a person qualified or knowledgeable about releases and exposures to contaminants known to exist at the site. The person will be required to perform the work in accordance with a site specific Health and Safety Plan and a Soil Management Plan developed by a Licensed Remediation Specialist or similarly qualified individual. The person will also be required to remediate the disturbed area in a manner that assures an equivalent amount of engineering control of the site is achieved at the conclusion of the work. The Owner shall provide written notice to the Secretary of the Department of Environmental Protection of the intent to conduct such work. An exception to this is the excavation, drilling, or penetration of various non-soil materials; these materials include coke, iron ore, slag, sinter, and scrap metal.
- d) Construction of a structure intended for occupation within 100 feet of contaminated groundwater (refer to Exhibit A, Vapor Mitigation Location) unless a vapor mitigation or control system is installed or it is demonstrated that vapor mitigation is not necessary to protect human health. The vapor mitigation or control system design must be approved by a West Virginia licensed Professional Engineer prior to installation. A vapor mitigation or control system, if installed, will remain in place and operational for the life of the structures or until it is demonstrated to WVDEP, in consultation with US EPA, that vapor intrusion will not pose a threat to human health

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PATRICIA A. HICKMAN
601 57TH STREET SE
CHARLESTON, WV 25304-2300

- or the environment or adversely affect or interfere with the selected remedy. The WVDEP, in consultation with US EPA, must provide written approval for such use. The vapor mitigation or control system must be inspected at least annually.
- e) Outdoor worker direct exposure to surface soils that exceed risk-based concentrations unless a soil cover is installed (refer to Exhibit A, Soil Cover Locations) or it is demonstrated that a soil cover is not necessary to protect human health. The cover must be permanently maintained and inspected at least annually. A Soil Management Plan will outline the procedures to be followed in the event that the cover system and underlying residual contamination are disturbed after the remedial action is complete.
 - f) Removal of excavated soils from the site until a hazardous waste determination (conducted in accordance with 40 CFR Part 262.11) is completed. If it is determined that the soil does not meet the definition of a hazardous waste as defined by 40 CFR Part 261.3, the soil can be removed without restriction. If it is determined to be hazardous waste, the soil must be managed, transported, and disposed according to 40 CFR Part 264. All excavated soils shall be stored within the Site boundaries until the determination is made, and properly labeled in accordance with applicable federal, state and local requirements. An exception to this is recycling of the various non-soil materials; these materials include coke, iron ore, slag, sinter, and scrap metal.
 - g) Activities conducted on the property that would interfere with the protectiveness of the remedies listed above.

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

Trimodal Terminal, L.P., 204 Ivy Street, Weirton, West Virginia 26062

The following entity is the holder of this covenant:

Trimodal Terminal, L.P., 204 Ivy Street, Weirton, West Virginia 26062

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

The site is situated within the boundary of a former Wheeling-Pittsburgh Steel Corporation (WPSC) facility. The property is currently owned by Trimodal Terminal, L.P. Historical activities on the site were operations and storage by WPSC, which included raw materials storage, ore storage, coke stockpile, a former tar decanter sludge impoundment, a former sinter plant, active rail line, and a maintenance garage. Surface soil and groundwater contamination resulting from the steel manufacturing operation is to be remediated through the construction of a cover and placement of deed restrictions.

Site assessment activities have been performed since 2005. A Human Health and Ecological Risk Assessment (HHERA) concluded there are potential risks for the outdoor worker and construction worker unless exposure to surface soils in two specific areas is eliminated or controlled. Contaminants of concern are polycyclic aromatic hydrocarbons and metals present in the groundwater and soil.

Site remediation includes the construction of a soil cover over defined areas (Figure is attached as Exhibit A), placement of deed restrictions limiting future use of the site to non-residential industrial, restricting the use of groundwater, and restricting excavation, drilling, or penetration of soils or covered areas.

Implementation and maintenance of these deed restrictions and engineering controls completes the remediation of the site to meet Site-Specific Industrial Remediation Standards, as defined in the Voluntary Remediation and Redevelopment Act, West Virginia Code Chapter 22, Article 22.

A Remedial Action Work Plan (RAWP) outlining the remedial activities and identifying the selected remediation standard as Industrial De Minimis was submitted in May 2015. The RAWP was approved by the WVDEP in June 2015.

The owner(s) of the property shall provide written notice to the Secretary of the Department of Environmental Protection (WVDEP), and the United States Environmental Protection Agency, Region III (EPA Region III) within ten (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 *owner* shall conduct inspections of the property to monitor compliance with this Land Use Covenant at least one time per year and shall submit two (2) signed copies of the inspection monitoring report to the WVDEP, DLR headquarters in Charleston, West Virginia, within thirty (30) days of the inspection.

This covenant relieves the applicant and subsequent successors and assigns from all civil liability to the State as provided under W.Va. Code Article 22 of Chapter 22 and shall remain in effect so long as the property complies with the applicable standards in effect at the time this covenant was issued.

This covenant shall not be amended, modified, or terminated except by written instrument executed in accordance with W.Va. Code §22-22B-9 or §22-22B-10, by and between the owner(s) at the time of the proposed amendment, modification, or termination; the Secretary of WVDEP; EPA Region III; and the holders of this covenant. Additionally, the then current owner(s) of the property shall provide the Secretary of WVDEP and EPA Region III written notice of the pendency of any proceeding or any proceeding that could lead to a foreclosure, as referred to in W.Va. Code §22-22B-9(a)(4), within seven (7) days of the owner's receiving notice of the pendency of such proceedings. Within five (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 five (5) days thereafter, the owner shall provide a true copy of the recorded amendment, modification, or termination to the Secretary of WVDEP.

The administrative record for the environmental response project reflected in this covenant is maintained in the WV DEP, 601 57th Street SE, Charleston, WV 25304 and is entitled:

Trimodal Terminal L.P.
VRP Project #: 13627

WVDEP and EPA Region III are 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 holders have executed this covenant on the dates indicated.

Trimodal Terminal, L.P.

Printed Name: James H. Joseph

Title: Co-Owner

[Signature] 4/22/2016
Signature Date

I, Tammy Elliott, a Notary Public in and for the County of BROOKS, State of West Virginia, do hereby certify that the holder(s) whose name is signed above, this day executed this document in my presence or this day acknowledged same to be true act and deed of said holder(s).

Given under my hand this the 22nd day of April, 2016.
My commission expires March 8, 2020.

Tammy Elliott
Notary Public



West Virginia Department of Environmental Protection

Printed Name: Patricia A. Hickman

Title: Director, Division of Land Restoration

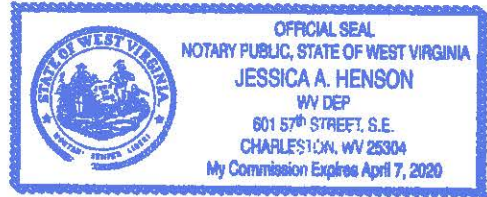
Patricia A. Hickman
Signature 7-6-16
Date

I, Jessica A. Henson, a Notary Public in and for the County of Kanawha, State of West Virginia, do hereby certify that the holder(s) whose name is signed above, this day executed this document in my presence or this day acknowledged same to be true act and deed of said holder(s).

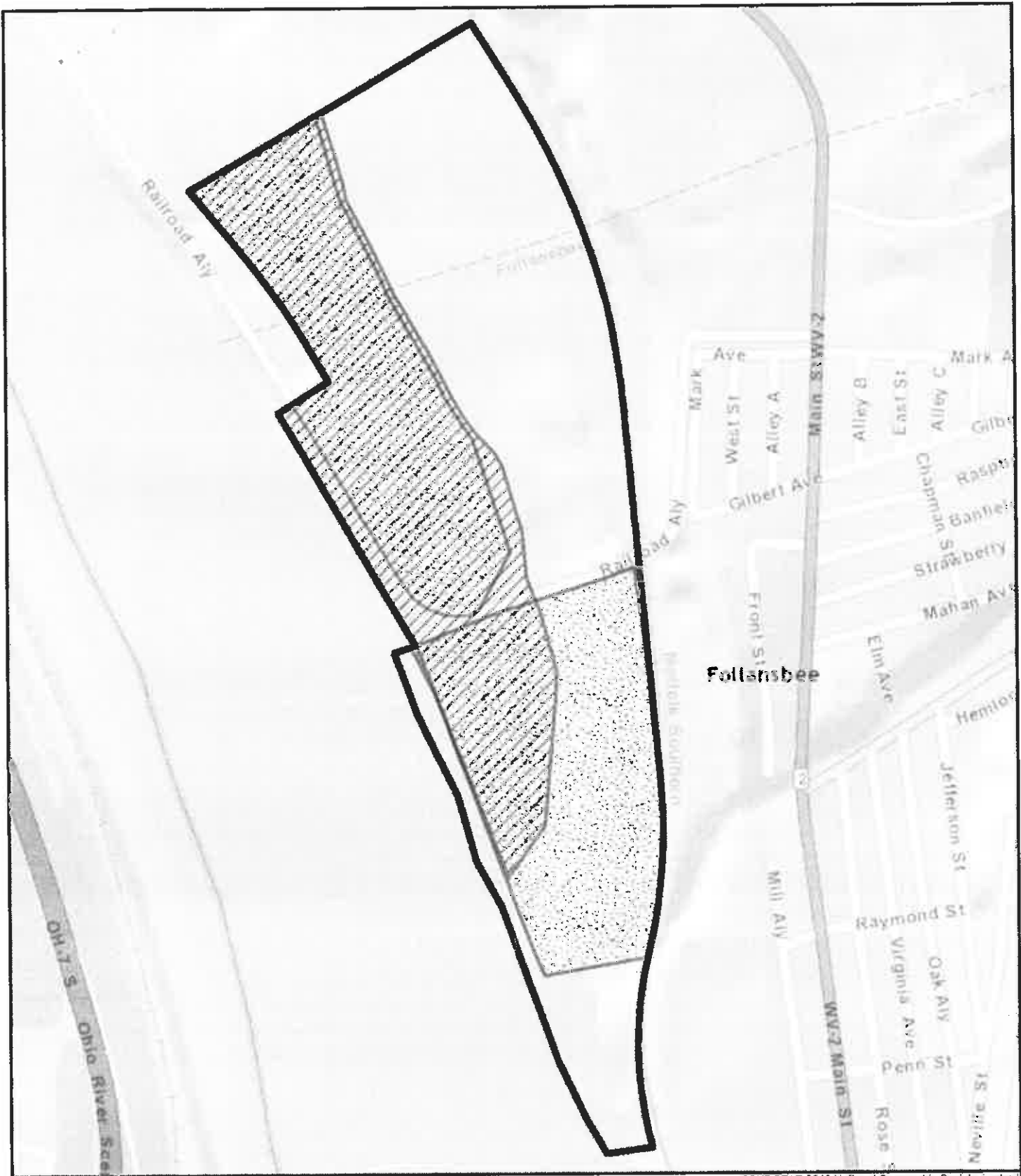
Given under my hand this the 6th day of July, 2016.
My commission expires April 7, 2020

Jessica Henson
Notary Public

The Clerk will return the recorded document to:
Ms. Patricia A. Hickman, Director
WVDEP, DLR
601 57th Street SE
Charleston, WV 25034






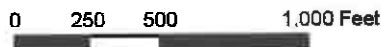
**EXHIBIT A
PROPERTY MAP,
VAPOR MITIGATION LOCATION, and
SOIL COVER LOCATIONS**




SOURCE: © 2013 National Geographic Society, I-cubed

LEGEND

-  TRIMODAL BOUNDARY
-  VAPOR INTRUSION MITIGATION
-  SOIL COVER



CREATION DATE: 3/2/2016	PROJECT NO: 20156937.A	EXHIBIT A
	DRAWN BY: AJKS	
CHECKED BY: KWF	REVISION: 0	TRIMODAL TERMINAL FOLLANSBEE, BROOKE COUNTY, WV