



Rock Branch Industrial Park  
6 Craddock Way  
Poca, WV 25159  
TEL: 304.759.0425  
FAX: 304.759.0491

July 18, 2007

Mr. Ken Ellison, Director  
WVDEP, Division of Land Restoration  
601 57<sup>th</sup> Street  
Charleston, WV 25304

**RE: Land Use Covenant  
VCP No. 04481  
Former Exxon Service Station No. 2-9507  
801 South Kanawha Street  
Beckley, West Virginia**

Dear Mr. Ellison:

Enclosed is a copy of the signed and recorded Land Use Covenant (LUC) for the above referenced site as per your request. The LUC was recorded at the Raleigh County Clerk's office on July 16, 2007. Please feel free to contact me at 304.759.2747 or by e-mail at [david.connelly@shawgrp.com](mailto:david.connelly@shawgrp.com) should you have questions.

Sincerely,

**Shaw Environmental, Inc.** ([www.shawgrp.com](http://www.shawgrp.com))

David T. Connelly  
Scientist II

Enclosure

Cc: Michael Sutphin (WVDEP), Jewel G. Cox (ExxonMobil), File



BETTY RIFFE  
RALEIGH County 09:59:43 AM  
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LAND USE COVENANT

FORMER EXXONMOBIL SERVICE STATION 2-9507  
801 SOUTH KANAWHA STREET  
BECKLEY, WEST VIRGINIA  
VRP No. 04481

Exxon Mobil Corporation has entered into a Voluntary Remediation Agreement (hereinafter referred to as "the Agreement") with the Department of Environmental Protection for the State of West Virginia pursuant to the Voluntary Remediation and Redevelopment Act, W.Va. Code §§ 22-22-1 through 22-22-22 (hereinafter referred to as "the Act"), for certain property, located at 801 South Kanawha Street, Beckley, Raleigh County, West Virginia and more particularly described as Deed Parcel 239 of District 1, Map 17 in a deed of record (Microfilm Roll No. 131, Page 1751) in the office of the Clerk of the County Commission of Raleigh County, West Virginia. In the Agreement, the current owner of this property, The College of West Virginia Endowment Fund, Inc. (Mountain State University), hereinafter referred to as "Owner," has agreed to the imposition of the restrictions on this property, as required by the Agreement. The Agreement allows certain levels of contamination to remain on the property and requires a land use covenant be recorded in the office of the Clerk of the Raleigh County Commission for the purposes of protecting public health and the environment and to prevent interference with the performance, operation and maintenance of any remedial actions required by the Agreement.

**NOW THEREFORE**, the following restrictions shall apply to this property:

1. The Owner shall prohibit all activities on the property which may interfere with the remedial action required by the Agreement.
2. The Owner shall prohibit all activities that may result in human exposures above those specified by the Agreement or that would result in the release of a contaminant that was contained as part of the remedial action. These activities include, but are not limited to:
  - a. The extraction of groundwater for any use except groundwater monitoring.
  - b. Construction of any enclosed structures in the hatched area of the attached figure without engineering controls to abate vapor intrusion.
3. The Owner shall restrict the uses of the property to:

Unrestricted land use.
4. The Owner shall provide written notice to the Secretary of the Department of Environmental Protection of the intent to transfer any interest in the property.
5. The Owner shall not convey any title, easement, or other interest in the property without adequate and complete provision for the continued implementation, operation and maintenance of any remedial action that has been implemented on the property pursuant to the Agreement and without assuring prevention of the releases and exposures described in the provisions of paragraph 2, above.
6. The Owner shall grant the West Virginia Department of Environmental Protection and its designated representatives the right to enter the property at reasonable times for the purpose of monitoring compliance with the Agreement, and the Certificate of Completion, including the right to take samples, inspect the operation to evaluate the effectiveness of remedial activities, and inspect records all as provided in the Agreement.

Shaw Env. + Infrastructure  
attn: David Connelly  
6 Craddock Way  
Poca WV 25159

7. The Department of Environmental Protection may enforce the restrictions set forth in this Land Use Covenant by legal action in a court of appropriate jurisdiction.

8. In accordance with the provisions of the Act regarding land use covenants, W. Va. Code §22-22-15, and in addition to any rights or duties contained in the Certificate of Completion, this Land Use Covenant relieves the applicant, its successors and assigns, the Owner and any subsequent successors and assigns of the Owner, and any person identified in W. Va. Code §22-22-18 from all civil liability to the state as provided under the Act so long as the property complies with the applicable standards identified in the Agreement.

9. The restrictions and other requirements described in this Land Use Covenant shall run with the land and shall be binding upon any future owners, successors or assigns and their authorized agents, employees or persons acting under their direction or control. Subject to subsequent written modification or release signed by the Secretary and the owner at the time of such modification or release, and filed in the office of the Clerk of the County Commission of the county where these covenants have been recorded, this Land Use Covenant shall continue in perpetuity.

10. If any provision of this Land Use Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions hereof. All such other provisions shall continue unimpaired and in full force and effect.

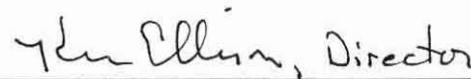
11. This Land Use Covenant shall not be amended, modified or terminated except by written instrument executed by and between the Owner at the time of the proposed amendment, modification or termination, and the Secretary of the West Virginia Department of Environmental Protection, or his successor in accordance with regulations promulgated by the Secretary or his successor. Within 5 days of executing an amendment, modification or termination of this Land Use 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 undersigned persons executing this Land Use Covenant on behalf of the Owner represent and certify that they are duly authorized and have been fully empowered to execute and deliver this Land Use Covenant.

IN WITNESS WHEREOF, the said Owner of the above-described property and the Secretary of the Department of Environmental Protection have caused this Land Use Covenant to be executed this 3<sup>rd</sup> day of July, 2007.

SIGNED:

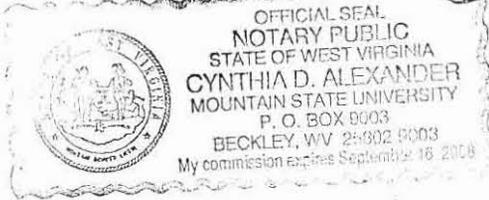
  
\_\_\_\_\_  
Property Owner

  
\_\_\_\_\_  
John Collins, Director  
for Secretary, Department of Environmental Protection

I, C. Alexander, a Notary Public in and for the State and County aforesaid, do hereby certify that Charles Polk whose name is signed to the writing above, bearing date the 5<sup>th</sup> day of June, 2007 has this day acknowledged same to be his true act and deed.

Given under my hand this the 5<sup>th</sup> day of June, 2007

My commission expires September 16, 2008

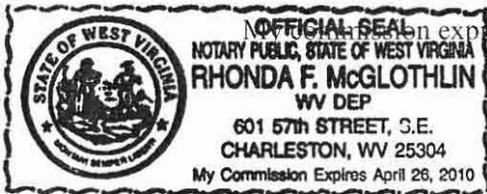


C. Alexander  
Notary Public

I, Rhonda F. McGlothlin, a Notary Public in and for the State and County aforesaid, do hereby certify that Ken Ellison, whose name is signed to the writing above, bearing date the 3<sup>rd</sup> day of July, 2007, has this day acknowledged same to be his true act and deed.

Given under my hand this the 3<sup>rd</sup> day of July, 2007

My commission expires April 26, 2010



Rhonda F. McGlothlin  
Notary Public

It is requested that a true and executed copy of the recorded deed with this attached Land Use Covenant be forwarded to the Secretary of the West Virginia Department of Environmental Protection to the following address:

One original to:  
ATTN: Ken Ellison, Director  
WVDEP-OER  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304

DRAWN BY: JAP 1/29/2007  
 CHECKED BY: GAR 1/29/2007  
 APPROVED BY: DC 1/29/2007  
 DRAWING NUMBER: 65-17



**LEGEND**

- MW-# MONITORING WELL
- FR-# FORMER RECOVERY WELL
- FMW-# FORMER MONITORING WELL
- SB-# SOIL BORING
- FSB-# FORMER SOIL BORING
- SIDE WALL SAMPLE LOCATION
- FD# FIRE HYDRANT
- LP# LIGHT POLE
- MHC# MANHOLE
- PP# UTILITY POLE
- TS# TRAFFIC SIGNAL POST
- WM# WATER METER
- WV# WATER VALVE
- x-x- FENCE
- - - - WATER
- - - - OVERHEAD ELECTRIC
- - - - UNDERGROUND ELECTRIC
- - - - OVERHEAD TELEPHONE
- - - - OVERHEAD TEL. AND ELEC.
- UST APPROXIMATE LOCATION OF FORMER DISPENSER ISLAND
- GRASS
- ASPHALT
- CONCRETE
- AREA RESTRICTED FROM THE CONSTRUCTION OF ANY ENCLOSED STRUCTURES WITHOUT ENGINEERING CONTROLS TO ABATE VAPOR INTRUSION

**NOTES:**

1. ASSUMED HORIZONTAL CONTROL
2. PROPERTY LINES FROM DEED - PROPERTY SURVEY NOT PERFORMED

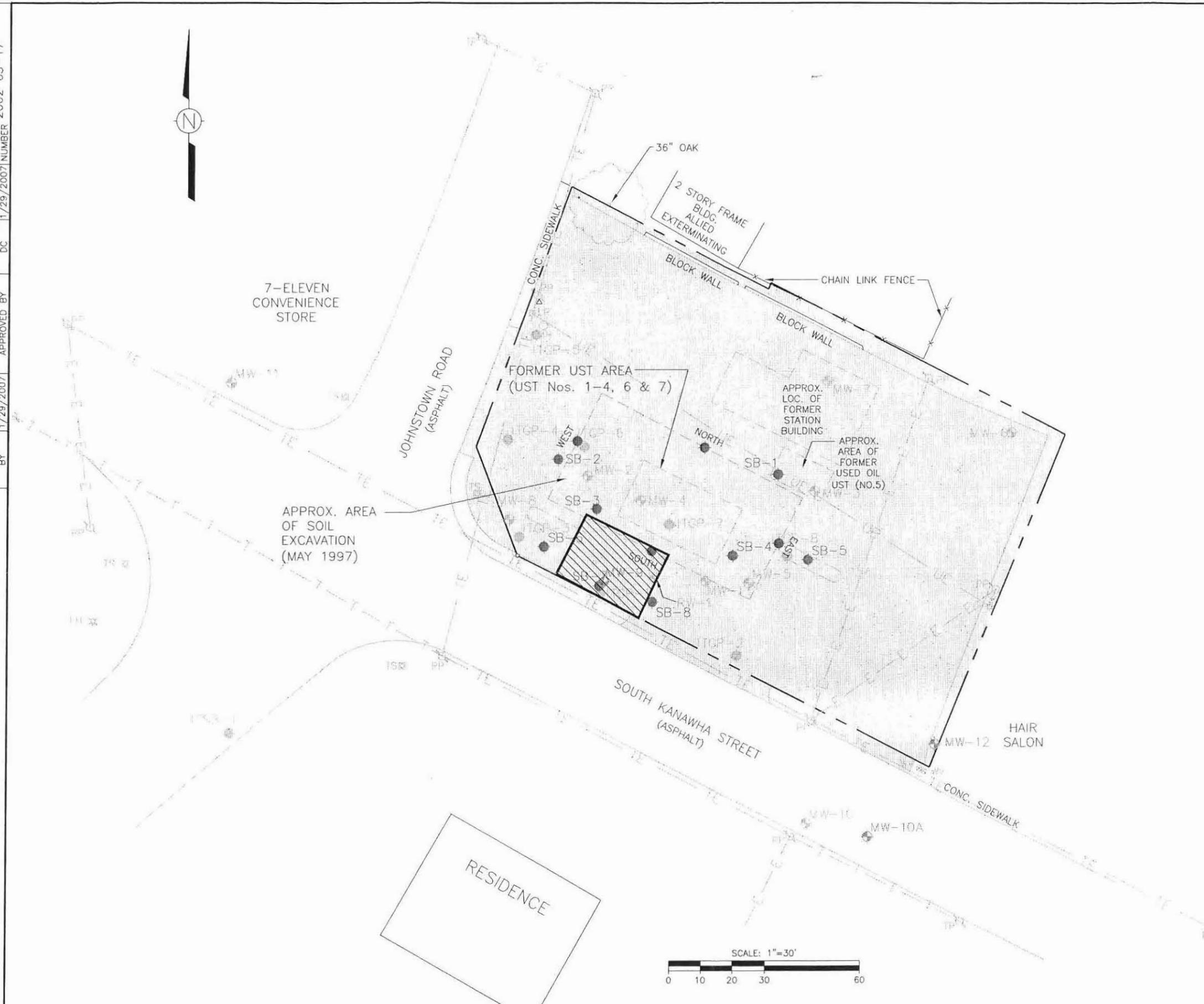
Former USTs		
Number	Size	Contents
1	UNKNOWN	GASOLINE
2	UNKNOWN	GASOLINE
3	UNKNOWN	GASOLINE
4	UNKNOWN	GASOLINE
5	UNKNOWN	USED OIL
6	UNKNOWN	UNKNOWN
7	UNKNOWN	UNKNOWN

EXXON MOBIL CORPORATION

**EXHIBIT A**

**"LAND USE COVENANT FIGURE"**

FORMER EXXON SERVICE STATION NO. 2-9507  
 801 SOUTH KANAWHA STREET  
 BECKLEY, WEST VIRGINIA



File: N:\Projects\ExxonMobil\2-9507 Kanawha St, Beckley\Figures\2002 65-17.dwg