



West Virginia E-Filing Notice

CC-19-2024-C-259

Judge: David Hammer

To: Andrew Earley
aeasley@fairshake-els.org

NOTICE OF FILING

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA
Jefferson County Foundation, Inc. v. Jefferson County Planning Commission
CC-19-2024-C-259

The following complaint was FILED on 12/11/2024 10:14:36 PM

Notice Date: 12/11/2024 10:14:36 PM

Tina Renner
CLERK OF THE CIRCUIT COURT
Jefferson County
PO Box 1234
CHARLES TOWN, WV 25414

(304) 728-3231
circuitclerk@jeffersoncountywv.org

COVER SHEET

E-FILED | 12/11/2024 10:14 PM
CC-19-2024-C-259
Jefferson County Circuit Clerk
Tina Renner

GENERAL INFORMATION

IN THE CIRCUIT COURT OF JEFFERSON COUNTY WEST VIRGINIA
Jefferson County Foundation, Inc. v. Jefferson County Planning Commission

First Plaintiff: Business Individual
 Government Other

First Defendant: Business Individual
 Government Other

Judge: David Hammer

COMPLAINT INFORMATION

Case Type: Civil **Complaint Type:** Extraordinary Writ

Origin: Initial Filing Appeal from Municipal Court Appeal from Magistrate Court

Jury Trial Requested: Yes No **Case will be ready for trial by:** _____

Mediation Requested: Yes No

Substantial Hardship Requested: Yes No

Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- Wheelchair accessible hearing room and other facilities
- Interpreter or other auxiliary aid for the hearing impaired
- Reader or other auxiliary aid for the visually impaired
- Spokesperson or other auxiliary aid for the speech impaired
- Other: _____

I am proceeding without an attorney

I have an attorney: Andrew Earley, 232 CAPITOL ST STE 14 , CHARLESTON, WV 25301

SERVED PARTIES

Name: Jefferson County Planning Commission

Address: PO Box 716, Charles Town WV 25414

Days to Answer: 20 **Type of Service:** Circuit Clerk - Certified Mail - Including Copy Fee

IN THE CIRCUIT COURT
JEFFERSON COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA *EX*
REL. JEFFERSON COUNTY
FOUNDATION, INC.,
P.O. Box 460
Ranson, WV 25438,

and

STATE OF WEST VIRGINIA *EX*
REL. WILLIAM E. HEWITT,
395 Lake Louise Lane
Middleway, WV 25430,

Plaintiffs/Relators,

v.

JEFFERSON COUNTY PLANNING
COMMISSION,
116 E. Washington Street
Charles Town, WV 25414,

Defendant/Respondent.

SERVE ALSO:

JEFFERSON COUNTY
PROSECUTING ATTORNEY,
CIVIL DIVISION
Attn: Nathan Cochran, Esq.
124 E. Washington Street, 2nd Floor
Charles Town, WV 25414

JEFFERSON COUNTY OFFICE OF
PLANNING AND ZONING
C/o: Jennifer Brockman, Chief
County Planner
116 E. Washington St
Charles Town, WV 25414

Case No. _____

Judge _____

VERIFIED COMPLAINT

(WITH MOTION FOR
EMERGENCY TEMPORARY
RESTRAINING
ORDER/PRELIMINARY
INJUNCTION)

(JURY DEMAND ENDORSED
HEREIN)

VERIFIED COMPLAINT

Plaintiffs/Relators Jefferson County Foundation, Inc. and William E. Hewitt (together, “Plaintiffs”), in their private capacities and on behalf of the State of West Virginia, hereby bring this action for a declaratory judgment, injunctive relief, and a writ of mandamus against Defendant/Respondent Jefferson County Planning Commission (the “Commission”). For their complaint against the Commission, Plaintiffs hereby allege and pray as follows.

NATURE OF THE CASE

1. This is an action to prevent the Commission from unlawfully holding a public workshop regarding a proposed Concept Plan for an environmentally harmful groundwater extraction operation, in clear violation of the procedure for such a workshop that is prescribed in Jefferson County, West Virginia Subdivision and Land Development Regulations (the “Subdivision Regulations”).

2. As explained more herein, on November 18, 2024, the Commission received an application for a Concept Plan for a water bottling facility that will involve an industrial-grade groundwater extraction operation on 16.28 acres of undeveloped land and waters, commonly known as Lake Louise.

3. As part of the plat approval process, the Commission has a clear duty to hold a public workshop on the Concept Plan at a “regularly scheduled Planning Commission meeting after [a] 45 day review period.” Subdivision Regulations, § 24.119.J. The purpose of the 45-day review period, among other things, is to allow citizens and relevant county agencies to provide their feedback on the potential impacts of a Concept Plan on the Plaintiffs and the public.

4. Rather than following this unambiguous process, the Commission has instead scheduled an *ad hoc* special meeting for a public workshop on the Concept Plan on December 17,

2024—just 29 days following the Concept Plan’s submission—leaving the County’s agencies no time to provide their required input.

5. The Concept Plan process is critically important, because the Commission’s subsequent approval of a Site Plan is limited merely for conformance with the Concept Plan and issues raised during that process. *See* Subdivision Regulations § 24.124(B). (noting that denial of a Site Plan is only appropriate if “[t]he plan (plan, final engineering, or final landscaping) is inconsistent with the approved concept plan or conditions of said approval” or if the applicant fails to provide surety)

6. In rushing to hold a premature, end-of-year, special hearing for the public workshop in this case, the Commission is depriving the public, including Plaintiffs, and potentially necessary government agencies of their due process right to be heard on this matter. Plaintiffs therefore seeks this Court’s intervention to prevent imminent irreparable harm to their due process rights and those of the general public.

7. Specifically, Plaintiffs seek: 1) a declaration that the Commission cannot lawfully hold a public workshop in violation of the Subdivision Regulations; 2) a temporary restraining order, preliminary injunction, and/or writ of mandamus to prevent the Commission from holding a public workshop in this case until such a time as is permitted under the Subdivision Regulations.¹

THE PARTIES

8. Plaintiff/Relator Jefferson County Foundation, Inc. (the “Foundation”) is a 501(c)(3) non-profit organization with its principal place of business in Jefferson County, West Virginia. The Foundation’s mission is to support and promote effective and accountable

¹ An Emergency Motion for Injunctive Relief is attached as Ex. C and will be filed separately once this Complaint has been processed under the WV E-Filing System.

government, sustainable development, and the protection of health, heritage, and the environment in the Eastern Panhandle of West Virginia. A current priority of the Foundation is to ensure the accountability of all governmental entities that are involved in and responsible for the location, construction, permitting, and operation of the proposed water bottling facility and groundwater extraction operation at issue in this case.

9. Plaintiff/Relator William E. Hewitt (“Mr. Hewitt”) is an individual residing at 395 Lake Louise Lane Middleway, WV 25430 (07002200330000), immediately adjacent to the Lake Louise Parcels (defined below). Two active wells sit on Mr. Hewitt’s property.

10. Defendant/Respondent Jefferson County Planning Commission is an administrative agency of Jefferson County, West Virginia, with all rights and obligations provided by law.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over the Plaintiffs’ request for a declaratory judgment and injunctive relief under West Virginia Code §§ 55-13-1 (Uniform Plaintiffs’ request for a writ of mandamus under the longstanding common law of this State. *Glover v. Sims*, 121 W.Va. 407, syllabus at 4 (1939) (“A peremptory writ of mandamus will issue to require the discharge by a public official of a non-discretionary duty.”).

12. This Court has personal jurisdiction over the Planning Commission because it is located within and does all its business in the State of West Virginia.

13. Venue is proper in this Court pursuant to West Virginia Code § 56-1-1(a)(1), (a)(2), and (a)(6) because the Commission, the real property at issue, and the seat of the County government are all located in Jefferson County.

FACTUAL BACKGROUND

The Real Property and Proposed Development at Issue

14. Sidewinder Enterprises LLC (the “Applicant”) is a California-based entity that owns two tracts of real property Jefferson County:

- a. Approximately 259.54 acres that was formerly used as a plant for 3M (Jefferson County Parcel Id. No. 07002200090000) (the “Factory Parcel”); and
- b. Approximately 16.28 acres of undeveloped land and waters (Jefferson County Parcel Id. Nos. 07022B00190002, 07002200320000, and 07002200340000) (the “Lake Louise Parcels”).

15. Upon information and belief, the Applicant also has an interest, likely in the form of a purchase contract or deed of easement, in 8.31 acres of land that is adjacent to the Lake Louise Parcels and currently being used as a mobile home park (Jefferson County Parcel Id. No. 07002200330009) (the “Mobile Home Parcel”).

16. The Factory Parcel is located within the Industrial-Commercial (“IC”) District of the Jefferson County Zoning and Land Development Ordinance (the “Zoning Ordinance”).

17. The Applicant intends to redevelop the Factory Parcel for use as a water bottling facility, under the project name “Mountain Pure.” This land use likely falls under the Zoning Ordinance’s definition of “Heavy Industrial,” which is a permitted land use in the IC District. And Plaintiffs have no issue, in principle, with the Factory Parcels being redeveloped for this purpose.

18. However, the Applicant’s current plan does not merely include filling, packaging, and distributing water bottles. The Applicant also intends to extract groundwater from the Lake Louise Parcels, in order to supply the water with which it will fill said bottles. Groundwater

extraction is not a permitted land use in the R District—or indeed, in *any district*—under the Zoning Ordinance.

19. Because groundwater extraction is not a permitted land use for the Lake Louise Parcels, that land use is prohibited as a matter of law. Thus, the only means by which the Applicant can pursue this aspect of its proposed development is to petition the Jefferson County Board of Commissioners for a text amendment to the Zoning Ordinance. *See* Zoning Ordinance § 1.3(D) (“If a proposed use is not one in the list of the principal permitted or conditional uses in each zoning district, it shall be prohibited as though it was included in the list of prohibitions. Applicants desiring inclusion of a use not specifically permitted in this Ordinance may apply for a text amendment, following the provisions outlined in Article 12 of this Ordinance.”).

Potential Adverse Impacts of the Proposed Development

20. The groundwater extraction aspect of the Applicant’s proposed operation poses significant environmental dangers to the general public.

21. The combined capacity of two of the groundwater extraction wells the Applicant owns is 7.9 million gallons a day. For context, this is enough water to service all of the dwelling units in Jefferson County (25,185, as of July 1, 2023), plus 1,200 more. If these wells were run for just 2.5 days, they would extract 90,000 tons of water—enough to float a modern battleship in the US Navy. Even if the company runs the wells at the rate given as the desired rate of 1.728 million gallons a day, this is enough water to serve 5,760 homes.

22. Thus, there is a serious risk that industrial-scale groundwater extraction could drastically lower the water table for surrounding properties, restricting the availability of water for local farmers, horseman, and rural residents—including Mr. Hewitt, whose property is directly abutting the Lake Louise Parcels.

23. Additionally, The Lake Louisa Parcels and the surrounding areas are marked by “Karst terrain,” which is “generally underlain by limestone or dolomite, in which the topography is formed chiefly by the dissolving of rock and which may be characterized by sinkholes, sinking streams, closed depressions, subterranean drainage, and caves. *See* West Virginia Tax Districts Containing Karst Terrain, WEST VIRGINIA GEOLOGIC AND ECONOMIC SURVEY (accessed Dec. 11, 2024), https://www.wvgs.wvnet.edu/www/geology/docs/WV_Tax_Districts_Containing_Karst_Terrain.pdf.

24. In layman’s terms, the presence of Karst terrain means that the Lake Louise Parcels and surrounding areas likely have underground caverns below ground that are filled with water. The water supports the walls and roofs of these caverns.

25. The drawdown of the water table can be particularly dangerous in Karst terrain. As groundwater is drawn down, support for the underground caverns is removed, and the roof of these large spaces can collapse, potentially creating sinkholes on the surface. These sinkholes are large and can cause a sudden catastrophic collapse, posing an additional risk to surrounding property owners and the public at large—including Mr. Hewitt, whose property is directly abutting the Lake Louise Parcels.

Overview of the Concept Plan Approval Process

26. In order to proceed with its proposed operation, the Application must obtain approval under the County’s Subdivision Regulations. *See* Subdivision Regulations § 20.100(B) (“all site development, and all land clearing except for agricultural purposes, within the unincorporated area of the County shall meet the standards of these Regulations”).

27. In this case, the Applicant must proceed through the “Major Site Plan Approval Process” process of the Subdivision Regulations, which requires two phases of approval from the Planning Commission: the “Concept Plan,” and then the subsequent “Site Plan.” *See generally* Subdivision Regulations Figures 24.119(A) and (B).

28. At issue in this case is the first phase of this process—the Applicant’s Concept Plan. This phase is critically important, because it informs and limits the scope of review for the later Site Plan. *See* Subdivision Regulations § 24.124(B). (noting that denial of a Site Plan is only appropriate if “[t]he plan (plan, final engineering, or final landscaping) is inconsistent with the approved concept plan or conditions of said approval” or if the applicant fails to provide surety)

29. The Concept Plan phase has three steps: 1) submission and completeness review by County staff; 2) a public workshop at which citizens may provide input; and 3) a direction from the Planning Commission as to how the applicant should prepare its Site Plan. *See generally* Subdivision Regulations §§ 24.119 (completeness review), 24.120 (public workshop), and 24.121 (direction).

30. The sufficiency and completeness review must last a minimum of 45 days. *Id.* at § 24.119. The purpose of this review period is, among other things, to allow applicable government agencies to review a proposed Concept Plan and provide written feedback. *Id.* at § 24.119.7 (“The reviewing agencies shall conduct reviews of the proposed concept plan.”). And the 45-day duration of this period is important, because agency feedback must be provided “fourteen (14) days prior to the scheduled public workshop.” *Id.*

31. During the first ten (10) days of the completeness review, County staff must determine if a Concept Plan is complete. *Id.* at § 24.119. If the Concept Plan is not complete, it must be returned to the applicant without a public workshop being scheduled.

32. The public workshop must be scheduled for “the first regularly scheduled Planning Commission meeting after the 45 day review period.” *Id. See also id.* at 24.119.J (“At the time of submission, the concept plan shall be placed on the 1st regularly scheduled Planning Commission meeting after the 45 day review period for the public workshop. Staff shall advertise the public workshop in a local newspaper of general circulation in the area one time at least twenty-one (21) days in advance of the meeting and send notice by mail to the adjoining property owners at least fourteen (14) days prior to the meeting. The applicant shall post notice on the property at least fourteen (14) days in advance of the meeting.”).

33. Following the close of the public workshop, the Commission “shall, during their regular meeting or at a specific public meeting within 14 days, provide direction on the concept plan.” *Id.* at § 24.121. The applicant may then submit a Site Plan, which is subsequently reviewed for conformance with the concerns raised in the Concept Plan stage. *See generally id.* at § 24.122.

The Applicant Submits its First Application

34. On or about September 24, 2024, the Commission received an application for a Concept Plan related to the Factory Parcel only (the “First Application”).

35. After the 45-day review period required under the Subdivision Regulations, the Commission held a public workshop regarding the First Application on November 12, 2024.

36. Following the close of the public workshop on the First Application, the Commission denied the First Application on the basis that the Lake Louise Parcels had not been included.

The Applicant Submits its Second Application

37. On or about November 15, 2024, before the Applicant had even submitted a new application, County staff arranged for a notice to be printed in a local newspaper, advertising a

public workshop on a Concept Plan for a water bottling facility that would be held on December 17, 2024.

38. On November 18, 2024, the Applicant formally submitted a new application for a Concept Plan that included the Factory Parcel, the Lake Louise Parcels, and the Mobile Home Parcel (the “Second Application”).

39. The Second Application is currently available on the County’s website. *See* <https://www.jeffersoncountywv.org/county-government/departments/engineering-planning-and-zoning/office-of-planning-and-zoning/planning-commission/concept-plans> (accessed Dec. 11, 2024). A true and accurate copy of the Second Application is also included as Exhibit A. By the plain terms of the Second Application, the Lake Louise Parcels will supply the water for the bottling facility at the Factory Parcel.

40. The County has styled the Second Application as merely a “Revised Concept Plan.” But no process for revising a Concept Plan exists in the Subdivision Regulations. Because the Second Application includes materially new information—including additional real property and land uses—it is a completely new application and must be reviewed as such.

41. December 17, 2024, is indisputably less than 45 days after the submission of the Second Application. Further, the Commission had no regularly scheduled meeting set for this date. Instead, the Commission is holding a “special meeting” to accommodate the desires of the Applicant to push its development through as quickly as possible. Thus, the public workshop on the Second Application clearly has been scheduled in violation of the Subdivision Regulations’ requirement that such a hearing be held on “the first regularly scheduled Planning Commission meeting after the 45 day review period.” *Id.*

42. Upon information and belief, none of the relevant governmental agencies will be providing any feedback on the Second Application, due to the shortened review period, depriving the public, the Commission, and relevant government agencies of potentially crucial information as to the likely impact of the Second Application on the public health, safety, and general welfare.

43. The Foundation sent a letter to the Commission and its attorney on December 3, 2024, advising the Commission that the December 17, 2024 public workshop is illegal and demanding that the Commission postpone the workshop until a later date. The Foundation has received no response; instead, the Commission simply published a notice of the workshop, noting that the Foundation's letter is "Non-Actionable Correspondence" for which "[t]here is no public comment." A true and accurate copy of this notice is attached hereto as Exhibit B.

COUNT ONE
Declaratory Judgment

44. Plaintiffs incorporate the foregoing paragraphs of this Verified Complaint as if fully restated in this paragraph.

45. The Commission's action to schedule a public workshop on the Second Application for December 17, 2024, is in clear violation of the established procedure for such a workshop under the Subdivision Regulations.

46. If the Commission proceeds with holding said illegal workshop, the public at large, and specifically Plaintiffs, will be irreparably harmed. Specifically, the Commission will be violating the due process rights of the public, and Plaintiffs, to be heard on the Second Application.

47. In the words of our state's high court, "[p]rocedural due process requires the 'opportunity to be heard at a meaningful time and in a meaningful manner.'" *Donadieu v. Morgan Cty. Planning Comm'n*, Case No. 15-1058, 2016 W.Va. LEXIS 726, *16 (W. Va. 2016), quoting *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

48. In order for the public to have a meaningful opportunity to be heard on the Second Application, they must be informed. Citizens of this County reasonably rely on their public agencies to be a first line of defense against harmful development by identifying, for example, potential environmental impacts from a drawdown of the water table in Karst terrain.

49. Without any idea as to whether the relevant agencies have concerns about this particular development, the public will be forced to fend for themselves and rely on public records requests and independent research in order to discover the true impact of the Concept Plan.

50. The Foundation itself has several outstanding public records requests, which likely will not be returned in time to prepare for the December 17, 2024 public workshop.

51. Plaintiffs therefore request that the Court declare that the currently-scheduled public workshop is illegal.

52. To effectuate the Court's declaration of the law, Plaintiffs request preliminary and permanent injunctive relief to prevent the Commission from proceeding on this illegal path and causing imminent irreparable harm.

53. Plaintiffs request that a hearing on a preliminary injunction be scheduled as soon as is practicable. Notice of this request will be provided to the Commission, by and through its attorney. However, in the event that the Commission's attorney cannot be available for such a hearing, Plaintiffs request that the Court issue an *ex parte* temporary restraining order to prevent the December 17, 2024 public workshop from going forward. *Camden-Clark Memorial Hosp.*, 212 W. Va. 752, 757 (2002).

COUNT TWO
Writ of Mandamus

54. Plaintiffs incorporate the foregoing paragraphs of this Verified Complaint as if fully restated in this paragraph.

55. The public at large, including Plaintiffs, have a clear legal right to be heard at a public workshop on the Second Application, at a regularly scheduled meeting, no earlier than 45 days following the Second Application’s submission.

56. Holding a public workshop at a regularly scheduled meeting, no earlier than 45 days following a Concept Plan’s submission, is a mandatory and non-discretionary duty of the Commission. *See* Subdivision Regulations § 24.119 (“At the time of submission, Concept Plan **shall** be placed on the first regularly scheduled Planning Commission meeting after the 45 day review period for the public workshop.”) (emphasis added). *See also State ex rel. Justice v. King*, 244 W.Va. 225, 233 (2020) (“‘It is well established that the word 'shall,' in the absence of language in the statute showing a contrary intent on the part of the Legislature, should be afforded a mandatory connotation.’ *Syl. pt. 1, Nelson v. W. Va. Pub. Employees Ins. Bd.*, 171 W. Va. 445, 300 S.E.2d 86 (1982). *Accord Syl. pt. 1, Underwood v. Cty. Comm'n of Kanawha Cty.*, 176 W. Va. 740, 349 S.E.2d 443 (1986).”).

57. Plaintiffs have no adequate remedy at law or through the administrative process to compel the Commission to comply with the terms of the Subdivision Regulations, with respect to a public workshop on a Concept Plan.

58. Thus, the Court should issue a peremptory writ of mandamus commanding the Commission to postpone the public workshop until such a time as would comply with the Subdivision Regulations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that the Court render judgment against the Commission and grant relief as follows:

1. Hold a jury trial on all issues so triable;

2. Declare that the public workshop currently scheduled for December 17, 2024, is illegal, and that any future public workshop in this case must be scheduled for a regular meeting of the Commission at least 45 days after the submission of the Concept Plan;
3. Issue a temporary restraining order and/or preliminary injunction to prevent the Commission from illegally holding a public workshop on December 17, 2024;
4. Issue a peremptory writ of mandamus commanding the Commission to postpone the public workshop until such a time that complies with the Subdivision Regulations;
5. Award such reasonable costs, expenses, expert fees, and attorney fees that Plaintiffs will incur in litigating this matter, to the extent provided by law; and
6. Grant such additional relief, legal or equitable, to which Plaintiffs may be entitled and this Court deems proper.

Respectfully submitted,

/s/ Andrew C. Earley

Andrew C. Earley (WV State Bar No. 14055)
FAIR SHAKE ENVIRONMENTAL LEGAL SERVICES
232 Capitol Street, Suite 14
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304-712-9352

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*Counsel for Plaintiffs/Relators Jefferson County
Foundation, Inc. and William E. Hewitt*

CERTIFICATE OF SERVICE

I hereby certify that I have instructed the Jefferson County Clerk of Courts to issue the summons and a copy of the foregoing Verified Complaint to Defendant/Respondent Jefferson County Planning Commission via certified mail this 11th day of December 2024, pursuant to Civ.R. 4(c)(3)(B).

Respectfully submitted,

/s/ Andrew C. Earley

Andrew C. Earley (WV State Bar No. 14055)

*Counsel for Plaintiffs/Relators Jefferson County
Foundation, Inc. and William E. Hewitt*

VERIFICATION

STATE OF WEST VIRGINIA)

COUNTY OF Jefferson) SS:

I, Dr. Christine Wimer, being duly cautioned and sworn, hereby state that I am the President of Jefferson County Foundation, Inc. I hereby verify that I have read the foregoing Verified Complaint and that the facts alleged therein are true and accurate to the best of my information, belief, and knowledge.

Christine L Wimer

Dr. Christine Wimer

Sworn to and subscribed before me, a Notary Public in and for said County and State, this 11th day of December, 2024.

Carlise Campbell

Notary Public

My Commission Expires: May 03, 2025



[Stamp above]

EXHIBIT A

Second Application



INTEGRITY FEDERAL SERVICES

Ms. Brockman,

The following summary is in response to the question posed by staff;

Please provide a narrative/cover/letter that describes the whole project and how this plan is more complete than the previous submittal that the PC deemed as incomplete.

At the concept review meeting on November 12, 2024, the Planning Commission made the finding that the plan was incomplete because it did not include the parcel with the existing/permitted supply well. There were no other findings related to the concept plan that were included in the motion by the planning commission.

To address the Planning Commission findings, the following parcels have been added to the concept plan:

1. Parcel 34 – this parcel is the location of the supply well. The parcel is owned by the applicant.
2. Parcel 33.9 – this parcel is used to access the well as well as a future water supply line that will be a portion of the water system proposed to convey water to the bottling plant. Wells A and C are located on this parcel. The parcel is owned by the applicant.

In addition the applicant has provided the following:

1. A plan showing the location of the water line from the supply well to the bottling plant.
2. A plan showing the location of the plume, groundwater monitoring well locations and the areas with non-hazardous material that required WVDEP oversight during grading. The ground watering wells will be the locations
3. Revised conditions have been added to the concept plan to address community concerns related to well monitoring, traffic, water withdrawal rate and ground water sampling.
4. Narratives related to the well testing and plume.

In addition to the above information the following is being provided in this letter.

1. Updated Project Narrative
2. Well Summary
3. Plume Summary

Project Narrative

Mountain Pure, LLC (Mountain Pure) aims to develop a 13-acre bottling facility in Middleway, WV. Mountain Pure shall work closely with an end user, a third-party distributor of packaged water and other beverages, to provide reliable, clean spring water. The project is projected to create construction and long-term local jobs, generate tax revenue, and enhance economic prosperity for local business in and around Jefferson County, WV, and the Appalachian region. Mountain Pure is seeking approval for construction of this modern, state-of-the-art water

packaging facility. As such, the plant is proposed to include packaging lines, and a large capacity water storage tank and other water storage facilities.

The project was created for the purpose of packaging clean and reliable water.

Mountain Pure shall invest heavily in the Jefferson County community and West Virginia as a good corporate citizen, commercial taxpayer, and neighbor. Jefferson County stands to generate millions in tax revenues to support county services for citizens. The proposed project will be among the highest annual tax-paying companies in Jefferson County.

PROTECT OUR LOCAL ENVIRONMENT - Water utilized shall be tested regularly for to maintain standards and compliance with both state and federal requirements for bottled water. This is a top priority.

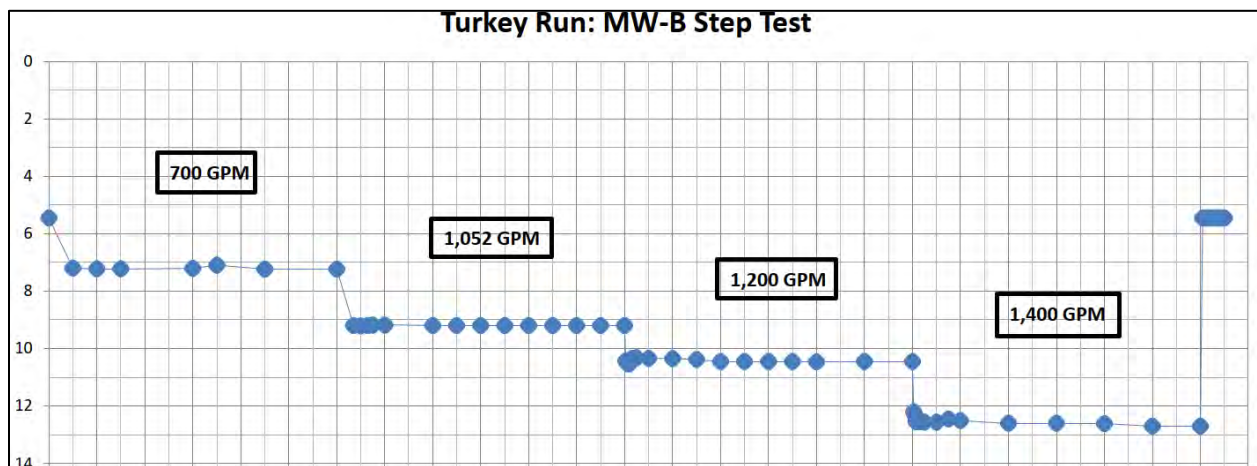
UTILIZE STATE-OF-THE-ART TECHNOLOGY, FOCUSING ON SUSTAINABILITY, CUSTOMIZATION, AND EFFICIENCY - The company shall deploy advanced technologies to measure, manage, distribute, and maintain water supply while reducing emissions and protecting against any local water depletion.

PROVIDE GOOD JOBS AND LOCAL ECONOMIC IMPACT - Through the creation of hundreds of local well-paying jobs, Mountain Pure shall invest heavily in the Jefferson County community and West Virginia as a good corporate citizen, commercial taxpayer, and neighbor. Jefferson County stands to generate millions in tax revenues to support county services for citizens. The proposed project will be among the highest annual tax-paying companies in Jefferson County.

SITE HISTORY - The site was originally occupied in the 1980's by Berkeley Woolen Company and used for textile manufacturing before it was acquired by The 3M Company. 3M converted it into a photographic equipment and supply facility. After the change of ownership in 1996 and 2004, the facility continued to be used for printing plate manufacturing until 2006. Since 2006 the facility has been vacant, but the ownership changed again in 2015 when Commercial Liabilities Partners WV, LLC purchased the site from Kodak and in 2019 when Shenandoah Extraction and Processing, LLC acquired the property. Finally in 2021, Sidewinder Enterprises, LLC purchased the site from Shenandoah Extraction and Processing, LLC, as the concept for Mountain Pure was born.

Well Summary

1. The three wells have been drilled.
 - a. MW-A was used as a monitoring well during the pump test.
 - b. MW-B is the supply well for the bottling plant.
 - c. MW-C was drilled after the pumping test and is intended to be used as a backup well to MW-B.
 - d. All wells were drilled to approximately 225'.
2. Well permitting was completed through the Jefferson County Health Department and the WV Office of Environmental Health Services.
3. Well MW-B is the supply well and is permitted for use by the West Virginia Office of Environmental Health Services.
 - a. Well is permitted for 1,000gpm.
 - b. The pump elevation is 70' below ground level. This is 10' higher than the pump elevation during the pumping test.
4. The water level for well MW-B was 5.49' below the surface.
5. The uppermost major water bearing zone was found at 87'. Two additional major water bearing zones are located at 118' and 176'.
6. For the pumping test, the pump was placed at 80' below the surface.
7. A stepped draw down test was conducted at 700, 1052, 1200, 1400 gallons per minute, with each step being pumped for 2 hours. Each step resulted in an initial change in the water level, the water level then stabilized. The water level dropped 7'+/- during the 1,400gpm step test to an elevation of 12.5' below the ground level. The number on the left indicates the depth of the water below the surface. The water level recovered fully upon completion of the test.



8. Based on the results of the step test the decision was made to pump water at 1,200gpm for the constant rate pumping test. The test ran for 124.5 hours or almost 5 days. The following table summarizes the pumping test data.

Table 1: Summary of Well and Pumping Test Data

Well ID	Well Type	Approximate Latitude**	Approximate Longitude**	Total Well Depth (ft bgs)	Casing Depth (ft bgs)	Static Depth to Water (ft bgs)*	Depth to Potential Water-Bearing Fractures (ft bgs)	Approximate Distance from Pumping Well MW-B (ft)	Pumping Test Rate (gpm)	Max. Change in Water Level During Aquifer Test (ft)
										MW-B (124.5-hr)
MW-B	Pumping (Proposed Production)	39.300675°	77.968529°	225	78	5.49	87-88, 118-119, and 173-187	0	1,200	5.35
MW-A	Observation	39.300922°	77.968996°	255	121	5.75	141-150, 155-156, 163-165, and 167-169	160' West	N/A	0.57
PW-1	Observation	39.304666°	77.966652°	Unknown	Unknown	18.8	Unknown	1,550' Northeast	N/A	2.06<
Spring	Observation	39.300120°	77.969513°	Unknown	N/A	4.2	N/A	350 Southwest	N/A	0.11>

9. The hydrological study modeled the impact to groundwater levels at 1 year, 6 years, 12 years and 30 years.

	Pumping Test April, 2022	1 year	6 year	12 year	30 year
Surface Elevation	518.00	518.00	518.00	518.00	518.00
Existing Groundwater Elevation	512.51	512.51	512.51	512.51	512.51
Pump Elevation (70' below surface)	448.00	448.00	448.00	448.00	448.00
Change in Water Level (at well)	-5.35	-11.1	-11.25	-11.3	-11.35
Depth to Groundwater (at well)	10.84	16.59	16.74	16.79	16.84
Groundwater Elevation with Pumping	507.16				
Estimated Groundwater Elevation with Pumping		501.41	501.26	501.21	501.16

10. The ground water level (with pumping) remains high at the supply well when compared to the surface elevations within Middleway. The chart shows elevations documented during the pump test and projected elevations. After 30 years of pumping the water elevation at the supply well remains above the ground elevation of Middleway.

Location	Surface Elevation (ft)	Distance (ft)	Water Level at supply well in feet above or below the surface elevation				
			April, 2022	1 year	6 year	12 year	30 year
Queen Street/Old Middleway Road	501	4,200	6.16	0.41	0.26	0.21	0.16
Queen Street/Grace Street	498	4,100	9.16	3.41	3.26	3.21	3.16
Route 51/Leetown Road	501	4,900	6.16	0.41	0.26	0.21	0.16
Middleway Pike/Old Middleway Road	565	1,700	-57.84	-63.6	-63.7	-63.79	-63.84

11. The hydrological study included the monitoring of Turkey Run at Queen Street in Middleway. The monitoring was conducted to ensure that recycling of water from Lake Louise to Well B was not occurring. The flow in Turkey Run increased by 1,156 GPM, indicating that the water from the pumping test was not being recycled.
12. The hydrological study included assessment of offsite impacts, 5,000' from well MW-B
- After 1 year of pumping during drought conditions the estimated change in the water level is 4'+/-.
 - After 30 years of pumping (1,200gpm) the estimated change in the water level is 3'+/-.
13. Per the County-Wide Groundwater Assessment commissioned by the Jefferson County Commission in 2012 the average well depth in the Western Unit (including Middleway) was 281'.

3M Plant Plume

The 3M Plant participated in a Voluntary Remediation Program, overseen by the WV Department of Environmental Protection. A certificate of completion was issued on June 15th, 2018. The certificate of completion imposed specific conditions on the development of the site, including the following:

1. No wells are to be drilled within the limits of the plume or within 300' of well MW114D.
2. Grading within the limits of the plume or within 300' of well MW114D would require engineering control overseen by the WVDEP.

The chemicals which constitute the plume are dichloroethene and trichloroethene. As part of the VRP program 26 monitoring locations were set up to test water. The water monitoring exhibit is attached, the following is a summary.

Dichloroethene

- In 2015 there were 6 locations where dichloroethene was found above the reporting limit, 1 of these locations was over the WVDEP de minimis limits.
- In 2018 there were 5 locations where dichloroethene was found above the reporting limit, 4 of these locations were over the WVDEP de minimis limits.
- In 2018 there was 1 testing location where dichloroethene was not present above the reporting limits where it had previously been above the limits.
- The 1 location where dichloroethene was found above the de minimis levels tested 63% lower over the 3 year period. The data gathered from the well monitoring program indicated that the dichloroethene within the plume is breaking down.

Trichloroethene

- In 2015 there were 13 locations where Trichloroethene was found above the reporting limit, 10 of these locations were over the WVDEP de minimis limits.
- In 2018 there were 10 locations where trichloroethene was found above the reporting limit, 7 of these locations were over the WVDEP de minimis limits.
- In 2018 there were 3 testing locations where Trichloroethene was not present above the reporting limits where it had previously been above the limits.
- All locations where trichloroethene was found above the de minimis levels tested at least 32% lower over the 3 year period. The data gathered from the well monitoring program indicated that the trichloroethene within the plume is breaking down.

CONCEPT PLAN MOUNTAIN PURE MAJOR SITE PLAN

JEFFERSON COUNTY FILE NUMBER: 24-6-SP
MIDDLEWAY TAX DISTRICT JEFFERSON COUNTY, WEST VIRGINIA
TAX MAP 22, PARCEL 9; D.B. 1256, PG. 360
TAX MAP 22 PARCEL 33.9; D.B. 1271 PG. 212
TAX MAP 22 PARCEL 34; D.B. 1256 PG. 360

OWNER / APPLICANT:
SIDEWINDER ENTERPRISES, LLC &
RLMHP LLC & PHOTOGLOU LIVING TRUST
4340 VON KARMAN AVENUE, SUITE 380 NEWPORT BEACH, CA 92660
(949)-697-9993

PROPOSED USE:
PARCEL 9 USE - INDUSTRIAL - HEAVY MANUFACTURING AND DISTRIBUTION
PARCEL 33.9 - WATER LINE
PARCEL 34 - EXISTING WELL, PERMIT #21,258 WILL SUPPLY WATER TO THE BOTTLING PLANT

- CONCEPT PLAN REVIEW CHECKLIST NOTES:**
- B.1. SEE GENERAL LOCATION MAP FOR ZONING DISTRICTS WITHIN 500' OF THE SUBJECT PROPERTY.
 - B.2. A CONCEPT PLAN BE FOUND ON SHEET 3.
1. SEE SHEET 3 FOR THE LAYOUT OF LOTS, PARKING AREAS, RECREATION AREAS, ROADS, AND BUILDING AREAS.
2. PROPOSED BUILDING AREAS IS 1,000,000 SF TOTAL.
3. BUILDING FOOTPRINTS MAY BE MODIFIED ON SITE PLAN, BUT WILL NOT EXCEED 1,000,000 SF.

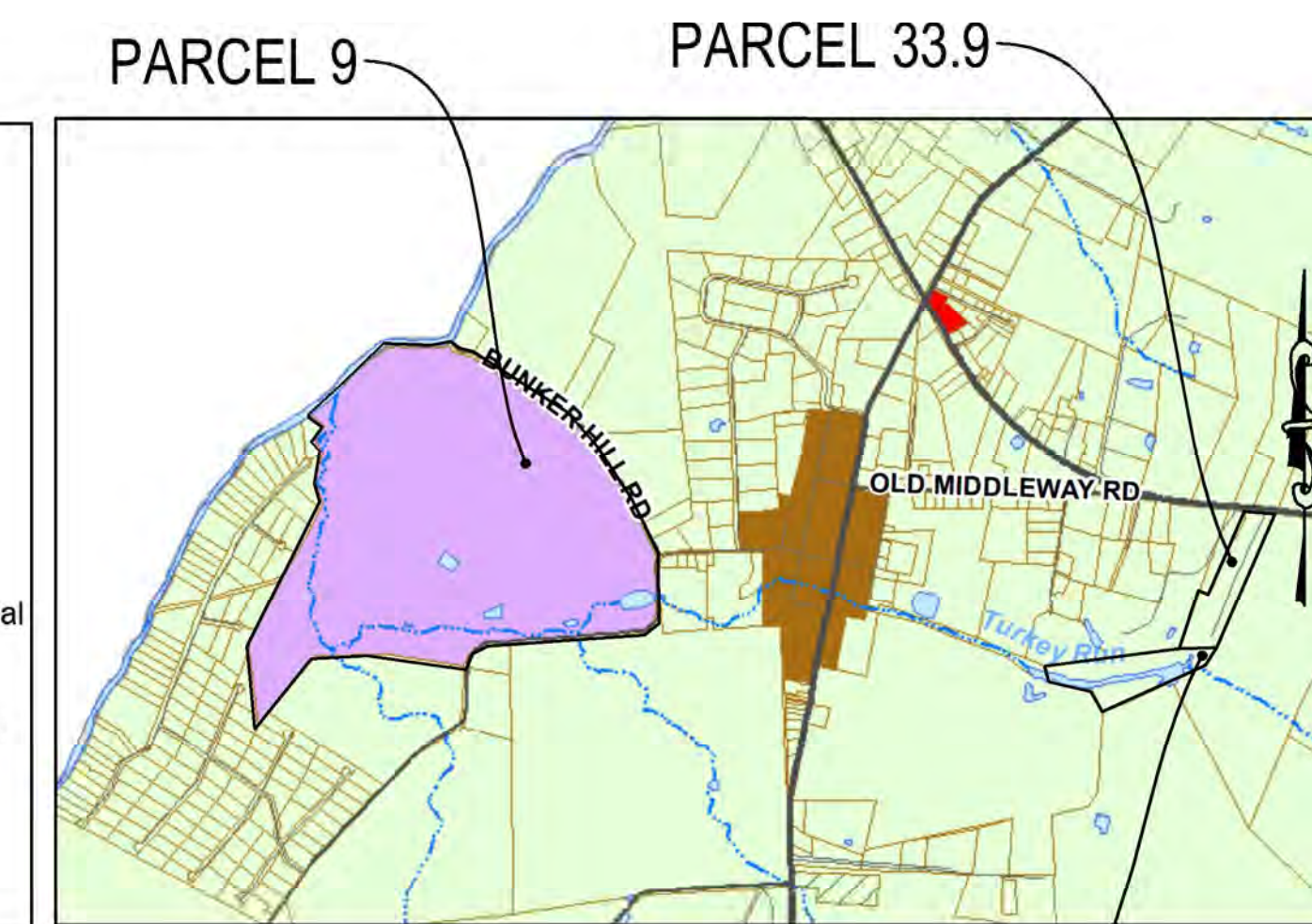
- B.3. ZONING INFORMATION:
1. PARCEL 9 - INDUSTRIAL/COMMERCIAL ZONING DISTRICT
 2. PARCEL 33.9, 34 - RURAL DISTRICT
 3. DENSITY CALCULATIONS - N/A
 4. SITE RESOURCE MAP - SEE SHEET 2 AND 3
 - 4.1. 2' CONTOURS PROVIDED ON SITE RESOURCE MAPS
 - 4.2. NATURAL FEATURES SHOWN ON SITE RESOURCE MAPS
 - 4.3. SLOPE DELINEATION PER SECTION 22.50 - THE SLOPE WITHIN THE HILLSIDE SETBACK IS MEAN 10.9%
 - 4.4. FLOODPLAIN SHOWN ON SITE RESOURCE MAP, FEMA MAP 54037C0115E IDENTIFIES ZONE A, AE AND FLOODWAY AE ON THE SUBJECT PROPERTY.
 - 4.5. ADJOINING PROPERTY USES ARE ON SHEET 2 AND 3
- B.4. PROJECT DESCRIPTION
1. BOTTLING PLANT ZONING - THE BOTTLING PLANT IS A PERMITTED USE IN THE ZONE. USE INCLUDES HEAVY MANUFACTURING AND DISTRIBUTION.
 2. WELLS ARE PERMITTED IN ALL ZONES IN JEFFERSON COUNTY AND ARE NOT SUBJECT TO TABLE APPENDIX C. WELL ON PARCEL 34 IS PERMITTED THROUGH WV DEPARTMENT OF ENVIRONMENTAL HEALTH SERVICES.
 3. THE CONCEPT PLAN IS FOR THE DEVELOPMENT OF TWO BOTTLING FACILITIES, PHASE 1 (304,000SF) AND PHASE 2 (696,000 SF) TOTALING 1,000,000SF. THE WELL ON PARCEL 34 IS EXISTING, THE CONCEPT PLAN SHOWS THE CONNECTION BETWEEN THE BOTTLING FACILITIES AND THE WELL INCLUDING A WATER LINE ON PARCEL 33.9.
 4. THE CONCEPT PLAN INCLUDES THE PROPOSED BUILDINGS, PARKING, SWM FACILITIES AND OTHER IMPROVEMENTS REQUIRED BY JEFFERSON COUNTY REGULATIONS.
 5. THE PARCEL 9 PARTICIPATED IN THE WV VRP PROGRAM, SEE SHEET 5 FOR DETAILS.
 6. PARKING TABULATIONS AS FOLLOWS:
6.1. PARKING PHASE 1 - 62 STANDARD SPACES, 94 TRAILER SPACES
6.2. PARKING PHASE 2 - 101 STANDARD SPACES, 312 TRAILER SPACE
6.3. TOTAL PARKING - 163 STANDARD SPACES, 406 TRAILER SPACES
6.4. PARKING TOTALS MAY BE ADJUSTED WITH SITE PLAN, BUT WILL MEET ALL JEFFERSON COUNTY MINIMUM STANDARDS.

- B.5. TRAFFIC IMPACT DATA
1. BUNKER HILL ROAD (CO. RT. 119) / WVDOT ROUTE ID - 1940001090000 / AVERAGE DAILY TRIPS - 29
 2. GRACE STREET (CO. RT. 118) / WVDOT ROUTE ID - 1940001080000 / AVERAGE DAILY TRIPS - 812
 3. LEETOWN ROAD (CO. RT. 11) / WVDOT ROUTE ID - 1940001000000 / AVERAGE DAILY TRIPS - 3,055
 4. DATA SOURCE - WVDOT DIVISION OF HIGHWAYS, PERFORMANCE MANAGEMENT DIVISION, TRAFFIC MONITORING UNIT DATA SOURCE YEAR - 2023
 - 4.1. TRIP GENERATION FOR PARCEL 9 IS BASED ON TRAFFIC IMPACT STUDY SUBMITTED TO WVDOT. PARCELS 34/33.9 IS ASSUMED TO GENERATE NO MORE THAN 2 TRIPS PER DAY TO MONITOR THE WELL AND NONE IN THE PEAK HOUR.
 - 4.2. DAILY TRIPS 770 - 810 EMPLOYEE TRIPS, 160 TRUCK TRIPS
 - 4.3. AM PEAK HOUR TRIPS - 182
 - 4.4. PM PEAK HOUR TRIPS - 184
 - 4.5. THE NEAREST KEY INTERSECTION AS DEFINED IN THE CONCEPT PLAN CHECKLIST IS THE INTERSECTION OF LEETOWN ROAD (RT. 1) AND MIDDLEWAY PIKE (WV RT 51).
 - 4.6. HIGHWAY PROBLEM AREA #36 WITHIN 1 MILE OF PARCEL 9, IT IS 1,300' FROM PARCEL 33.9 AND 34.
 - 4.7. PURSUANT TO SECTION 24.119.B.6. OF THE SUBDIVISION REGULATIONS, THE DEVELOPER HAS AN APPROVED TIS FROM WVDOT.
- B.6. AGENCY REVIEWS
1. AGENCY REVIEWS: LETTERS WILL BE SENT TO THE REQUIRED REVIEW AGENCIES AS REQUIRED BY THE CONCEPT PLAN REVIEW CHECKLIST. A COPY OF THE LETTERS WILL BE PROVIDED TO COUNTY STAFF.
- B.7. A LIST OF ALL ADJOINING PROPERTIES AND OWNERS ADDRESS ARE INCLUDED AS PART OF THIS SUBMISSION. PROPERTY OWNERS INFORMATION IS PROVIDED PURSUANT TO JEFFERSON COUNTY ASSESSOR'S RECORDS SEE TABLE LOCATED ON SHEET 2 AND 3 FOR ADJACENT PROPERTY OWNER INFORMATION.
- E. A LETTER TO WVDOT HAS BEEN SENT REQUESTING THE IDENTIFICATION OF ANY ISSUES, DATA REQUIREMENTS OR NOTICE THAT THERE ARE NONE.
- F. PURSUANT TO SECTION 24.119.B.6 OF THE SUBDIVISION REGULATION, THE DEVELOPER WILL PROVIDE A TRAFFIC IMPACT STUDY IN ACCORDANCE WITH WVDOT CRITERIA WITH SITE PLAN.
- G. DOMESTIC WATER SERVICE WILL BE PROVIDED BY BERKELEY COUNTY PUBLIC SERVICE WATER DISTRICT (BCPWS), AN INTENT TO SERVE LETTER HAS BEEN OBTAINED AND PROVIDED TO COUNTY STAFF.
- H. SEWER SERVICE WILL BE PROVIDED BY BERKELEY COUNTY PUBLIC SERVICE SEWER DISTRICT (BCPSSD), AN INTENT TO SERVE LETTER HAS BEEN OBTAINED AND PROVIDED TO COUNTY STAFF.

- CONCEPT PLAN CONDITIONS:**
1. PRIOR TO THE START OF PLANT OPERATIONS THE INTERSECTION OF LEETOWN ROAD AND ROUTE 51 WILL BE IMPROVED. IT IS CURRENTLY ANTICIPATED THAT THIS IMPROVEMENT WILL BE A TRAFFIC CIRCLE. THE FORM OF THE FINAL IMPROVEMENT IS AT THE DISCRETION OF WVDOT.
 2. THE APPLICANT WILL SUBMIT A WELL MONITORING PLAN WITH THE SITE PLAN. THE PLAN WILL INCLUDE THE FOLLOWING:
 - 2.1. PROPERTY OWNERS WITHIN 1/2 MILE OF THE SUPPLY WELL MAY REQUEST WELL MONITORING
 - 2.2. PROPERTY OWNERS AT THE FOLLOWING LOCATIONS MAY REQUEST WELL MONITORING
 - 2.2.1. QUEEN STREET - FROM SOUTH STREET TO ROUTE 116, GRACE STREET, WEST STREET, EAST STREET, OLD MIDDLEWAY ROAD
 3. THE OWNER WILL MEET WITH MIDDLEWAY RESIDENTS TO DISCUSS TRAFFIC IMPACT TO HISTORICAL STRUCTURES AND TRAFFIC CALMING PRIOR TO THE SUBMISSION OF THE SITE PLAN.
 4. WATER WITHDRAWAL TO BE IN CONFORMANCE WITH WV OFFICE OF ENVIRONMENTAL HEALTH SERVICES PERMIT #21,258 WHICH PERMITS A 1,000GPM WELL.
 5. APPLICANT WILL CONDUCT GROUND WATER SAMPLING ON PARCEL 9 AFTER PLANT IS OPERATIONAL. WATER SAMPLES WILL BE TAKEN FROM THE MONITORING WELLS CONSTRUCTED DURING THE VRP TESTING. WELL LOCATIONS SHALL BE SUBMITTED WITH THE SITE PLAN.

GENERAL LOCATION MAP

SCALE: 1"=2,000'



Zoning District

- Major Industrial
- Light Industrial
- Industrial/Commercial
- Office/Commercial Mixed-Use
- General Commercial
- Highway Commercial
- Neighborhood Commercial
- Residential/Light Industrial/Commercial
- Residential Growth
- Planned Neighborhood Development
- Rural
- Village
- Incorporated Town

PROJECT DESCRIPTION:

THE DEVELOPMENT PROPOSES UP TO 1,000,000 SQUARE FEET OF BUILDING AREA FOR BOTTLING FACILITIES, FALLING UNDER HEAVY MANUFACTURING, WAREHOUSING AND DISTRIBUTION USE AND A WELL TO TRANSMIT WATER TO THE BOTTLING FACILITY. PARCEL 9 WILL BE SUBDIVIDED AS A NON-RESIDENTIAL SUBDIVISION UNDER THE MINOR SUBDIVISION PROCESS PER THE WAIVER OBTAINED ON 08/08/2023, JC FILE #23-20-PCW. THE PARCEL LINES PER THE PROPOSED MINOR SUBDIVISION ARE DEPICTED ON THE CONCEPT PLAN. TWO ENTRANCES ARE PROPOSED, WITH ACCESS TO THE SITE PROVIDED VIA A 100' EASEMENT ONTO BUNKER HILL ROAD. THE SITE'S DEVELOPMENT IS PROPOSED TO BE PHASED. THE WELL ON PARCEL 34 IS EXISTING. A WATER LINE WILL BE INSTALLED ON PARCEL 33.9 AND EXTEND TO PARCEL 9.

ZONING ORDINANCE SUMMARY:

1. ZONING REQUIREMENTS:
 - PARCEL 9
ZONE - INDUSTRIAL COMMERCIAL DISTRICT
EXISTING USE - VACANT HEAVY MANUFACTURING FACILITY
PROPOSED USE - INDUSTRIAL - HEAVY MANUFACTURING AND DISTRIBUTION
 - PARCEL 33.9
ZONE - RURAL DISTRICT
EXISTING USE - MOBILE HOME PARK
PROPOSED USE - MOBILE HOME PARK, AND WATER LINE
 - PARCEL 34
ZONE - RURAL DISTRICT
EXISTING USE - WELL B (SUPPLY WELL PERMIT #21,258)
PROPOSED USE - WELL B (SUPPLY WELL PERMIT #21,258)
 2. ENVIRONMENTAL:
 - COVENANTS RECORDED ON PARCEL 9 IN PER VRP # 15024 WILL APPLY TO THE DEVELOPMENT. THESE COVENANTS INCLUDE NO WELL DRILLING WITHIN THE PLUME AREA AND WITHIN 300' OF MONITORING WELL 114D, CONTROLLED GRADING FOR PORTIONS OF PARCEL 9.
 - ENVIRONMENTAL STANDARDS CONTAINED IN SECTIONS 8.9.A.1 THROUGH 8.9.A.8 OF THE JEFFERSON COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE WILL APPLY.
 3. LANDSCAPING:
 - THE APPLICANT WILL MEET ALL LANDSCAPE AND BUFFER REQUIREMENTS OF THE JEFFERSON COUNTY ZONING AND SUBDIVISION ORDINANCES.
 4. SITE LIGHTING:
 - SITE LIGHTING IS PROPOSED FOR THIS SITE IN THE FORM OF POLE MOUNTED STREET LIGHTS AND BUILDING MOUNTED LIGHTS. FINAL DESIGN AND LOCATION IS SUBJECT TO RECOMMENDATIONS BY A QUALIFIED LIGHTING ENGINEER.
 5. USE REQUIREMENTS:

REQUIRED	PROVIDED
LOT SIZE: 3 AC	37 AC, 73 AC
LOT WIDTH: N/A	N/A
BUILDING HEIGHT: 75' (MAX.)	±50'
IMPERVIOUS AREA LIMIT: 90% (MAX.)	40%
BUILDING SETBACKS:	
FRONT: 50' (MIN.)	50' (MIN.)
SIDE: 50' (MIN.)	50' (MIN.)
REAR: 50' (MIN.)	50' (MIN.)
*25' (MIN.) IF ADJACENT TO AN INDUSTRIAL USE	
PARKING/DRIVE AISLE SETBACKS:	
FRONT: 25' (MIN.)	25' (MIN.)
SIDE: 25' (MIN.)	25' (MIN.)
REAR: 25' (MIN.)	25' (MIN.)
*20' (MIN.) IF ADJACENT TO AN INDUSTRIAL USE	
DISTANCE REQUIREMENT:	
FRONT, SIDE, REAR: 200' (MIN.)	200' (MIN.)
BUFFERS (SCREENED / UNSCREENED):	
FRONT: 25'(S)	25'(S)
*N/A IF ADJACENT TO AN INDUSTRIAL USE	
SIDE & REAR: 20'(S)	20'(S)

*Wide Buffer Detail M-52
- PARKING TABULATIONS:**
1. REQUIRED: (MANUFACTURING PLANT)
1 SPACE PER EMPLOYEE ON MAXIMUM WORKING SHIFT
TOTAL PARKING SPACES REQUIRED = 150 SPACES
 2. PROVIDED:
TOTAL PARKING SPACES PROVIDED = 163 SPACES (INCLUDES ADA ACCESSIBLE SPACES)
406 TRACTOR TRAILER SPACES

SUPPLY WELL SUMMARY:

1. THE SUPPLY WELL FOR THE BOTTLING FACILITY IS AN EXISTING PERMITTED WELL, PERMIT #21,258.
2. THE PERMIT WAS GRANTED BY THE WV OFFICE OF ENVIRONMENTAL HEALTH SERVICES, THE REGULATORY AGENCY FOR WELLS IN JEFFERSON COUNTY.
3. THE WELL PERMIT IS FOR 1,000GPM.
4. THE WELL PERMIT ALLOWS THE FACILITY TO SUPPLY THE PHASE 1 INDUSTRIAL FACILITY (BOTTLING PLANT), THE PHASE 2 INDUSTRIAL FACILITY (BOTTLING PLANT AND UP TO 250 CUSTOMERS IN MIDDLEWAY.
5. PERMITTING AND REGULATION OF THE EXISTING SUPPLY WELL.
 - 5.1. JEFFERSON COUNTY DEPARTMENT OF ENGINEERING, PLANNING AND ZONING DO NOT PERMIT OR APPROVE WELLS. IT DOES NOT REGULATE WELLS THROUGH THE ZONING ORDINANCE OR SUBDIVISION ORDINANCE. WHEN WELL APPROVALS ARE REQUIRED DOCUMENTATION MUST BE PROVIDED FROM THE REGULATING AGENCY.
 - 5.2. WV STATE CODE - §9A-7-10, EFFECT OF ENACTED ZONING ORDINANCE, DOES NOT PERMIT ANY ZONING ORDINANCE TO LIMIT OR RESTRICT THE COMPLETE USE OF NATURAL RESOURCES BY THE OWNER. WHILE WELLS CAN AND ARE REGULATED BY THE STATE OF WV, JEFFERSON COUNTY CANNOT USE THEIR ZONING ORDINANCE TO REPLACE THE AUTHORITY HELD BY THE STATE.
 - 5.3. DURING THE PERMITTING OF WELL B (#21,258) THE APPLICANT PREPARED A DETAILED STUDY THAT WAS SUBMITTED TO AND REVIEWED BY THE WV OFFICE OF ENVIRONMENTAL HEALTH SERVICES.

CIVIL LEGEND:

EXISTING	PROPOSED
BOUNDARY/RIGHT-OF-WAY LINE	BOUNDARY/RIGHT-OF-WAY LINE
ADJACENT BOUNDARY LINE	ADJACENT BOUNDARY LINE
CONCRETE MONUMENT/IRON REBAR	CONCRETE MONUMENT/IRON REBAR
EASEMENT LINE	EASEMENT LINE
ROAD CENTERLINE	ROAD CENTERLINE
HEADER CURB	HEADER CURB
CURB & GUTTER	CURB TRANS REVERSE CURB
EDGE OF PAVEMENT	EDGE OF PAVEMENT
EDGE OF CONCRETE	EDGE OF CONCRETE
EDGE OF GRAVEL	EDGE OF GRAVEL
SIDEWALK	SIDEWALK
GUARDRAIL	GUARDRAIL
BOARD FENCE	BOARD FENCE
CHAIN LINK FENCE	CHAIN LINK FENCE
WIRE FENCE	WIRE FENCE
BUILDINGS	BUILDINGS
RETAINING WALL	RETAINING WALL
MISCELLANEOUS SIGNS	MISCELLANEOUS SIGNS
MAIL BOX	MAIL BOX
SITE LIGHT WITH POLE	SITE LIGHT WITH POLE
BUILDING MOUNTED LIGHT	BUILDING MOUNTED LIGHT
UTILITY POLE	UTILITY POLE
UTILITY POLE GUY WIRE	UTILITY POLE GUY WIRE
OVERHEAD UTILITY LINE	OVERHEAD UTILITY LINE
UNDERGROUND UTILITY LINE	UNDERGROUND UTILITY LINE
OVERHEAD COMMUNICATIONS LINE	OVERHEAD COMMUNICATIONS LINE
UNDERGROUND COMMUNICATIONS LINE	UNDERGROUND COMMUNICATIONS LINE
UNDERGROUND GAS LINE	UNDERGROUND GAS LINE
SANITARY SEWER MAIN	SANITARY SEWER MAIN
SANITARY SEWER FORCE MAIN	SANITARY SEWER FORCE MAIN
SANITARY SEWER MANHOLE	SANITARY SEWER MANHOLE
SANITARY SEWER CLEAN-OUT	SANITARY SEWER CLEAN-OUT
STORM SEWER LINE	STORM SEWER LINE
STORM SEWER MANHOLE	STORM SEWER MANHOLE
STORM SEWER DROP INLET	STORM SEWER DROP INLET
STORM SEWER CURB INLET	STORM SEWER CURB INLET
STORM SEWER RIP-RAP	STORM SEWER RIP-RAP
STORM SEWER END SECTION	STORM SEWER END SECTION
WATER MAIN	WATER MAIN
FIRE HYDRANT	FIRE HYDRANT
WATER VALVE	WATER VALVE
WATER METER	WATER METER
MONITORING WELL	MONITORING WELL
INDEX CONTOUR LINE	INDEX CONTOUR LINE
INTERMEDIATE CONTOUR LINE	INTERMEDIATE CONTOUR LINE
SPOT ELEVATIONS	SPOT ELEVATIONS
TREES/SHRUBS	TREES/SHRUBS
DRIP LINE OF TREES	DRIP LINE OF TREES
LIMITS OF CONSTRUCTION	LIMITS OF CONSTRUCTION
SOIL BOUNDARY	SOIL BOUNDARY

JEFFERSON COUNTY - COMPLETE LIST OF WAIVERS/VARIANCES

(TABLE 1.2-2)

ORDINANCE	SECTION OF ORDINANCE	DESCRIPTION OF WAIVER OR VARIANCE	DATE GRANTED
SUBDIVISION	20.201C & 20.202	TO ALLOW A NON-RESIDENTIAL SUBDIVISION TO PROCESS AS A MINOR SUBDIVISION	08/08/2023

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SEAL:

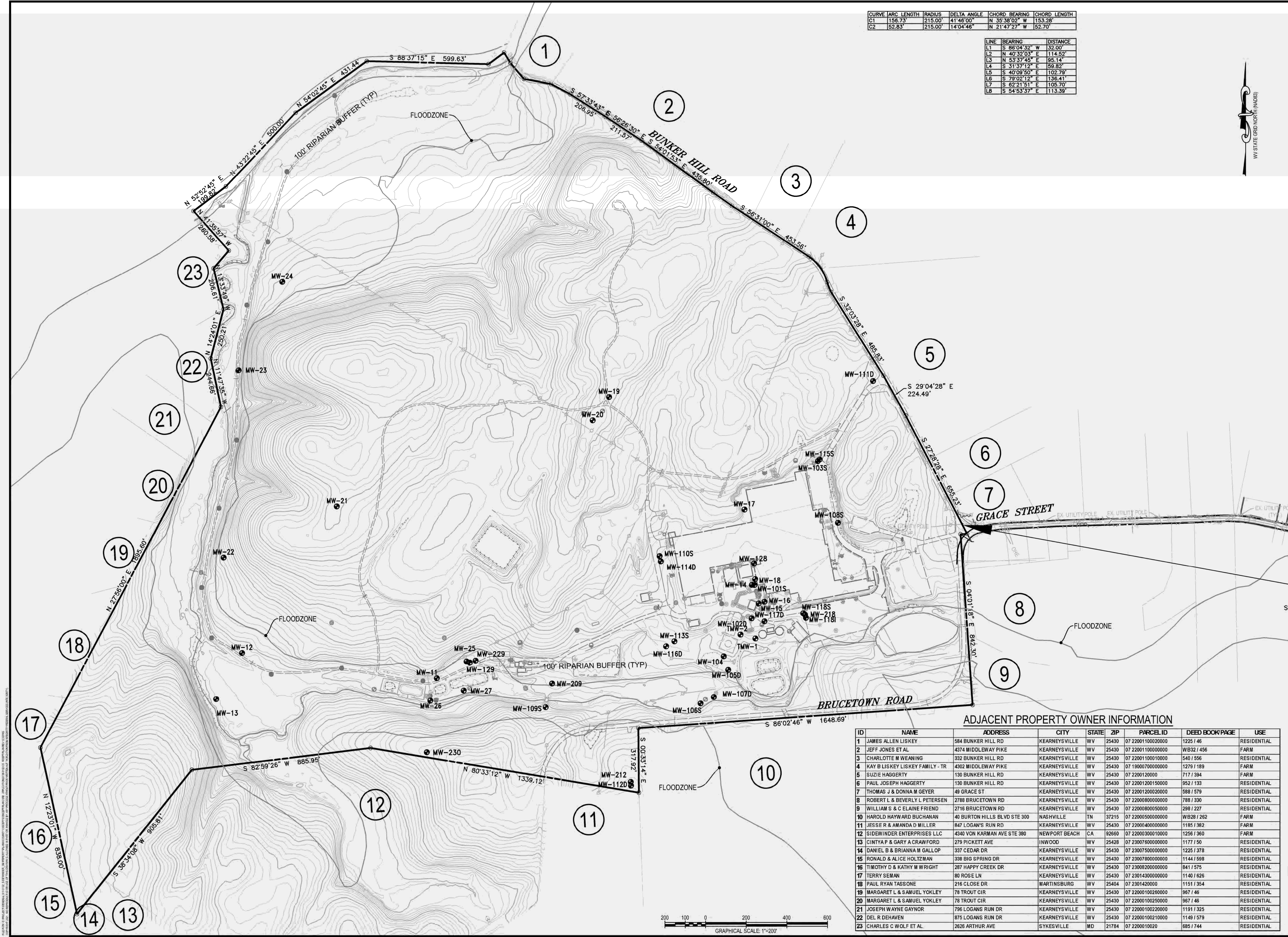
REVISIONS
REVISED PER COUNTY COMMENTS RECEIVED 10/17/2024
REVISED PER MEETING WITH COUNTY STAFF 10/17/2024
REVISED PER PLANNING COMMISSION INCOMPLETE ITEMS 11/15/2024
REVISED PER COUNTY COMMENTS RECEIVED 12/02/2024

COVER SHEET
1 MILL SQ. FT. BOTTLING FACILITY
MOUNTAIN PURE
TAX MAP 22, PARCELS 9, 34, & 33.9; D.B. 1256, PG. 960 & D.B. 1271, PG. 212
MIDDLEWAY TAX DISTRICT
JEFFERSON COUNTY, WEST VIRGINIA

SCALE:	HORIZ.: AS NOTED
	VERT.:
DATE:	SEPTEMBER 24, 2024
JOB:	3138-0102
DRAWN:	ABP
CHECK:	JPG
CADD:	COVER SHEET REV 12.3.DWG
NCS:	N/A
SHEET:	

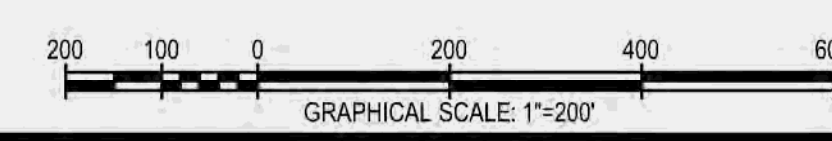
CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	156.73	215.00	41°46'00"	N 35°38'02" W	153.28'
C2	52.83	215.00	14°04'46"	N 21°47'27" W	52.70'

LINE	BEARING	DISTANCE
L1	S 86°04'32" W	32.00'
L2	N 40°32'03" E	114.52'
L3	N 53°37'45" E	95.14'
L4	S 31°37'12" E	59.82'
L5	S 40°09'50" E	102.79'
L6	S 79°02'12" E	136.41'
L7	S 62°21'51" E	105.70'
L8	S 54°53'37" E	113.39'



ADJACENT PROPERTY OWNER INFORMATION

ID	NAME	ADDRESS	CITY	STATE	ZIP	PARCEL ID	DEED BOOK/PAGE	USE
1	JAMES ALLEN LISKEY	584 BUNKER HILL RD	KEARNEYSVILLE	WV	25430	07 22001100020000	1225 / 46	RESIDENTIAL
2	JEFF JONES ET AL	4374 MIDDLEWAY PIKE	KEARNEYSVILLE	WV	25430	07 22001100000000	WB32 / 456	FARM
3	CHARLOTTE M WEANING	332 BUNKER HILL RD	KEARNEYSVILLE	WV	25430	07 22001100010000	540 / 556	RESIDENTIAL
4	KAY B LISKEY LISKEY FAMILY - TR	4302 MIDDLEWAY PIKE	KEARNEYSVILLE	WV	25430	07 19000700000000	1279 / 189	FARM
5	SUZIE HAGGERTY	130 BUNKER HILL RD	KEARNEYSVILLE	WV	25430	07 2200120000	717 / 394	FARM
6	PAUL JOSEPH HAGGERTY	130 BUNKER HILL RD	KEARNEYSVILLE	WV	25430	07 22001200150000	952 / 133	RESIDENTIAL
7	THOMAS J & DONNA M GEYER	49 GRACE ST	KEARNEYSVILLE	WV	25430	07 22001200020000	588 / 579	RESIDENTIAL
8	ROBERT L & BEVERLY L PETERSEN	2788 BRUCETOWN RD	KEARNEYSVILLE	WV	25430	07 22000800000000	788 / 330	RESIDENTIAL
9	WILLIAM S & C ELAINE FRIEND	2716 BRUCETOWN RD	KEARNEYSVILLE	WV	25430	07 22000800000000	298 / 227	RESIDENTIAL
10	HAROLD HAYWARD BUCHANAN	40 BURTON HILLS BLVD STE 300	NASHVILLE	TN	37215	07 22000500000000	WB28 / 262	FARM
11	JESSE R & AMANDA D MILLER	847 LOGAN'S RUN RD	KEARNEYSVILLE	WV	25430	07 22000400000000	1165 / 382	FARM
12	SIDEWINDER ENTERPRISES LLC	4340 VON KARMAN AVE STE 380	NEWPORT BEACH	CA	92660	07 22000300010000	1256 / 360	FARM
13	CINTYAP & GARY A CRAWFORD	279 PICKETT AVE	INWOOD	WV	25428	07 23007500000000	1177 / 50	RESIDENTIAL
14	DANIEL B & BRIANNA M GALLOP	337 CEDAR DR	KEARNEYSVILLE	WV	25430	07 23007500000000	1225 / 378	RESIDENTIAL
15	RONALD & ALICE HOLTZMAN	338 BIG SPRING DR	KEARNEYSVILLE	WV	25430	07 23007800000000	1144 / 598	RESIDENTIAL
16	TIMOTHY D & KATHY M WRIGHT	287 HAPPY CREEK DR	KEARNEYSVILLE	WV	25430	07 23008200000000	841 / 575	RESIDENTIAL
17	TERRY SEMAN	80 ROSE LN	KEARNEYSVILLE	WV	25430	07 23014300000000	1140 / 626	RESIDENTIAL
18	PAUL RYAN TASSONE	216 CLOSE DR	MARTINSBURG	WV	25404	07 2301420000	1151 / 354	RESIDENTIAL
19	MARGARET L & SAMUEL YOKLEY	78 TROUT CIR	KEARNEYSVILLE	WV	25430	07 22000100260000	967 / 46	RESIDENTIAL
20	MARGARET L & SAMUEL YOKLEY	78 TROUT CIR	KEARNEYSVILLE	WV	25430	07 22000100250000	967 / 46	RESIDENTIAL
21	JOSEPH WAYNE GAYNOR	796 LOGAN'S RUN DR	KEARNEYSVILLE	WV	25430	07 22000100220000	1191 / 325	RESIDENTIAL
22	DEL R DEHAVEN	875 LOGAN'S RUN DR	KEARNEYSVILLE	WV	25430	07 22000100210000	1149 / 579	RESIDENTIAL
23	CHARLES C WOLF ET AL	2626 ARTHUR AVE	SYKESVILLE	MD	21784	07 2200010020	685 / 744	RESIDENTIAL



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SEAL:

REVISIONS
REVISED PER COUNTY COMMENTS RECEIVED 10/17/2024
REVISED PER MEETING WITH COUNTY STAFF 10/17/2024
REVISED PER PLANNING COMMISSION INCOMPLETE ITEMS 11/15/2024
REVISED PER COUNTY COMMENTS RECEIVED 12/02/2024

EXISTING CONDITIONS
 1 MIL. SQ. FT. BOTTLING FACILITY
MOUNTAIN PURE
 TAX MAP 22, PARCEL(S) 9, 34 & 33.9; D.B. 1256, PG. 360 & D.B. 1271, PG. 212
 MIDDLEWAY TAX DISTRICT
 JEFFERSON COUNTY, WEST VIRGINIA

SCALE:	HORIZ: 1"=200'
	VERT: 1"=20'
DATE:	SEPTEMBER 24, 2024
JOB:	3138-0102
DRAWN:	ABP
CHECK:	JPG
CADD:	3138-0102-CONCEPT PLAN REV 12.10.20
NCS:	WA
SHEET:	2 OF 6



ADJACENT PROPERTY OWNER INFORMATION, CONTINUED

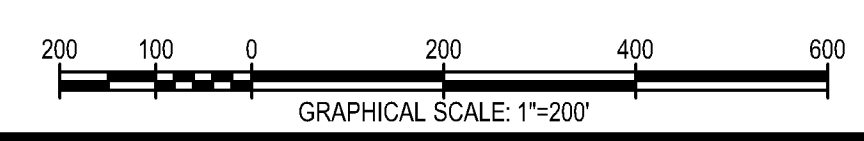
ID	NAME	ADDRESS	CITY	STATE	ZIP	PARCEL ID	DEED BOOK/PAGE	USE
24	GEORGE H & M LINDA LANE	5611 MIDDLEWAY PIKE	KEARNEYSVILLE	WV	25430	07 19003800030000	542/413	RESIDENTIAL
25	AARON & OLGA CLEVENSTINE	5673 MIDDLEWAY PIKE	KEARNEYSVILLE	WV	25430	07 19003800100000	1249/629	FARM
26	WILBOB FARMS INC	5889 MIDDLEWAY PIKE	KEARNEYSVILLE	WV	25430	07 19003900000000	710/178	FARM
27	WILLIAM W GRANTHAM JR & KERRY L GRAN	5830 MIDDLEWAY PIKE	KEARNEYSVILLE	WV	25430	07 21000100000000	1063/228	FARM
28	DAVID E LISKEY	4420 MIDDLEWAY PIKE	KEARNEYSVILLE	WV	25430	07 21000200000000	1184/360	FARM
29	FRANK J SUPPLEE IV & MARY L SUPPLEE	6880 LEETOWN RD	KEARNEYSVILLE	WV	25430	07 22003100000000	1068/96	FARM
30	SIDEWINDER ENTERPRISES LLC	4340 VON KARMAN AVE STE 380	NEWPORT BEACH	CA	92660	07 22003200000000	1256/360	COMMERCIAL
31	LINDA G NEWSOME	213 OLD MADISON LN	KEARNEYSVILLE	WV	25430	07 22003300220000	1128/470	RESIDENTIAL
32	WILLIAM E & LISA A HEWITT	395 LAKE LOUISE LN	KEARNEYSVILLE	WV	25430	07 22003300000000	1193/336	FARM
33	ROY F TAYLOR JR & KIMBERLY R TAYLOR	5618 MIDDLEWAY PIKE	KEARNEYSVILLE	WV	25420	07 22003300160000	1262/201	RESIDENTIAL

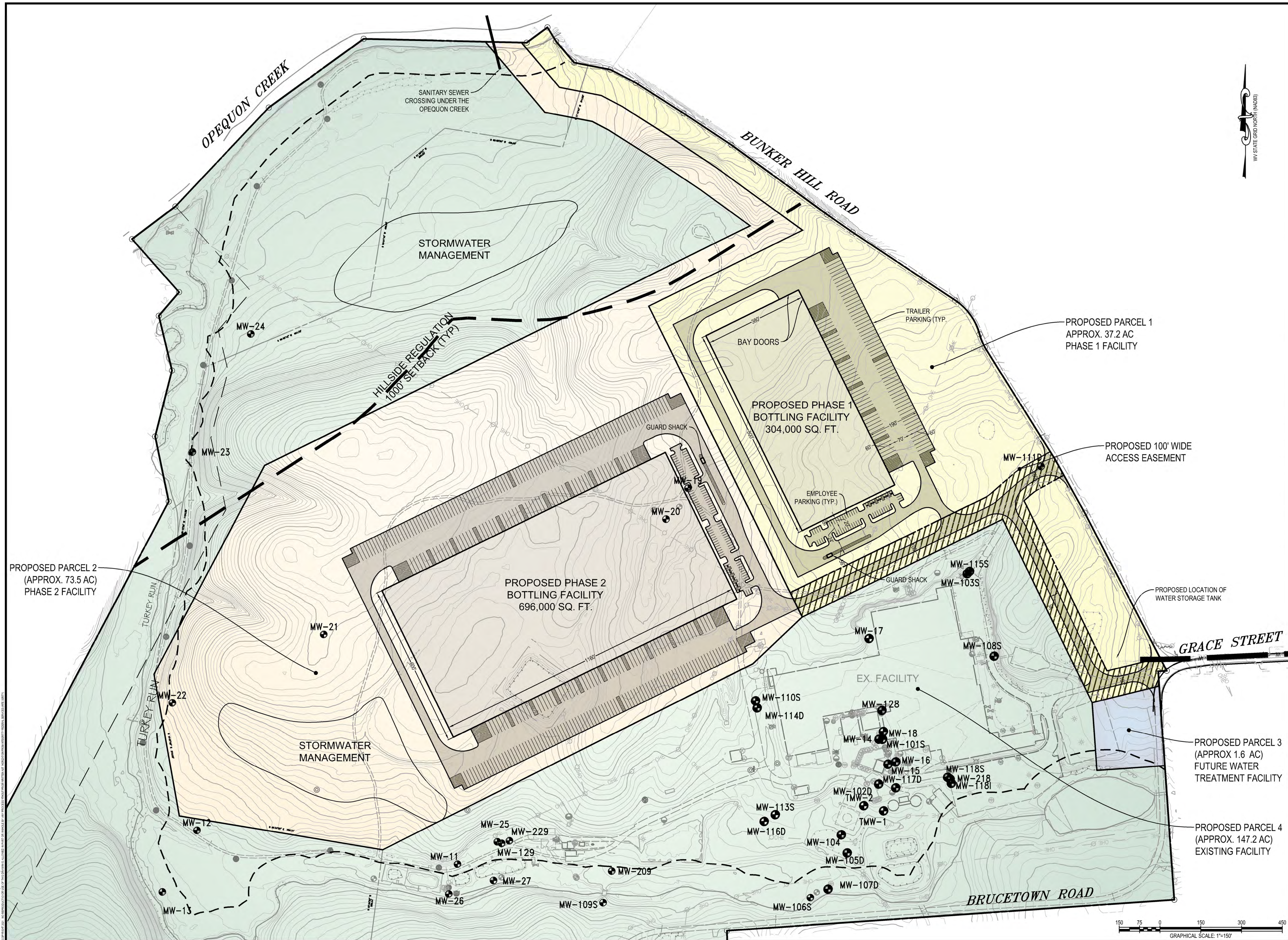
SEAL:

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EXISTING CONDITIONS
 1 MIL. SQ. FT. BOTTLING FACILITY
MOUNTAIN PURE
 TAX MAP 22, PARCEL(S) 9, 34, & 33-9; D.B. 1256, PG. 360 & D.B. 1271, PG. 212
 MIDDLEWAY TAX DISTRICT
 JEFFERSON COUNTY, WEST VIRGINIA

SCALE:	HORIZ: 1"=200'
	VERT: 1"=100'
DATE:	SEPTEMBER 24, 2024
JOB:	3138-0102
DRAWN:	ABP
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NCS:	N/A
SHEET:	3 OF 6





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CONCEPT PLAN
 1 MIL. SQ. FT. BOTTLING FACILITY
MOUNTAIN PURE
 TAX MAP 22, PARCEL(S) 9, 34, & 33.9; D.B. 1266; P.G. 360 & D.B. 1271, P.G. 212
 MIDDLEWAY TAX DISTRICT
 JEFFERSON COUNTY, WEST VIRGINIA

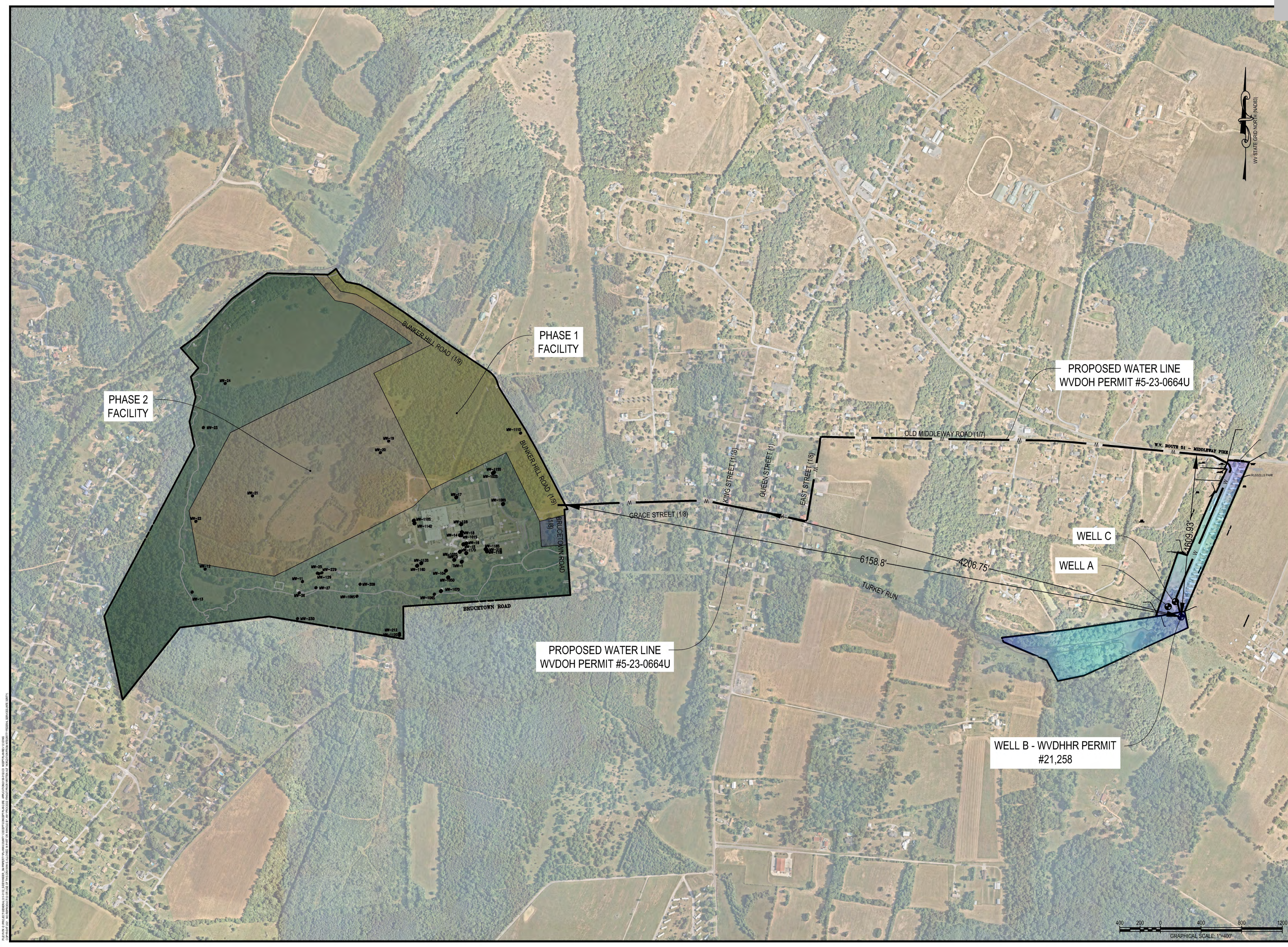
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JOB:	3138-0102
DRAWN:	ABP
CHECK:	JPG
CADD:	3138-0102-CONCEPT PLAN REV 12.0 DWG
NCS:	WA
SHEET:	4 OF 6

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REVISED PER COUNTY COMMENTS RECEIVED 12/02/2024

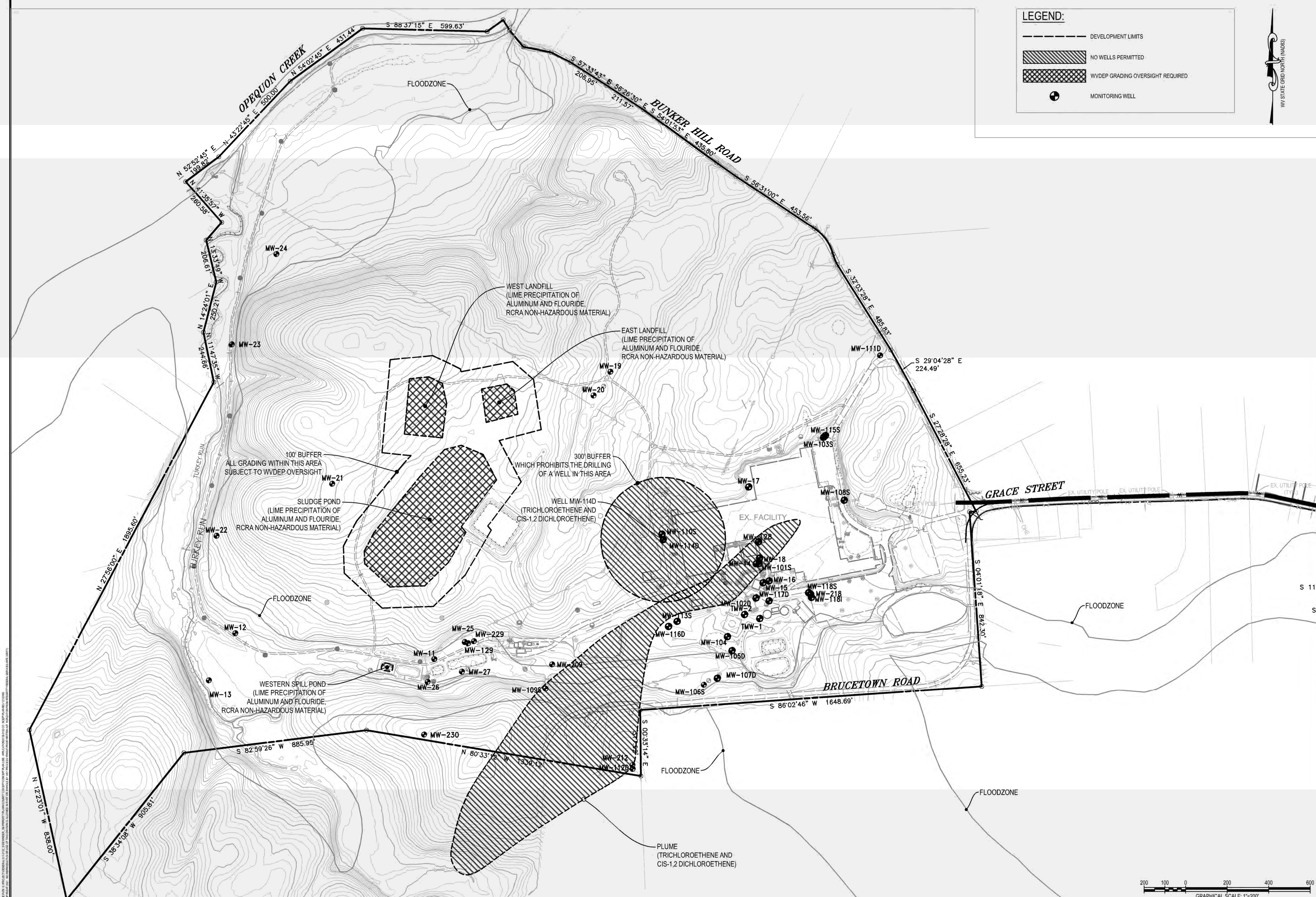
CONCEPT PLAN
 1 MIL. SQ. FT. BOTTLING FACILITY
MOUNTAIN PURE
 TAX MAP 22, PARCEL(S) 9, 34, & 33.9; D.B. 1256, PG. 380 & D.B. 1271, PG. 212
 MIDDLEWAY TAX DISTRICT
 JEFFERSON COUNTY, WEST VIRGINIA

SCALE:	HORIZ.: 1"=400'
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DATE:	SEPTEMBER 24, 2024
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DRAWN:	ABP
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CADD:	3138-0102-CONCEPT PLAN REV 12.0.DWG
NCS:	NA
SHEET:	5 OF 6



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VRP-15024 CERTIFICATE OF COMPLETION ISSUED JUNE 15, 2018



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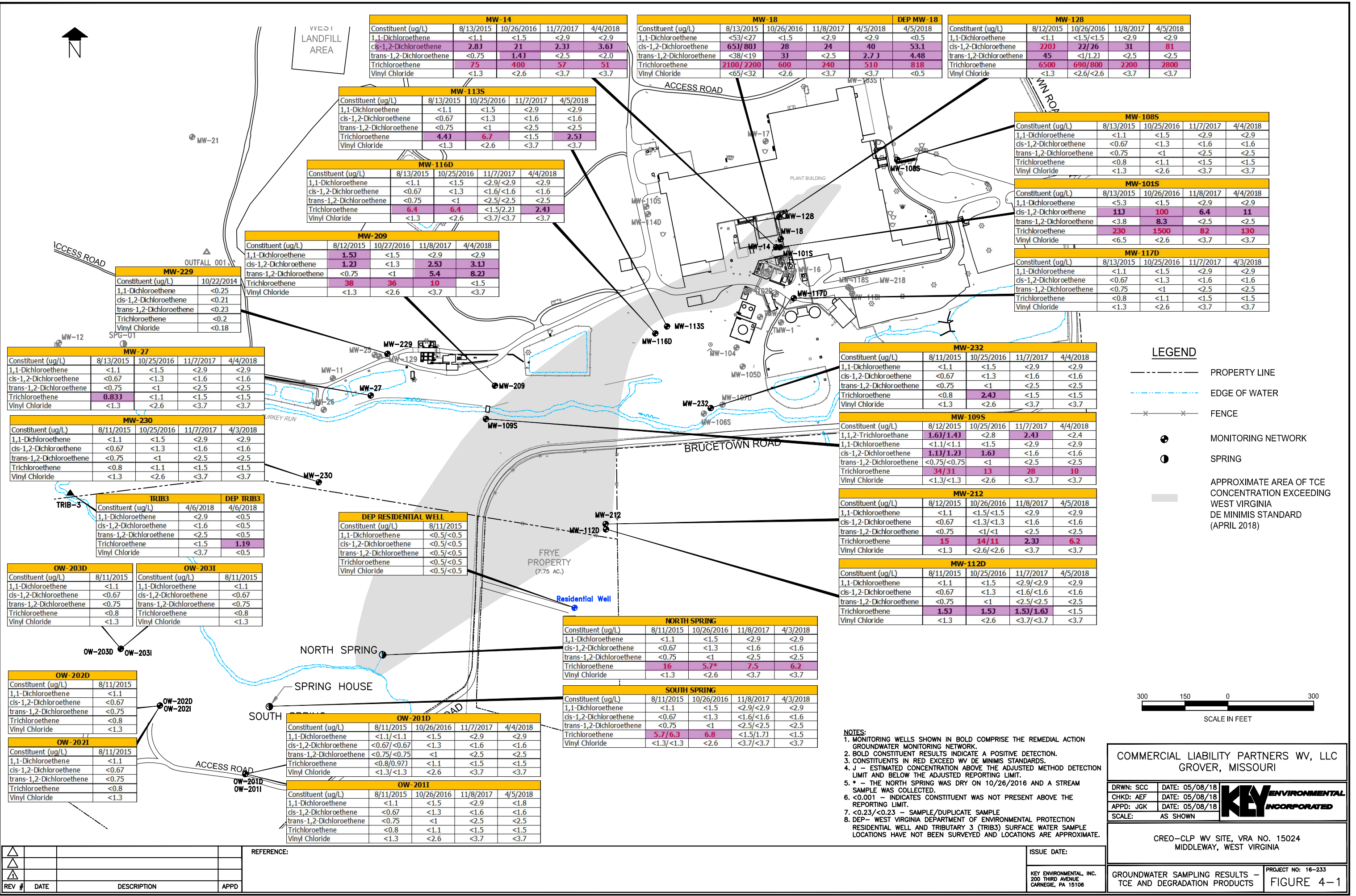
SEAL:

REVISIONS
REVISED PER COUNTY COMMENTS RECEIVED 10/7/2024
REVISED PER MEETING WITH COUNTY STAFF 10/7/2024
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REVISED PER COUNTY COMMENTS RECEIVED 12/02/2024

VRP CONDITIONS
 1 MIL. SQ. FT. BOTTLING FACILITY
MOUNTAIN PURE
 TAX MAP 22, PARCEL(S) 9, 34 & 339; D.B. 1256, PG. 360 & D.B. 1271, PG. 212
 MIDDLEWAY TAX DISTRICT
 JEFFERSON COUNTY, WEST VIRGINIA

SCALE:	HORIZ: 1"=200'
	VERT: 1"=200'
DATE:	SEPTEMBER 24, 2024
JOB:	3138-0102
DRAWN:	ABP
CHECK:	JPG
CADD:	3138-0102-CONCEPT PLAN-REV 12.3.DWG
NCS:	N/A
SHEET:	6 OF 6

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MW-14				
Constituent (ug/L)	8/13/2015	10/26/2016	11/7/2017	4/4/2018
1,1-Dichloroethene	<1.1	<1.5	<2.9	<2.9
cis-1,2-Dichloroethene	2.8J	21	2.3J	3.6J
trans-1,2-Dichloroethene	<0.75	1.4J	<2.5	<2.0
Trichloroethene	75	400	57	51
Vinyl Chloride	<1.3	<2.6	<3.7	<3.7

MW-18				
Constituent (ug/L)	8/13/2015	10/26/2016	11/8/2017	4/5/2018
1,1-Dichloroethene	<53/<27	<1.5	<2.9	<2.9
cis-1,2-Dichloroethene	65J/80J	28	24	40
trans-1,2-Dichloroethene	<38/<19	3J	<2.5	2.7 J
Trichloroethene	2100/2200	600	240	510
Vinyl Chloride	<65/<32	<2.6	<3.7	<3.7

DEP MW-18				
Constituent (ug/L)	8/13/2015	10/26/2016	11/8/2017	4/5/2018
1,1-Dichloroethene	<1.1	<1.5	<2.9	<2.9
cis-1,2-Dichloroethene	220J	22/26	31	81
trans-1,2-Dichloroethene	45	<1/1.2J	<2.5	<2.5
Trichloroethene	6500	690/800	2200	2800
Vinyl Chloride	<1.3	<2.6/<2.6	<3.7	<3.7

MW-128				
Constituent (ug/L)	8/12/2015	10/26/2016	11/8/2017	4/5/2018
1,1-Dichloroethene	<1.1	<1.5/<1.5	<2.9	<2.9
cis-1,2-Dichloroethene	220J	22/26	31	81
trans-1,2-Dichloroethene	45	<1/1.2J	<2.5	<2.5
Trichloroethene	6500	690/800	2200	2800
Vinyl Chloride	<1.3	<2.6/<2.6	<3.7	<3.7

MW-108S				
Constituent (ug/L)	8/13/2015	10/25/2016	11/7/2017	4/4/2018
1,1-Dichloroethene	<1.1	<1.5	<2.9	<2.9
cis-1,2-Dichloroethene	<0.67	<1.3	<1.6	<1.6
trans-1,2-Dichloroethene	<0.75	<1	<2.5	<2.5
Trichloroethene	<0.8	<1.1	<1.5	<1.5
Vinyl Chloride	<1.3	<2.6	<3.7	<3.7

MW-101S				
Constituent (ug/L)	8/13/2015	10/25/2016	11/8/2017	4/4/2018
1,1-Dichloroethene	<5.3	<1.5	<2.9	<2.9
cis-1,2-Dichloroethene	11J	100	6.4	11
trans-1,2-Dichloroethene	<3.8	8.3	<2.5	<2.5
Trichloroethene	230	1500	82	130
Vinyl Chloride	<6.5	<2.6	<3.7	<3.7

MW-117D				
Constituent (ug/L)	8/13/2015	10/25/2016	11/7/2017	4/3/2018
1,1-Dichloroethene	<1.1	<1.5	<2.9	<2.9
cis-1,2-Dichloroethene	<0.67	<1.3	<1.6	<1.6
trans-1,2-Dichloroethene	<0.75	<1	<2.5	<2.5
Trichloroethene	<0.8	<1.1	<1.5	<1.5
Vinyl Chloride	<1.3	<2.6	<3.7	<3.7

MW-229				
Constituent (ug/L)	10/22/2014			
1,1-Dichloroethene	<0.25			
cis-1,2-Dichloroethene	<0.21			
trans-1,2-Dichloroethene	<0.23			
Trichloroethene	<0.2			
Vinyl Chloride	<0.18			

MW-27				
Constituent (ug/L)	8/13/2015	10/25/2016	11/7/2017	4/4/2018
1,1-Dichloroethene	<1.1	<1.5	<2.9	<2.9
cis-1,2-Dichloroethene	<0.67	<1.3	<1.6	<1.6
trans-1,2-Dichloroethene	<0.75	<1	<2.5	<2.5
Trichloroethene	0.83J	<1.1	<1.5	<1.5
Vinyl Chloride	<1.3	<2.6	<3.7	<3.7

MW-230				
Constituent (ug/L)	8/11/2015	10/25/2016	11/7/2017	4/3/2018
1,1-Dichloroethene	<1.1	<1.5	<2.9	<2.9
cis-1,2-Dichloroethene	<0.67	<1.3	<1.6	<1.6
trans-1,2-Dichloroethene	<0.75	<1	<2.5	<2.5
Trichloroethene	<0.8	<1.1	<1.5	<1.5
Vinyl Chloride	<1.3	<2.6	<3.7	<3.7

OW-203D				OW-203I			
Constituent (ug/L)	8/11/2015			Constituent (ug/L)	8/11/2015		
1,1-Dichloroethene	<1.1			1,1-Dichloroethene	<1.1		
cis-1,2-Dichloroethene	<0.67			cis-1,2-Dichloroethene	<0.67		
trans-1,2-Dichloroethene	<0.75			trans-1,2-Dichloroethene	<0.75		
Trichloroethene	<0.8			Trichloroethene	<0.8		
Vinyl Chloride	<1.3			Vinyl Chloride	<1.3		

OW-202D	
Constituent (ug/L)	8/11/2015
1,1-Dichloroethene	<1.1
cis-1,2-Dichloroethene	<0.67
trans-1,2-Dichloroethene	<0.75
Trichloroethene	<0.8
Vinyl Chloride	<1.3

OW-202I	
Constituent (ug/L)	8/11/2015
1,1-Dichloroethene	<1.1
cis-1,2-Dichloroethene	<0.67
trans-1,2-Dichloroethene	<0.75
Trichloroethene	<0.8
Vinyl Chloride	<1.3

OW-201D				
Constituent (ug/L)	8/11/2015	10/26/2016	11/7/2017	4/4/2018
1,1-Dichloroethene	<1.1/<1.1	<1.5	<2.9	<2.9
cis-1,2-Dichloroethene	<0.67/<0.67	<1.3	<1.6	<1.6
trans-1,2-Dichloroethene	<0.75/<0.75	<1	<2.5	<2.5
Trichloroethene	<0.8/0.97J	<1.1	<1.5	<1.5
Vinyl Chloride	<1.3/<1.3	<2.6	<3.7	<3.7

OW-201I				
Constituent (ug/L)	8/11/2015	10/26/2016	11/8/2017	4/5/2018
1,1-Dichloroethene	<1.1	<1.5	<2.9	<1.8
cis-1,2-Dichloroethene	<0.67	<1.3	<1.6	<1.6
trans-1,2-Dichloroethene	<0.75	<1	<2.5	<2.5
Trichloroethene	<0.8	<1.1	<1.5	<1.5
Vinyl Chloride	<1.3	<2.6	<3.7	<3.7

NORTH SPRING				
Constituent (ug/L)	8/11/2015	10/26/2016	11/8/2017	4/3/2018
1,1-Dichloroethene	<1.1	<1.5	<2.9	<2.9
cis-1,2-Dichloroethene	<0.67	<1.3	<1.6	<1.6
trans-1,2-Dichloroethene	<0.75	<1	<2.5	<2.5
Trichloroethene	16	5.7*	7.5	6.2
Vinyl Chloride	<1.3	<2.6	<3.7	<3.7

SOUTH SPRING				
Constituent (ug/L)	8/11/2015	10/26/2016	11/8/2017	4/3/2018
1,1-Dichloroethene	<1.1	<1.5	<2.9/<2.9	<2.9
cis-1,2-Dichloroethene	<0.67	<1.3	<1.6/<1.6	<1.6
trans-1,2-Dichloroethene	<0.75	<1	<2.5/<2.5	<2.5
Trichloroethene	5.7/6.3	6.8	<1.5/1.7J	<1.5
Vinyl Chloride	<1.3/<1.3	<2.6	<3.7/<3.7	<3.7

LEGEND

- PROPERTY LINE
- EDGE OF WATER
- FENCE
- MONITORING NETWORK
- SPRING
- APPROXIMATE AREA OF TCE CONCENTRATION EXCEEDING WEST VIRGINIA DE MINIMIS STANDARD (APRIL 1981)



- NOTES:**
- MONITORING WELLS SHOWN IN BOLD COMPRISE THE REMEDIAL ACTION GROUNDWATER MONITORING NETWORK.
 - BOLD CONSTITUENT RESULTS INDICATE A POSITIVE DETECTION.
 - CONSTITUENTS IN RED EXCEED WV DE MINIMIS STANDARDS.
 - J - ESTIMATED CONCENTRATION ABOVE THE ADJUSTED METHOD DETECTION LIMIT AND BELOW THE ADJUSTED REPORTING LIMIT.
 - * - THE NORTH SPRING WAS DRY ON 10/26/2016 AND A STREAM SAMPLE WAS COLLECTED.
 - <0.001 - INDICATES CONSTITUENT WAS NOT PRESENT ABOVE THE REPORTING LIMIT.
 - <0.23/<0.23 - SAMPLE/DUPLICATE SAMPLE
 - DEP- WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION RESIDENTIAL WELL AND TRIBUTARY 3 (TRIB3) SURFACE WATER SAMPLE LOCATIONS HAVE NOT BEEN SURVEYED AND LOCATIONS ARE APPROXIMATE.

COMMERCIAL LIABILITY PARTNERS WV, LLC
GROVER, MISSOURI

KEY ENVIRONMENTAL INCORPORATED

DRWN: SCC DATE: 05/08/18
CHKD: AEF DATE: 05/08/18
APPD: JGK DATE: 05/08/18
SCALE: AS SHOWN

CREO-CLP WV SITE, VRA NO. 15024
MIDDLEWAY, WEST VIRGINIA

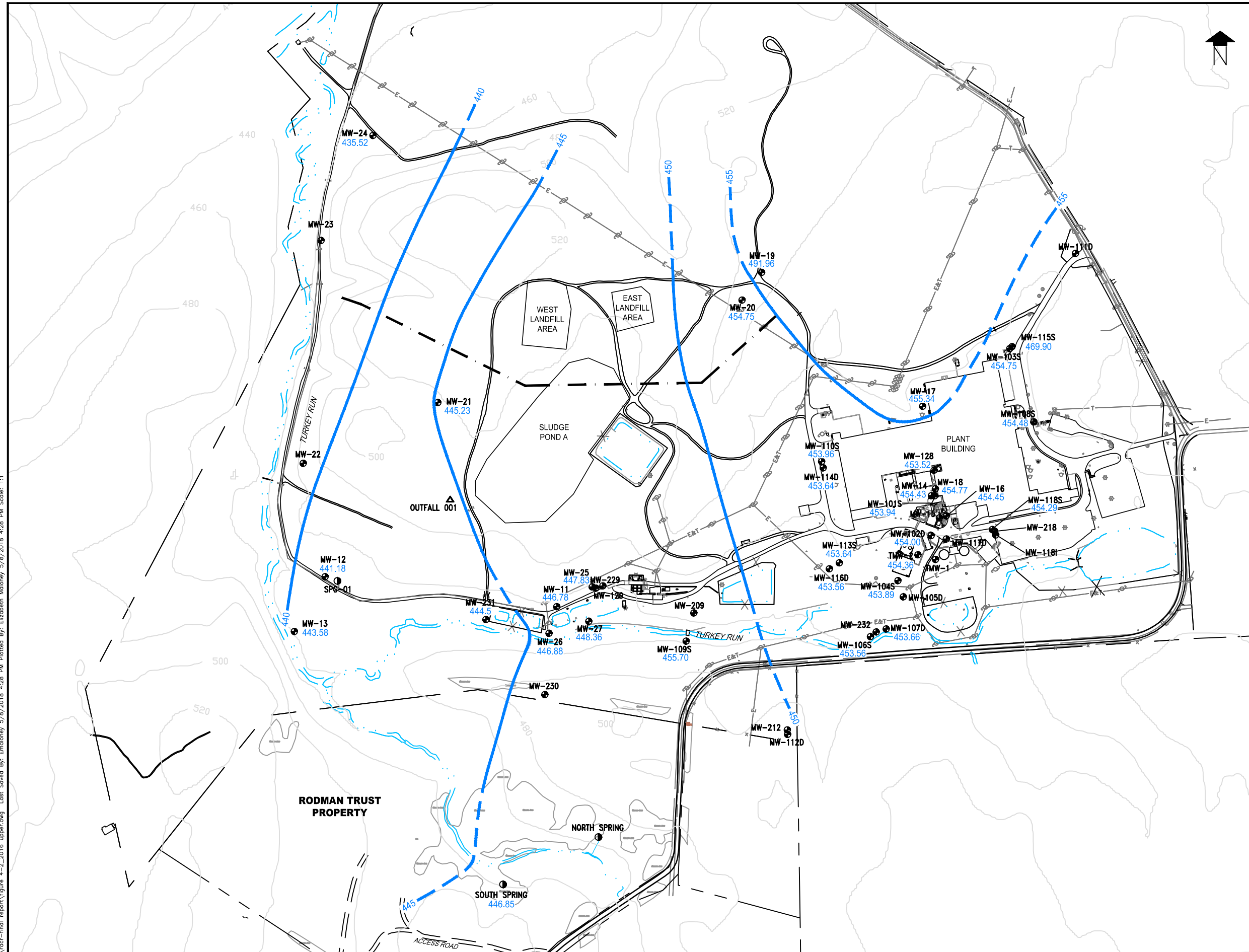
GROUNDWATER SAMPLING RESULTS - TCE AND DEGRADATION PRODUCTS

PROJECT NO: 16-233
FIGURE 4-1

REV #	DATE	DESCRIPTION	APPD

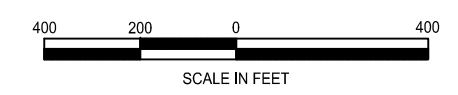
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LEGEND

- PROPERTY LINE
- EDGE OF WATER
- TOPOGRAPHIC CONTOUR LINE
- MONITORING WELL
- SPRING
- OUTFALL
- 454.29 GROUND WATER ELEVATION (FT.)
- 455 GROUND WATER ELEVATION CONTOUR (FT.) (DASHED WHERE INFERRED)



COMMERCIAL LIABILITY PARTNERS WV, LLC
GROVER, MISSOURI

DRWN: SCC	DATE: 12/16/16
CHKD: PG	DATE: 12/16/16
APPD: JGK	DATE: 12/22/16
SCALE: AS SHOWN	



CREO-CLP WV SITE, VRA NO. 15024
MIDDLEWAY, WEST VIRGINIA

ISSUE DATE:

KEY ENVIRONMENTAL, INC.
200 THIRD AVENUE
CARNEGIE, PA 15106

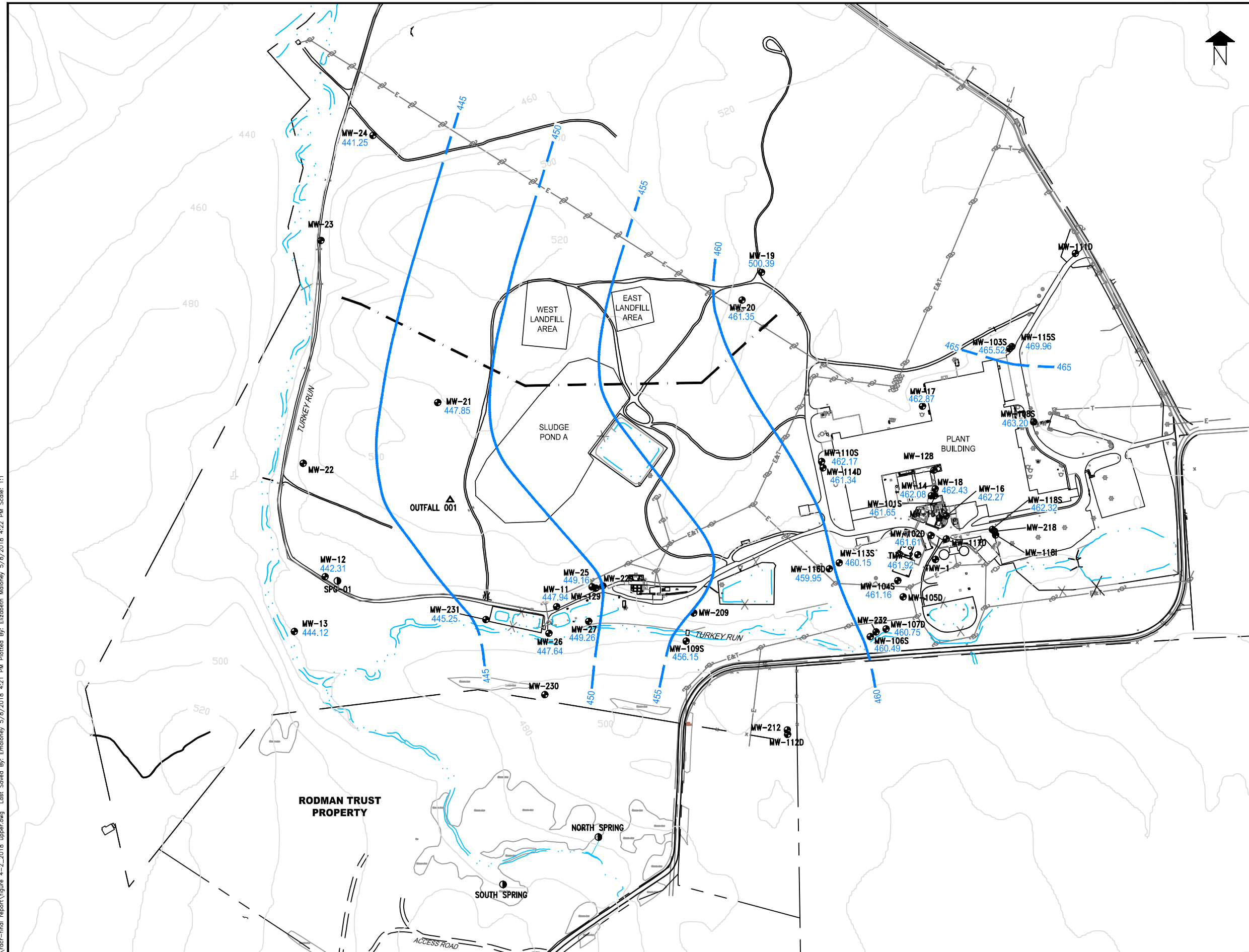
GROUNDWATER CONTOUR MAP
UPPER ZONE - 10/25/16

PROJECT NO: 15-048
FIGURE 4-2 (2016)

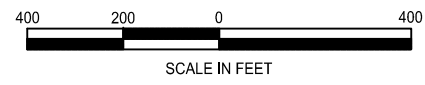
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REFERENCE:

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NOTE:
 MW-115S AND MW-19 ARE
 SCREENED IN A PERCHED ZONE.



COMMERCIAL LIABILITY PARTNERS WV, LLC
 GROVER, MISSOURI

DRWN: ERM	DATE: 05/04/18
CHKD: AEF	DATE: 05/04/18
APPD: JGK	DATE: 05/08/18
SCALE: AS SHOWN	



CREO-CLP WV SITE, VRA NO. 15024
 MIDDLEWAY, WEST VIRGINIA

ISSUE DATE:
 KEY ENVIRONMENTAL, INC.
 200 THIRD AVENUE
 CARNEGIE, PA 15106

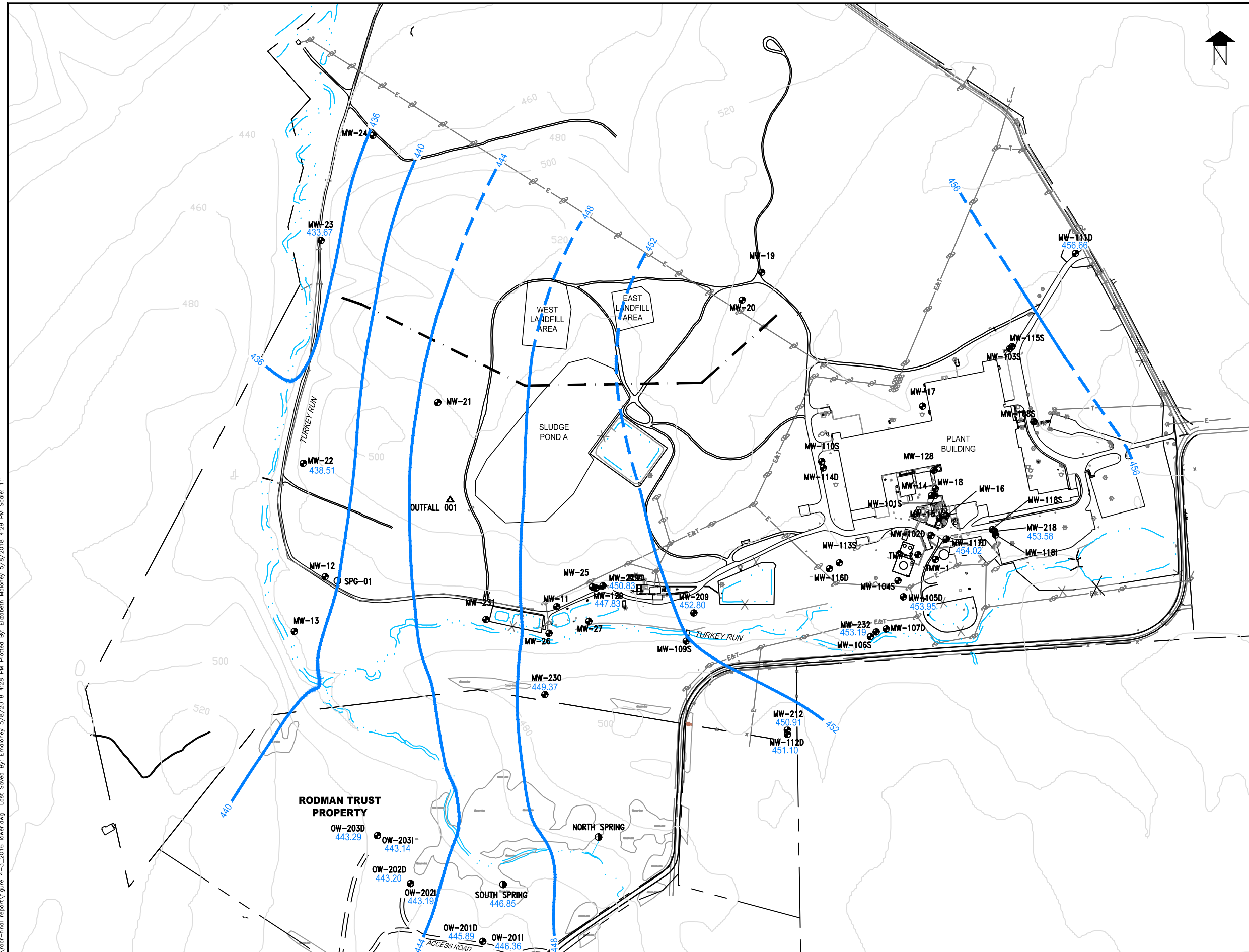
GROUNDWATER CONTOUR MAP
 UPPER ZONE - 04/03/18

PROJECT NO: 15-046
 FIGURE 4-2 (2018)

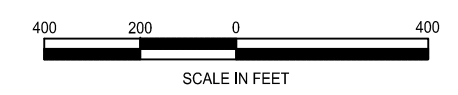
REV #	DATE	DESCRIPTION	APPD

REFERENCE:

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- LEGEND**
- PROPERTY LINE
 - - - - - EDGE OF WATER
 - 500 TOPOGRAPHIC CONTOUR LINE
 - MONITORING WELL
 - SPRING
 - ▲ OUTFALL
 - 453.58 GROUND WATER ELEVATION (FT.)
 - - - - - 452 GROUND WATER ELEVATION CONTOUR (FT.) (DASHED WHERE INFERRED)



COMMERCIAL LIABILITY PARTNERS WV, LLC
GROVER, MISSOURI

DRWN: SCC	DATE: 12/16/16
CHKD: PG	DATE: 12/16/16
APPD: JGK	DATE: 12/22/16
SCALE: AS SHOWN	



CREO-CLP WV SITE, VRA NO. 15024
MIDDLEWAY, WEST VIRGINIA

GROUNDWATER CONTOUR MAP
LOWER ZONE - 10/25/16

PROJECT NO: 15-046
FIGURE 4-3 (2016)

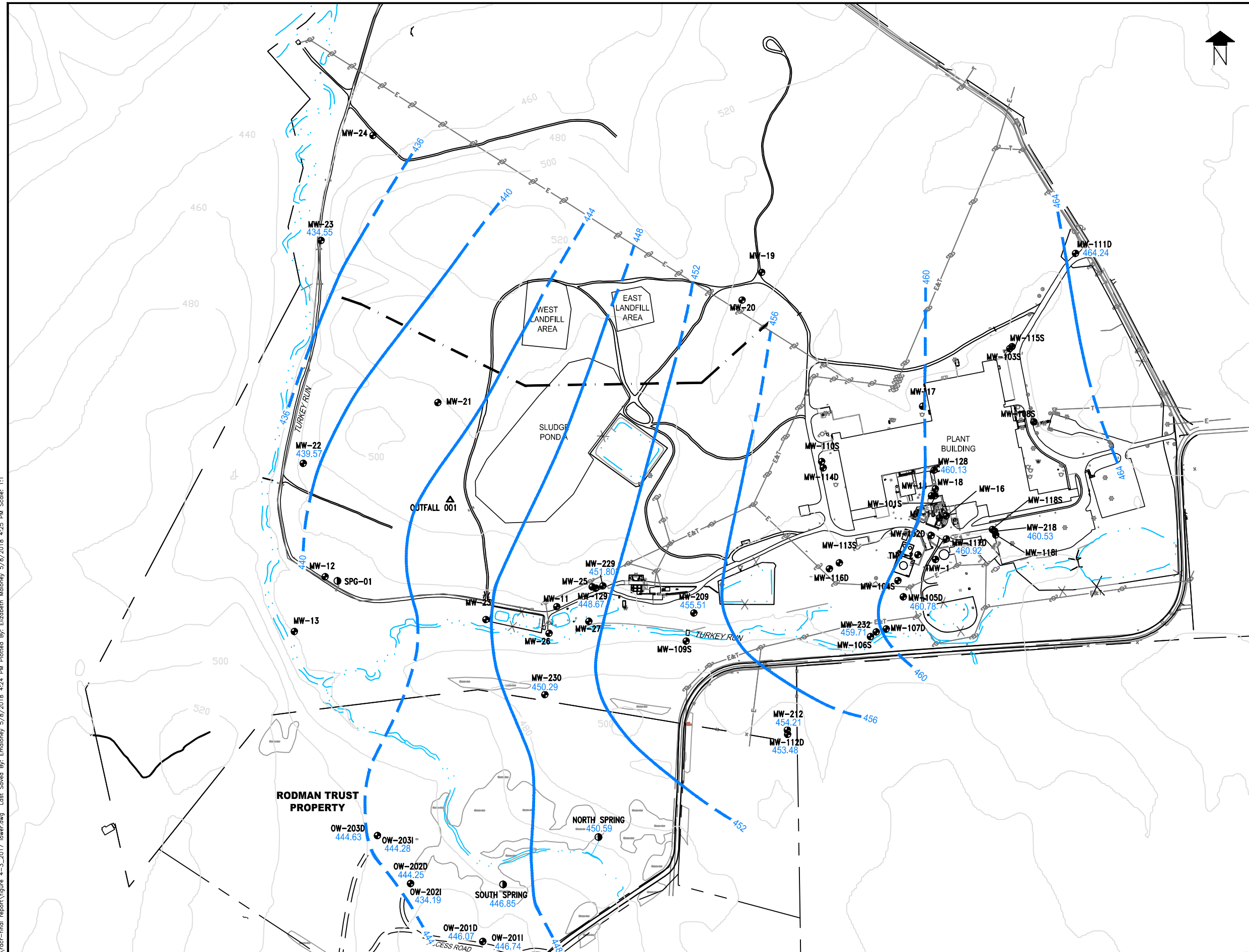
REV #	DATE	DESCRIPTION	APPD

REFERENCE:	

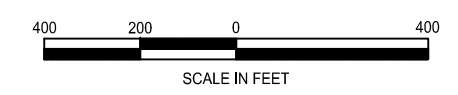
ISSUE DATE:

KEY ENVIRONMENTAL, INC.
200 THIRD AVENUE
CARNEGIE, PA 15106

Y:\Koda\16-233\csc-final_report\Figure 4-3_2017_lower.dwg Last Saved By: Emaloney 5/8/2018 4:24 PM Plotted By: Elizabeth Maloney 5/8/2018 4:25 PM Scale: 1:1



- LEGEND**
- PROPERTY LINE
 - EDGE OF WATER
 - 500 TOPOGRAPHIC CONTOUR LINE
 - MONITORING WELL
 - SPRING
 - OUTFALL
 - 460.53 GROUND WATER ELEVATION (FT.)
 - 452 GROUND WATER ELEVATION CONTOUR (FT.) (DASHED WHERE INFERRED)



COMMERCIAL LIABILITY PARTNERS WV, LLC
GROVER, MISSOURI

DRWN: SCC	DATE: 12/05/17
CHKD: PG	DATE: 12/05/17
APPD: JGK	DATE: 01/12/18
SCALE: AS SHOWN	



CREO-CLP WV SITE, VRA NO. 15024
MIDDLEWAY, WEST VIRGINIA

ISSUE DATE:

KEY ENVIRONMENTAL, INC.
200 THIRD AVENUE
CARNEGIE, PA 15106

GROUNDWATER CONTOUR MAP
LOWER ZONE - 11/06/17

PROJECT NO: 15-046
FIGURE 4-3 (2017)

REV #	DATE	DESCRIPTION	APPD

REFERENCE:

EXHIBIT B

Notice of Special Meeting of the Commission for December 17, 2024



Advanced Special Meeting Agenda
Jefferson County Planning Commission
Tuesday, December 17, 2024 at 7:00 PM

**By order of the President of the Jefferson County Planning Commission,
Public Participation is available in-person only.
The meeting will be broadcast live via ZOOM for viewing purposes only.**

In-Person Meeting Location: County Commission Meeting Room located in the lower level of the Charles Town Library (side entrance on Samuel Street)
200 East Washington Street, Charles Town, WV 25414

ZOOM Broadcast Information*: Meeting ID: 867 3051 2240
Meeting Link: <https://us02web.zoom.us/j/86730512240>

**If watching live broadcast, please ensure your microphone is muted and be mindful that your video is streaming to others.*

1. **Approval of Meeting Minutes:** November 12, 2024 meeting
2. **Request for postponement**

The following items are open for public comment

3. **Public Workshop:** Mountain Pure Concept Plan for a Major Site Development. The proposal consists of the following: Phase 1: a 304,000 square foot bottling facility with associated parking on a proposed 30-acre parcel; and, Phase 2: a 696,000 square foot bottling facility with associated parking on a proposed 66-acre parcel. The proposal will include the required stormwater management facilities. Property Owners: Sidewinder Enterprises, LLC; 1 Grace St, Kearneysville, WV; Parcel ID: 07002200090000; Size: ~260 acres; Zoning District: Industrial Commercial; Parcel ID: 07002200320000; Size 13.22 acres; Zoning District: Rural (supply well). Property Owner: RLMHP LLC & Photoglou Living Trust; Easement Owner: Sidewinder Enterprises, LLC; Parcel ID: 07002200330009; Size: 8.31 acres; Zoning District: Rural (waterline easement) (File #24-6-SP).

There is no public comment for the following items.

4. **Reports from Legal Counsel**
5. **President's Report**
6. **Actionable Correspondence**
7. **Non-Actionable Correspondence**
 - a. Letter from Jefferson County Foundation Attorney (Andrew Earley) re: Mountain Pure

EXHIBIT C

Emergency Motion for Temporary Restraining Order/Preliminary Injunction

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA *EX* : Case No. _____
REL. JEFFERSON COUNTY :
FOUNDATION, INC., *et al.*, : Judge _____
 :
Plaintiffs/Relators, :
 :
v. : **EMERGENCY MOTION FOR**
 : **TEMPORARY RESTRAINING**
 : **ORDER/PRELIMINARY**
JEFFERSON COUNTY PLANNING : **INJUNCTION**
COMMISSION, :
 :
Defendant/Respondent. :

EMERGENCY MOTION FOR TEMPORARY RESTRAINING
ORDER/PRELIMINARY INJUNCTION

Now come Plaintiffs/Relators Jefferson County Foundation, Inc. and William E. Hewitt (together, “Plaintiffs”), by and through the undersigned counsel, and hereby move the Court to issue a temporary restraining order and/or preliminary injunction. A proposed temporary restraining order and memorandum in support of this motion are attached hereto.

Respectfully submitted,

/s/ ANDREW C. EARLEY

ANDREW C. EARLEY (WV STATE BAR NO.14055)
FAIR SHAKE ENVIRONMENTAL LEGAL SERVICES
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*Counsel for Plaintiffs/Relators Jefferson County
Foundation, Inc. and William E. Hewitt*

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA EX	:	Case No. _____
REL. JEFFERSON COUNTY	:	
FOUNDATION, INC., et al.,	:	Judge _____
	:	
Plaintiffs/Relators,	:	
	:	
v.	:	<u>MEMORANDUM IN SUPPORT OF</u>
	:	<u>MOTION FOR TEMPORARY</u>
	:	<u>RESTRAINING</u>
JEFFERSON COUNTY PLANNING	:	<u>ORDER/PRELIMINARY</u>
COMMISSION,	:	<u>INJUNCTION)</u>
	:	
	:	
Defendant/Respondent.	:	

**MEMORANDUM IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING
ORDER/PRELIMINARY INJUNCTION**

I. INTRODUCTION

As explained in the Verified Complaint, the Jefferson County Planning Commission (the “Commission”) is poised to hold an illegal public workshop on December 17, 2024, in clear violation of the Jefferson County, West Virginia Subdivision and Land Development Regulations (the “Subdivision Regulations”). Despite receiving a letter from Plaintiffs/Relators Jefferson County Foundation, Inc. and William E. Hewitt (together, “Plaintiffs”) alerting the Commission of the illegal nature of this workshop, the Commission has taken no action to cancel or postpone the workshop. Thus, this Court’s immediate intervention is required in order to prevent imminent irreparable harm to Plaintiffs’ due process rights. As explained below, this Court has the authority to grant a temporary restraining order (“TRO”) and/or preliminary injunction to prevent such harm, and all relevant factors militate heavily in favor of the Court doing so.

II. ARGUMENT

Plaintiffs have requested a preliminary injunction to prevent the December 17, 2024 public workshop from occurring. And, as stated in the Verified Complaint, the Commission will be given notice of this request. However, in the event that the Commission cannot appear at a hearing on this matter, the Court has authority to issue an *ex parte* TRO. *Camden-Clark Memorial Hosp.*, 212 W. Va. 752, 757 (2002).

Regardless of whether the Commission can appear, the Court's legal analysis remains the same: the familiar four-part balancing test, weighing "(1) the likelihood of irreparable harm to the plaintiff without the injunction; (2) the likelihood of harm to the defendant with an injunction; (3) the plaintiff's likelihood of success on the merits; and (4) the public interest." *Jefferson County Bd. of Educ. v. Jefferson County Educ. Ass'n*, 183 W. Va. 15, 24, 393 S.E.2d 653, 662 (1990). As explained below, each of these factors weigh in favor of Plaintiffs' request, and no bond should be required under the circumstances.

A. **Plaintiffs are likely to prevail on the merits, as the plain language of the Subdivision Regulations prohibits the public workshop from proceeding on December 17, 2024.**

As explained in the Verified Complaint, the Subdivision Regulations set forth a clear process for the Commission to consider a Concept Plan for a Major Site Plan, which the Commission simply is not following.

The Concept Plan phase has three steps: 1) submission and completeness review by County staff; 2) a public workshop at which citizens may provide input; and 3) a direction from the Planning Commission as to how the applicant should prepare its Site Plan. *See generally* Subdivision Regulations §§ 24.119 (completeness review), 24.120 (public workshop), and 24.121 (direction). The sufficiency and completeness review must last a minimum of 45 days. *Id.* at §

24.119, and the public workshop must be scheduled for “the first regularly scheduled Planning Commission meeting after the 45 day review period.” *Id. See also id.* at 24.119.J (“At the time of submission, the concept plan shall be placed on the 1st regularly scheduled Planning Commission meeting after the 45 day review period for the public workshop. Staff shall advertise the public workshop in a local newspaper of general circulation in the area one time at least twenty-one (21) days in advance of the meeting and send notice by mail to the adjoining property owners at least fourteen (14) days prior to the meeting. The applicant shall post notice on the property at least fourteen (14) days in advance of the meeting.”). Following the close of the public workshop, the Commission “shall, during their regular meeting or at a specific public meeting within 14 days, provide direction on the concept plan.” *Id.* at § 24.121. The applicant may then submit a Site Plan, which is subsequently reviewed for conformance with the concerns raised in the Concept Plan stage. *See generally id.* at § 24.122.

In this case, the Applicant submitted its application on November 18, 2024. Thus, the public workshop must be scheduled at the Commission’s first regular meeting that falls 45 days after that date. According to the Commission’s website, regular meetings are held on the first Tuesday of each month at 7:00 PM. *Planning Commission, COUNTY OF JEFFERSON, WEST VIRGINIA*, <https://www.jeffersoncountywv.org/county-government/departments/planning-and-zoning-department/planning-commission> (accessed Dec. 11, 2024). Both the first Tuesday of December 2024 and the first Tuesday of January 2025 fall before the 45-day mark. Thus, the proper procedure should have been for the Commission to schedule the public workshop for the following regular meeting on Tuesday, February 4, 2025.

But, at the behest of the applicant, the Commission has instead opted to schedule a special, *ad hoc*, end-of-year public workshop on December 17, 2024. There is no serious argument that

this complies with the plain language of the Subdivision Regulations. The Commission’s apparent reasoning is that the application at issue is merely a *revised* application. But that is no excuse, as a matter of fact and law. The application at issue includes, for the very first time, critically important information related to a proposed industrial-grade groundwater extraction operation at Lake Louise; thus, this application is a fundamentally new request that has never been reviewed by the Commission. And even if the Commission could plausibly classify this new application as a “revision,” there is no process in the Subdivision Regulations whereby revised applications are exempt from a public workshop at a regularly scheduled Commission meeting 45 days or more after submission.

Thus, Plaintiffs are likely to succeed on the merits, and this factor weighs in favor of maintaining the status quo.

B. Cancelling the December 17, 2024 public workshop is necessary to prevent irreparable harm to Plaintiffs’ due process rights.

If the Commission proceeds with holding said illegal workshop, the public at large, and specifically Plaintiffs, will be irreparably harmed. Specifically, the Commission will be violating the due process rights of the public, and Plaintiffs, to be heard on the Concept Plan at issue.

In the words of our state’s high court, “[p]rocedural due process requires the ‘opportunity to be heard at a meaningful time and in a meaningful manner.’” *Donadieu v. Morgan Cty. Planning Comm’n*, Case No. 15-1058, 2016 W.Va. LEXIS 726, *16 (W. Va. 2016), quoting *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

In order for the public to have a meaningful opportunity to be heard on the Concept Plan in this case, they must be informed. Citizens of this County reasonably rely on their public agencies to be a first line of defense against harmful development by identifying, for example, potential environmental impacts from a drawdown of the water table in Karst terrain. That is why the

prescribed procedure for a Concept Plan review is that, during the 45-day review period, (“The reviewing agencies shall conduct reviews of the proposed concept plan” and provide written feedback “fourteen (14) days prior to the scheduled public workshop.” *Id.* at § 24.119.7.

But, as explained in the Verified Complaint, none of the relevant government agencies will be providing any review of the Concept Plan, due to the shortened review period. Without any idea as to whether the relevant agencies have concerns about this particular development, the public will be forced to fend for themselves and rely on public records requests and independent research in order to discover the true impact of the Concept Plan. The Foundation itself has several outstanding public records requests, which likely will not be returned in time to prepare for the December 17, 2024 public workshop.

This bell cannot be unrung, because once the applicant moves into the Site Plan process, the Commission is reviewing the application simply for conformance with the Concept Plan and issues raised during that process. *See* Subdivision Regulations § 24.124(B). (noting that denial of a Site Plan is only appropriate if “[t]he plan (plan, final engineering, or final landscaping) is inconsistent with the approved concept plan or conditions of said approval” or if the applicant fails to provide surety) Thus, by forcing Concept Plan into a premature, end-of-year, special hearing at which the agencies cannot provide their required review, the Commission is effectively putting on blinders and intentionally excluding the agencies’ feedback from being considered at any later point in this process.

Thus, the decision of the Commission to hold a public workshop at a special meeting on December 17, 2024—as opposed to the required regular meeting on February 4, 2025—will materially limit the public’s right to be heard on the Concept Plan. The threat of imminent irreparable harm therefore also weighs in favor of this Court granting Plaintiff’s motion.

C. Holding the public workshop at a later date will cause no harm to the Commission, and the public interest lies in ensuring that the Commission fairly and equally applies the Subdivision Regulations, regardless of pressure from developers.

The third and fourth factors for injunctive relief dovetail in this case. The Commission has no interest in holding the public workshop on December 17, 2024. Upon information and belief, this matter was scheduled merely to appease a real estate developer with a timeline and a desire to have its project approved with as minimal review as possible. The Commission itself will be prejudiced in no way by holding the public workshop at the time required by the Subdivision Regulations. And doing so will serve the public interest, in that the relevant government agencies and concerned citizens of this County will have a full and fair opportunity to be heard—as is required under the Subdivision Regulations.

D. No bond should be required in order for the government to follow its own laws.

This state's high court has held:

[D]espite the strict statutory requirement of an injunctive bond, for all intents and purposes the final determination of whether an injunction bond will be required of a certain party in a specific case is dependent upon the prerogative of the enjoining court. Our judicial interpretation of that standard recognizes that there will occasionally be cases in which the facts and circumstances simply do not compel the posting of an injunctive bond, *i.e.*, where 'good cause' has been shown.'

Collins v. Stewart, No. 11-0056, 2012 W.Va. LEXIS 63, *16 (2012), quoting *Kessel v. Leavitt*, 204 W.Va. 95, 160, 511 S.E.2d 720, 785 (1998). On the facts in this case, no bond should be required, as Plaintiffs are merely asking the Commission to act in accordance with the laws that the Commission members have a duty to uphold. No citizen should have to pay in order to ensure that the state fairly and equally applies the law of the land.

III. CONCLUSION

For all these reasons, and for those that will be explained at the hearing on this motion, Plaintiffs respectfully ask that the Court issue a TRO and/or preliminary injunction, as prayed for in the Verified Complaint.

RESPECTFULLY SUBMITTED,

/s/ ANDREW C. EARLEY

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*Counsel for Plaintiffs/Relators Jefferson County
Foundation, Inc. and William E. Hewitt*

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA EX	:	Case No. _____
REL. JEFFERSON COUNTY	:	
FOUNDATION, INC., et al.,	:	Judge _____
	:	
Plaintiffs/Relators,	:	
	:	
v.	:	<u>ORDER GRANTING TEMPORARY</u>
	:	<u>RESTRAINING ORDER</u>
	:	
JEFFERSON COUNTY PLANNING	:	
COMMISSION,	:	
	:	
	:	
Defendant/Respondent.	:	

ORDER GRANTING TEMPORARY RESTRAINING ORDER

This matter came before the Court on Plaintiffs/Relators’ Verified Complaint, which included a request for a temporary restraining order. Upon review of the applicable law and facts, Plaintiffs/Relators’ request is well taken. Plaintiffs/Relators have demonstrated a substantial likelihood of success on the merits, as it is likely the Defendant/Respondent Jefferson County Planning Commission (the “Commission”) has scheduled a public workshop in violation of the Jefferson County, West Virginia Subdivision and Land Development Regulations (the “Subdivision Regulations”). The Commission will not be harmed by postponing that workshop until a later date. Such a postponement will protect against likely irreparable harm to Plaintiffs/Relators’ due process rights under the Subdivision. Further, the public interest will be served by preventing a likely unlawful public workshop from taking place at a premature time.

Therefore, pursuant to its authority under Civ.R. 65, the Court hereby orders that the Commission shall not hold any public workshop on the “Mountain Pure Concept Plan for a Major Site Development”,” File Number 24-6-P, on December 17, 2024.” A nominal bond is sufficient

security for this temporary restraining order, which will be effective upon the depositing of \$1 by Plaintiffs/Relators with the Jefferson County Clerk of Courts.

This order will expire following the tenth (10th) calendar date that this order is docketed with the Clerk of Courts.

It is so **ORDERED**.

Judge

CERTIFICATE OF SERVICE

I hereby certify that the Motion for Temporary Restraining Order, proposed order, and memorandum in support will be served on the Defendant/Respondent by the West Virginia E-Filing System and via email, at the below addresses.

Jefferson County Planning Commission
116 E. Washington Street
Charles Town, WV 25414
planningdepartment@jeffersoncountywv.org

Jefferson County Prosecuting Attorney, Civil Division
Attn: Nathan Cochran, Esq.
124 E. Washington Street, 2nd Floor
Charles Town, WV 25414
ncochran@jcpawv.org; paoffice@jeffersoncountywv.org

/S/ ANDREW C. EARLEY

ANDREW C. EARLEY (WV STATE BAR NO.14055)

*Counsel for Plaintiffs/Relators Jefferson County
Foundation, Inc. and William E. Hewitt*

CERTIFICATE OF SERVICE

I hereby certify that I have instructed the Jefferson County Clerk of Courts to issue the summons and a copy of the foregoing Verified Complaint to Defendant/Respondent Jefferson County Planning Commission via certified mail this 11th day of December 2024, pursuant to Civ.R. 4(c)(3)(B).

Respectfully submitted,

/s/ Andrew C. Earley

Andrew C. Earley (WV State Bar No. 14055)

*Counsel for Plaintiffs/Relators Jefferson County
Foundation, Inc. and William E. Hewitt*