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west virginia department of environmental protection

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Office of Environmental Remediation  
601 57th Street SE  
Charleston, WV 25304  
Phone: 304-926-0499

Harold D. Ward, Cabinet Secretary  
dep.wv.gov

July 5, 2023

Mr. Owen Mulkeen  
Friends of Cheat  
1343 North Preston Highway  
Kingwood, WV 26537

91 7199 9991 7038 4224 8851

Re: Land Use Covenant, VRP Project # 20018  
Cheat River Rail Trail, Kingwood, Preston County

Dear Mr. Mulkeen:

Enclosed please find the signed and notarized Land Use Covenant for the subject parcel. The Certificate of Completion issued for the subject site and dated June 21, 2023, will become effective once the Land Use Covenant is recorded.

Please have the Land Use Covenant properly recorded with the Preston County Clerk, and request the clerk to submit the original recorded instrument to my attention:

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

If you have any questions, please contact W. Matthew Gadd, Project Manager by phone at, 304-926-0499 ext. 00097 or email at William.M.Gadd@wv.gov. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Robert Rice'.

Robert Rice  
Director

Enclosure

ec: Matthew Watson, LRS  
WVDEP File #20018  
Casey Korbini, Deputy Director, WVDEP/OER  
Erin R. Brittain, Program Manager, WVDEP/OER  
W. Matthew Gadd, Project Manager, WVDEP/OER

## LAND USE COVENANT

This is an environmental covenant executed pursuant to the Voluntary Remediation and Redevelopment Act, W. Va. Code § 22-22, and the Uniform Environmental Covenants Act, W. Va. Code § 22-22B, to restrict the activities on, and uses of, the following described property:

Street Address: Cheat River Rail Trail  
 City: Manheim/Rowlesburg  
 County: Preston County  
 Tax District (as applicable): Portland 006C  
 Tax Map: 41  
 Tax Parcel(s): 06-41-13  
 Deed Book(s): 789  
 Page No(s).: 898  
 Acres: 67.39

Street Address: Cheat River Rail Trail  
 City: Manheim/Rowlesburg  
 County: Preston County  
 Tax District (as applicable): Kingwood 101C  
 Tax Map: 17  
 Tax Parcel(s): 01-17-42.1  
 Deed Book(s): 789  
 Page No(s).: 898  
 Acres: 25.14

A map is attached as Exhibit A indicating the area to which specific activity and use limitations and/or engineering controls apply.

The subject property has been remediated in accordance with the Voluntary Remediation and Redevelopment Act, W. Va. Code § 22-22. Non-Residential exposure assumptions were used to comply with the site-specific remediation standard. Contaminants of concern that exceed site-specific remediation standards by media are as follows:

SURFACE SOIL	SUBSURFACE SOIL	GROUNDWATER
Arsenic		
Benzo(a)pyrene		
Benzo(b)fluoranthene		
Dibenz(a,h)anthracene		

The following activities on and uses of the above described property may result in excessive human exposure or in the release of a contaminant that was contained as part of the remedial action related to this covenant. Therefore, the following activities on and uses of the real property are prohibited:

1. Residential land use, as defined by the Voluntary Remediation and Redevelopment Rule (60CSR3), Section 2.40, including, but not limited to, schools, day care centers, nursing homes, or other residential-style facilities. Recreational areas are specifically permitted, as determined by a site-specific risk assessment conducted for the property.
2. Use or extraction of groundwater for any purpose, except for groundwater monitoring and/or remediation.

Current owner(s) of record of the property, and associated contact information:

West Virginia State Rail Authority  
Attn.: Cindy Butler  
120 Water Plant Drive  
Moorefield, WV 26836

Any person, including a person that owns an interest in the real property, the state or federal agency determining or approving the environmental response project pursuant to which an environmental covenant is created, or a municipality or other unit of local government may be a holder of an environmental covenant. The following are all holders of this covenant:

West Virginia State Rail Authority  
Owner  
120 Water Plant Drive  
Moorefield, WV 26836

Friends of the Cheat, Inc.  
Lessee  
1343 North Preston Highway  
Kingwood, WV 26003

The owner(s) of the property shall provide written notice to the WVDEP within ten (10) days following transfer of a specified interest in the property subject to this covenant, changes in use of the property, or applications for building permits or proposals for any site work affecting the contamination on the property. Any notice regarding transfer of a specified interest in the property subject to this covenant shall include the name, address, and contact information for the new owner.

The owner(s) shall conduct annual inspections of the property no more than sixty (60) days before or after the anniversary date of this document in accordance with the Land Use Covenant Inspection Form provided as Exhibit B to monitor compliance with this Land Use Covenant and shall submit the signed form to the WVDEP headquarters within thirty (30) days of the inspection.

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

This covenant shall not be amended, modified, or terminated except by written instrument executed in accordance with W. Va. Code § 22-22B-10, by and between the owner at the time of the proposed amendment, modification, or termination; the WVDEP; and the holders of this covenant. Within five (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 five (5) days thereafter, the owner shall provide a true copy of the recorded amendment, modification, or termination to the WVDEP.

The administrative record for the environmental response project reflected in this covenant is maintained at the WVDEP headquarters, and is entitled:

Cheat River Rail Trail, VRP #20018

The WVDEP is granted full right of access to the property for the purpose of implementation or enforcement of this covenant.

All restrictions and other requirements described in this covenant shall run with the land and shall be binding upon all holders and their grantees, lessees, authorized agents, employees, or persons acting under their direction or control.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the following holders have executed this covenant on the dates indicated.

*Friends of the Cheat, Inc.*

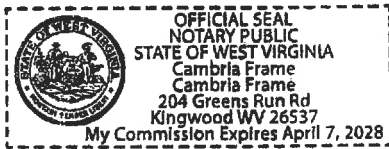
Printed Name: Owen Mulkeen

Title: Associate Director

 6/21/23  
Signature Date

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

Given under my hand this the 21<sup>st</sup> day of June, 2023.  
My commission expires April 07, 2028.



  
Notary Public

*West Virginia State Rail Authority*

Printed Name: Cindy Butler

Title: Commissioner

Cindy Butler  
Signature

6-13-23  
Date

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

Given under my hand this the 13 day of June, 2023.  
My commission expires Feb. 15, 2028.

Lisa Dawn Dunlap  
Notary Public



**West Virginia Department of Environmental Protection**

Printed Name: Robert Rice

Title: Director, Division of Land Restoration

[Signature] 7-5-23  
Signature Date

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

Given under my hand this the 5<sup>th</sup> day of July, 2023.  
My commission expires April 7, 2025.



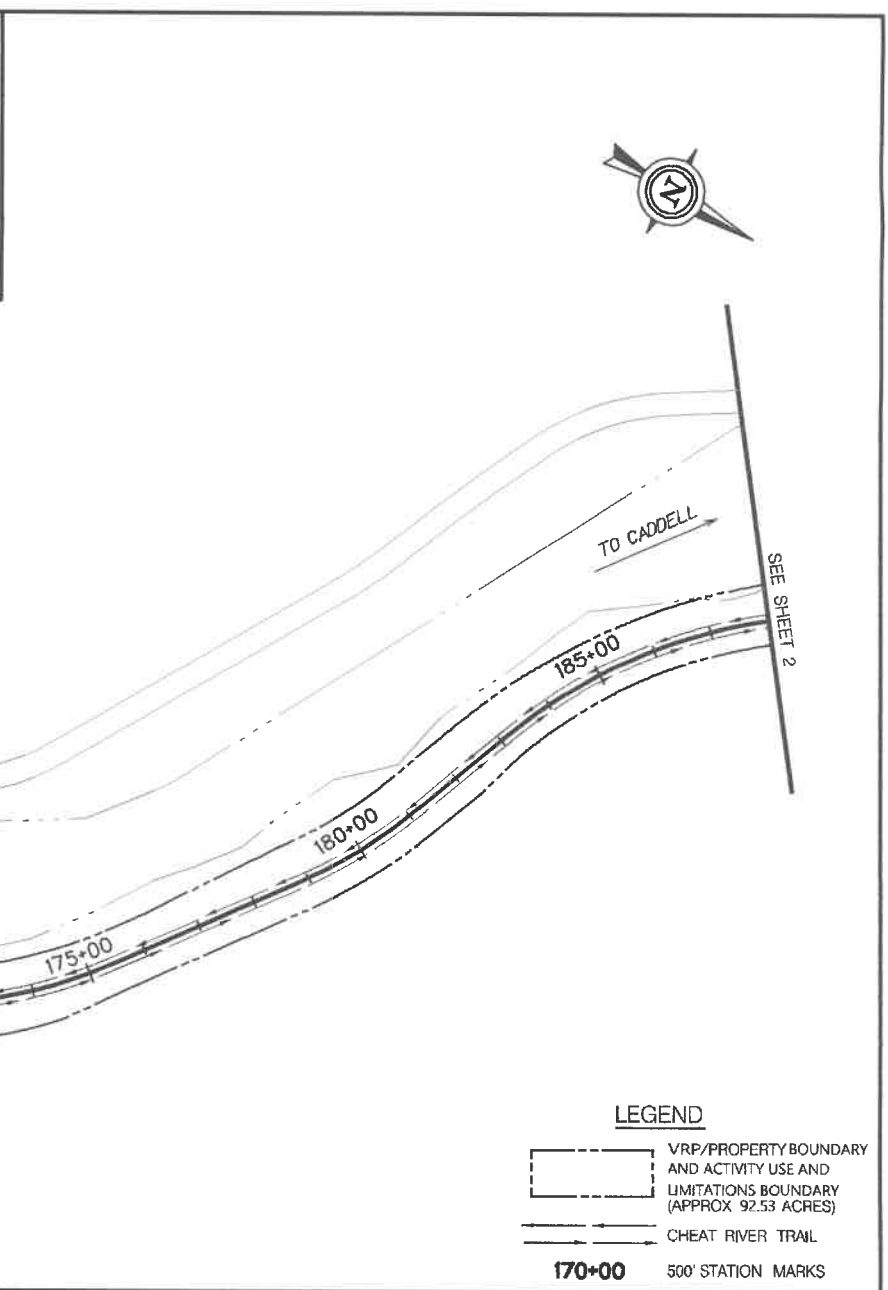
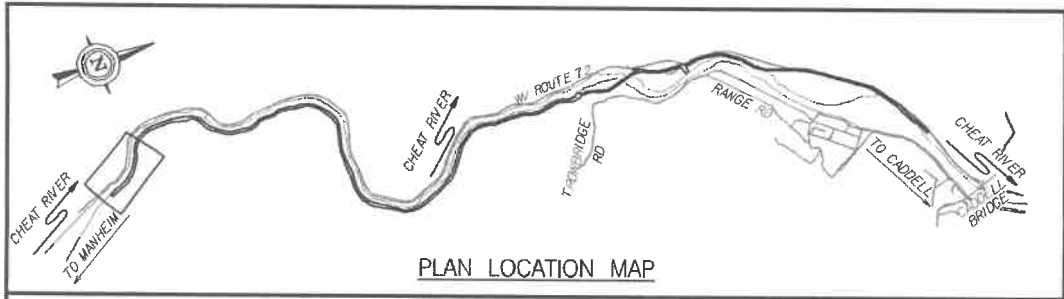
Jessica A. Henson  
Notary Public

The Clerk will return the recorded document to:

Office of Environmental Remediation  
West Virginia Department of Environmental Protection  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304



# Exhibit A





ALLEGHENY FORESTLANDS LLC  
 DEED BOOK 721 PAGE 68  
 PORTLAND DISTRICT  
 TAX MAP 54 PARCEL 4

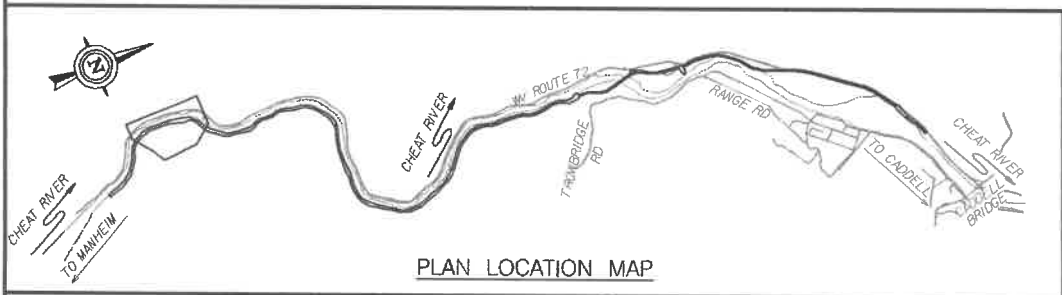
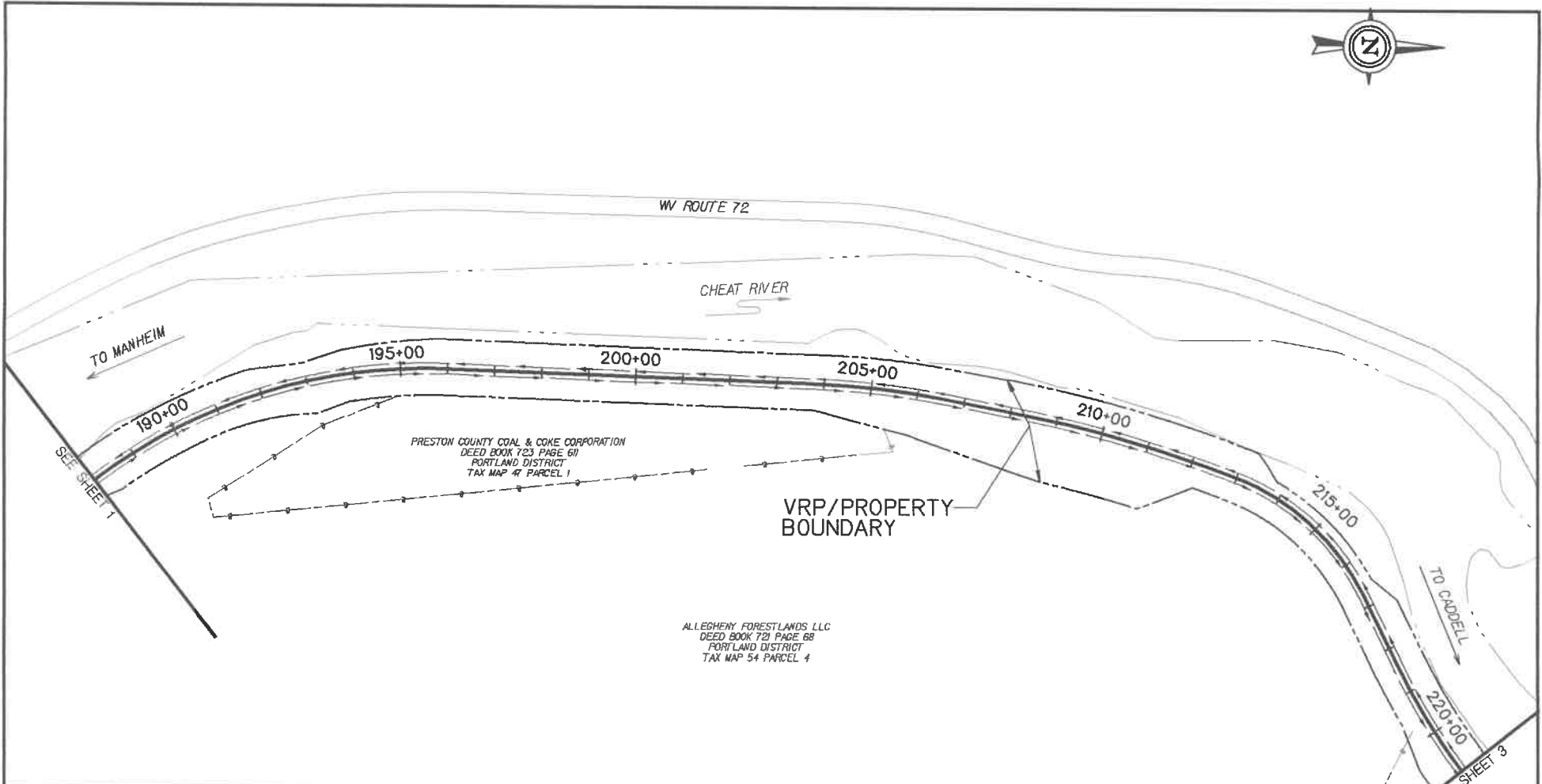
**LEGEND**

-  VRP/PROPERTY BOUNDARY AND ACTIVITY USE AND LIMITATIONS BOUNDARY (APPROX 92.53 ACRES)
-  CHEAT RIVER TRAIL
- 170+00** 500' STATION MARKS



**AECOM** AECOM TECHNICAL SERVICES, INC.  
 150 CLAY STREET, SUITE 410  
 MORGANTOWN, WV 26501

VRP #20018  
 FRIENDS OF THE CHEAT  
 CHEAT RIVER RAIL TRAIL  
 MANHEIM/ROWLESBURG, PRESTON COUNTY, WV  
**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**  
 SHEET 1 OF 14



ALLEGHENY FORESTLANDS LLC  
DEED BOOK 721 PAGE 68  
PORTLAND DISTRICT  
TAX MAP 48 PARCEL 1

**LEGEND**

- VRP/PROPERTY BOUNDARY AND ACTIVITY USE AND LIMITATIONS BOUNDARY (APPROX 92.53 ACRES)
- CHEAT RIVER TRAIL
- 500' STATION MARKS

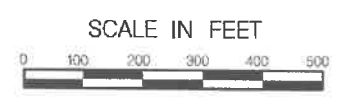
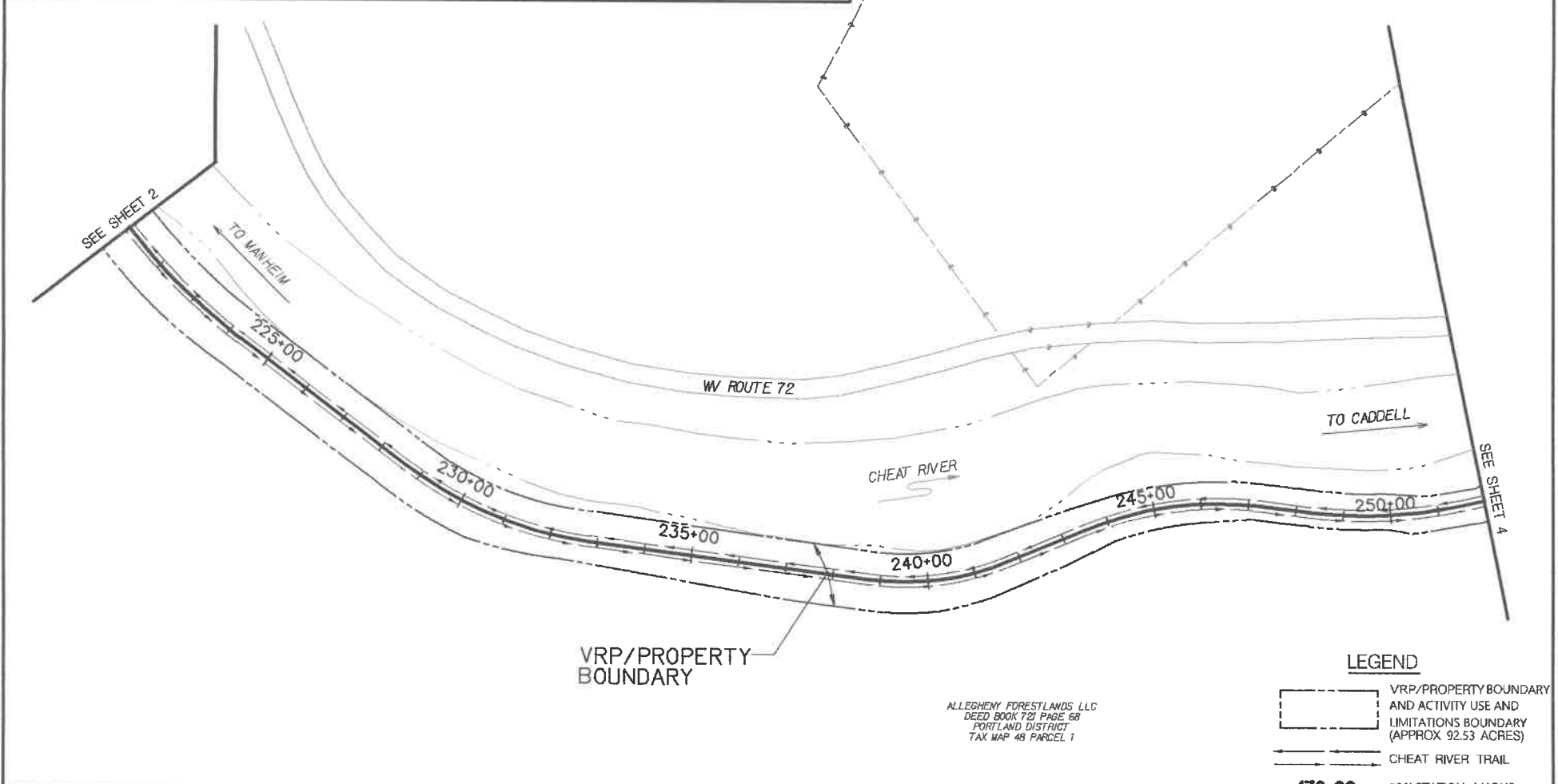
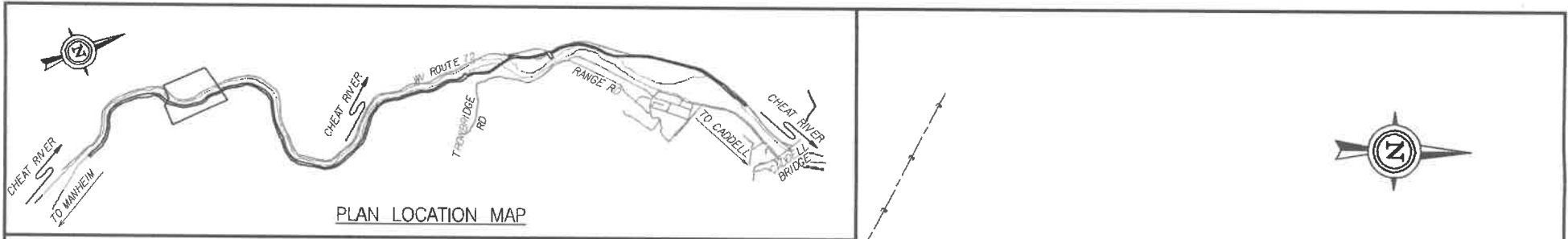


**AECOM** AECOM TECHNICAL SERVICES, INC.  
150 CLAY STREET, SUITE 410  
MORGANTOWN, WV 26501

VRP #20018

FRIENDS OF THE CHEAT  
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MANHEIM/ROWLESBURG, PRESTON COUNTY, WV

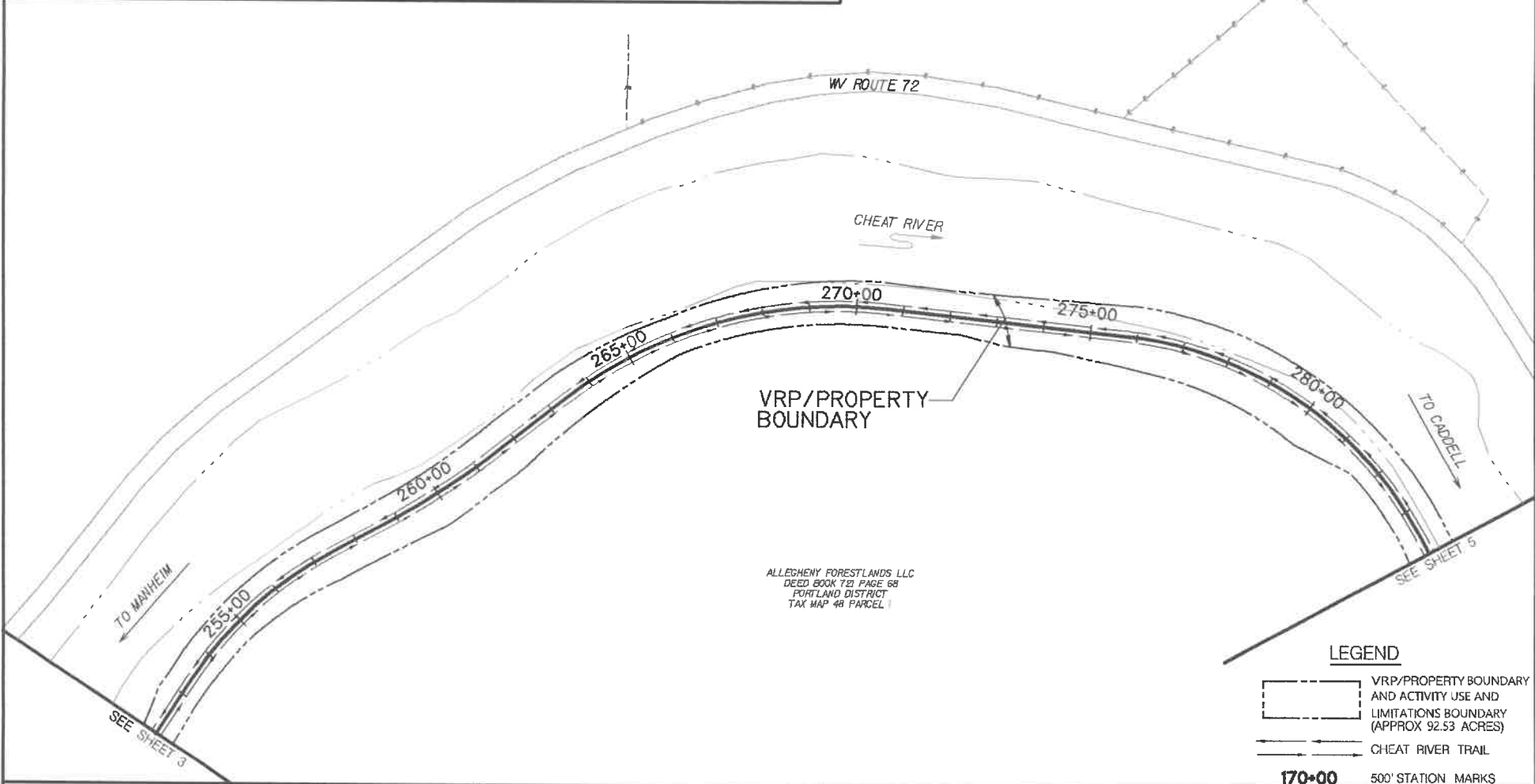
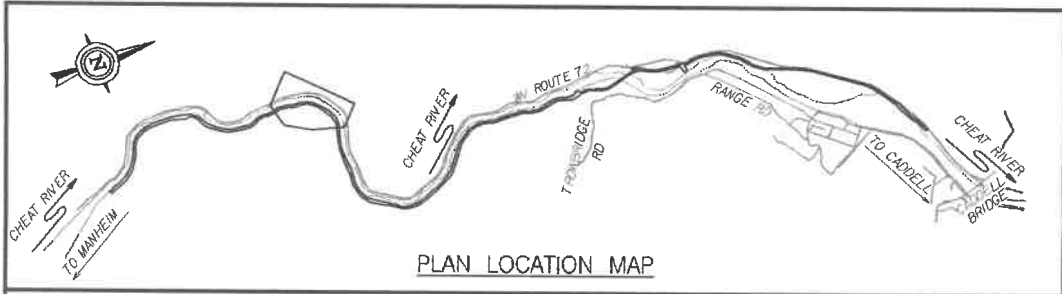
**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**  
SHEET 2 OF 14



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150 CLAY STREET, SUITE 410  
MORGANTOWN, WV 26501

VRP #20018  
FRIENDS OF THE CHEAT  
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**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**  
SHEET 3 OF 14



**LEGEND**

	VRP/PROPERTY BOUNDARY AND ACTIVITY USE AND LIMITATIONS BOUNDARY (APPROX 92.53 ACRES)
	CHEAT RIVER TRAIL
	500' STATION MARKS

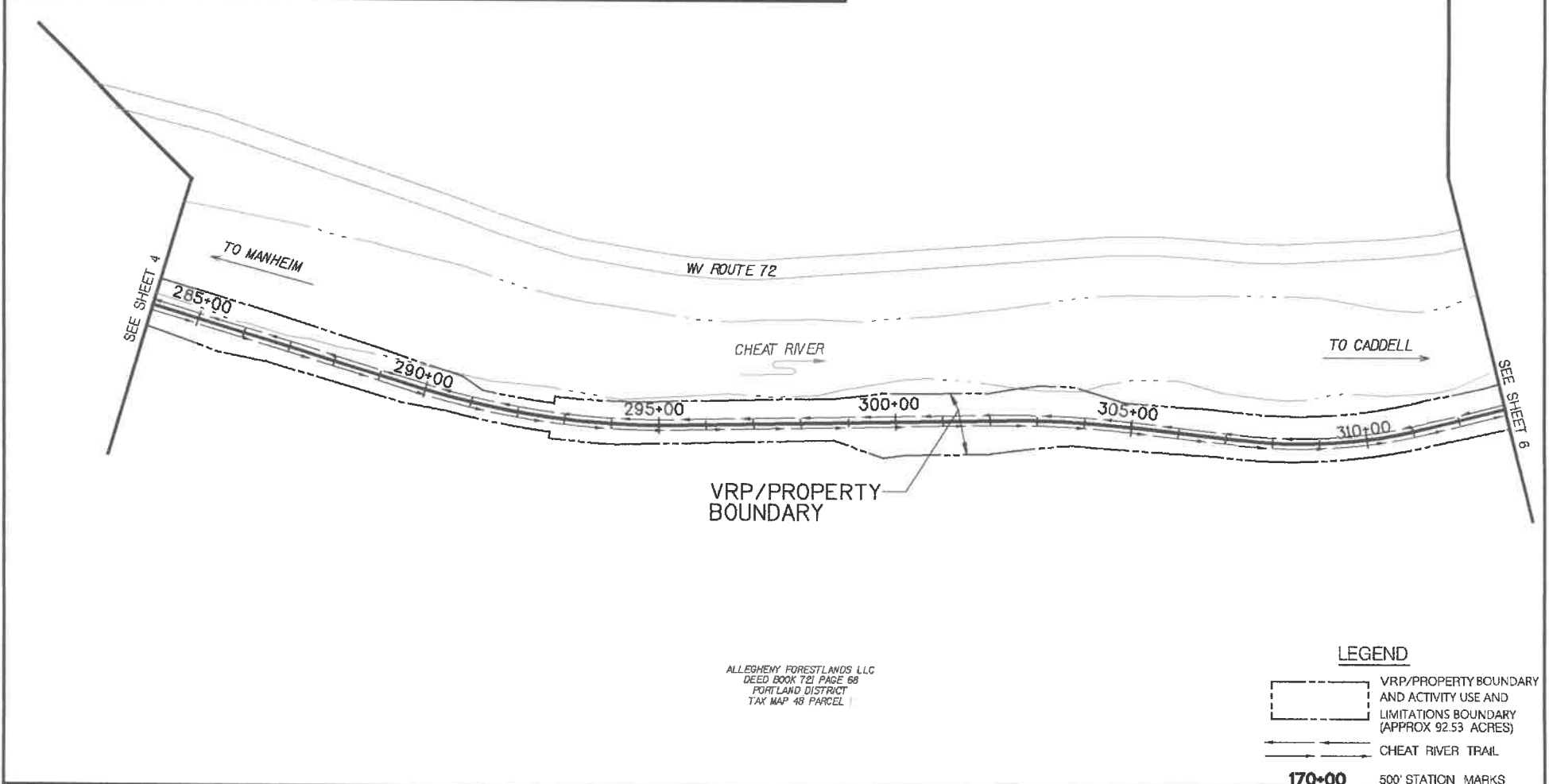
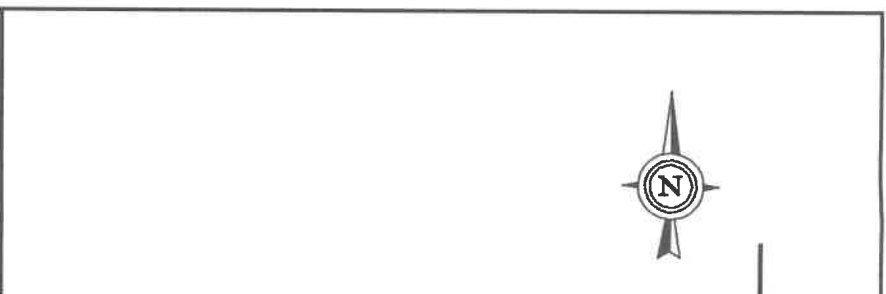
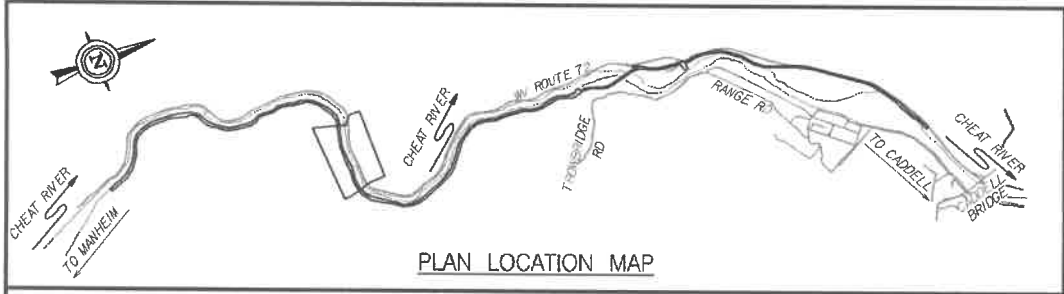


**AECOM** AECOM TECHNICAL SERVICES, INC.  
150 CLAY STREET, SUITE 410  
MORGANTOWN, WV 26501

VRP #20018

FRIENDS OF THE CHEAT  
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MANHEIM/ROWLESBURG, PRESTON COUNTY, WV

**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**  
SHEET 4 OF 14

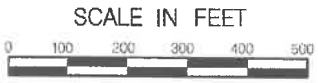


ALLEGHEWY FORESTLANDS LLC  
 DEED BOOK 721 PAGE 68  
 PORTLAND DISTRICT  
 TAX MAP 48 PARCEL 1

**LEGEND**

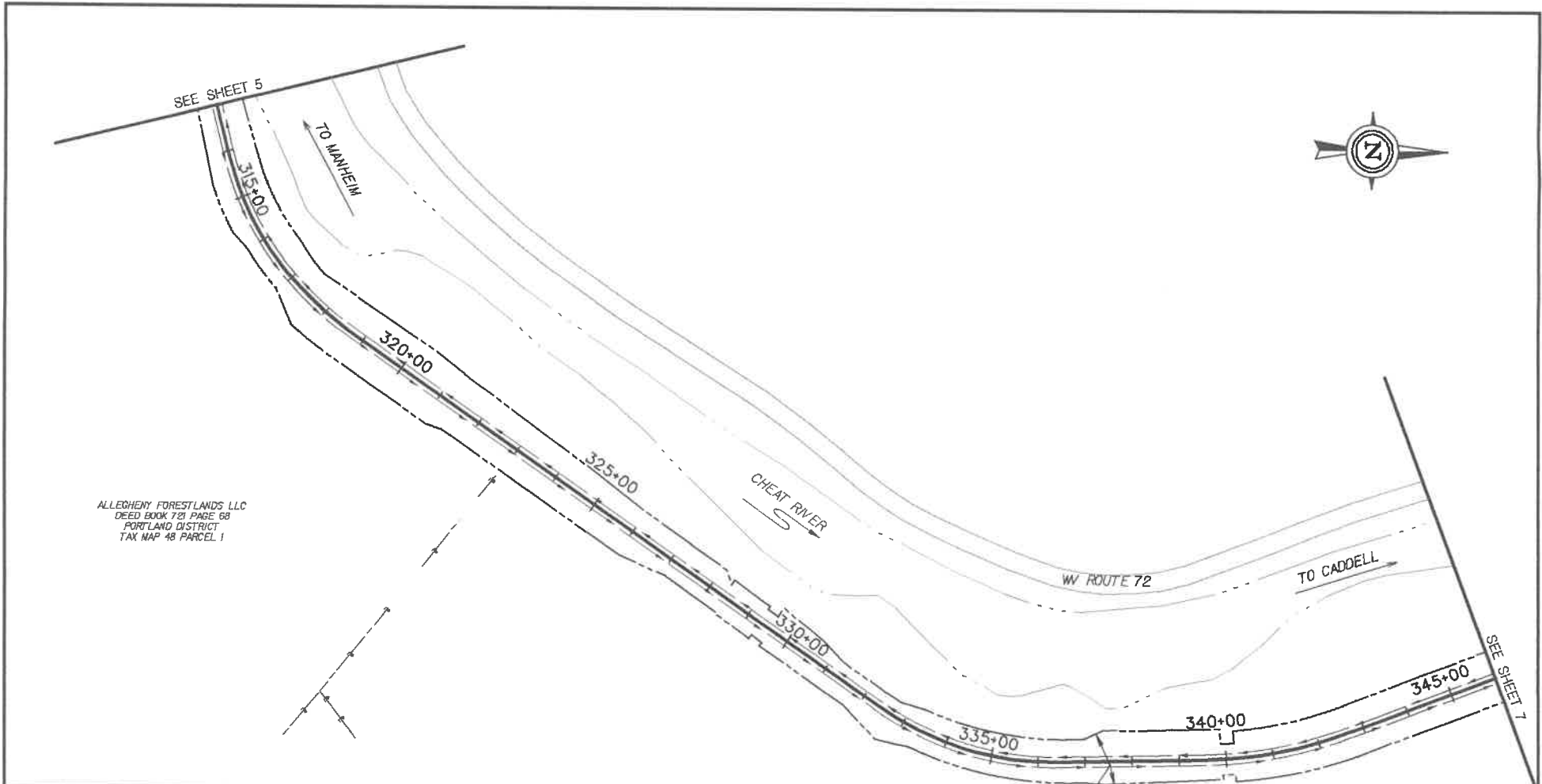
- VRP/PROPERTY BOUNDARY AND ACTIVITY USE AND LIMITATIONS BOUNDARY (APPROX 92.53 ACRES)
- CHEAT RIVER TRAIL

170+00 500' STATION MARKS

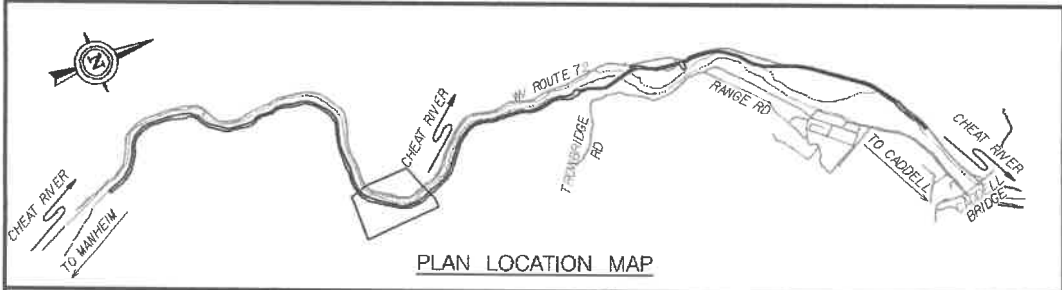


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 MORGANTOWN, WV 26501

VRP #20018 FRIENDS OF THE CHEAT  
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**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**  
 SHEET 5 OF 14



ALLEGHENY FORESTLANDS LLC  
DEED BOOK 721 PAGE 68  
PORTLAND DISTRICT  
TAX MAP 48 PARCEL 1






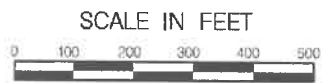
PLAN LOCATION MAP

VRP/PROPERTY  
BOUNDARY

ALLEGHENY FORESTLANDS LLC  
DEED BOOK 721 PAGE 68  
PORTLAND DISTRICT  
TAX MAP 41 PARCEL 3

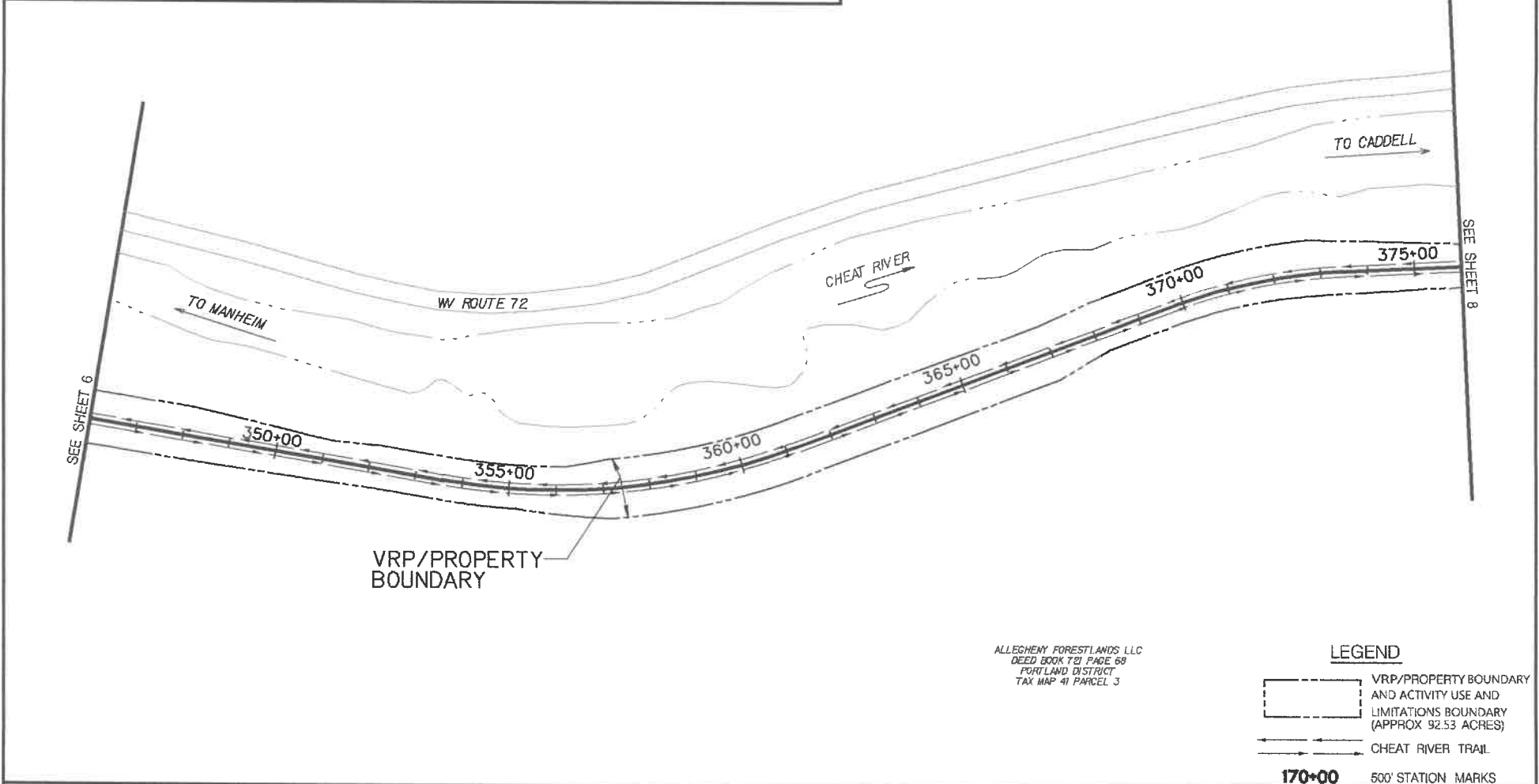
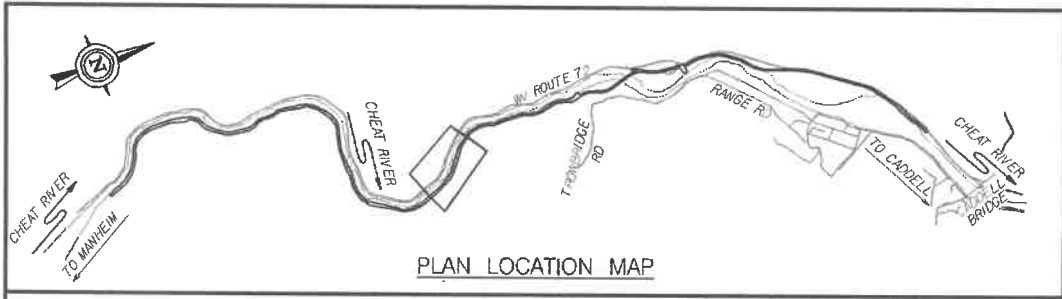
**LEGEND**

-  VRP/PROPERTY BOUNDARY AND ACTIVITY USE AND LIMITATIONS BOUNDARY (APPROX 92.53 ACRES)
-  CHEAT RIVER TRAIL
-  170+00 500' STATION MARKS




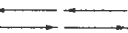
**AECOM** AECOM TECHNICAL SERVICES, INC.  
150 CLAY STREET, SUITE 410  
MORGANTOWN, WV 26501

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**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**  
SHEET 6 OF 14



ALLEGHENY FORESTLANDS LLC  
DEED BOOK T 21 PAGE 68  
PORTLAND DISTRICT  
TAX MAP 41 PARCEL 3

**LEGEND**

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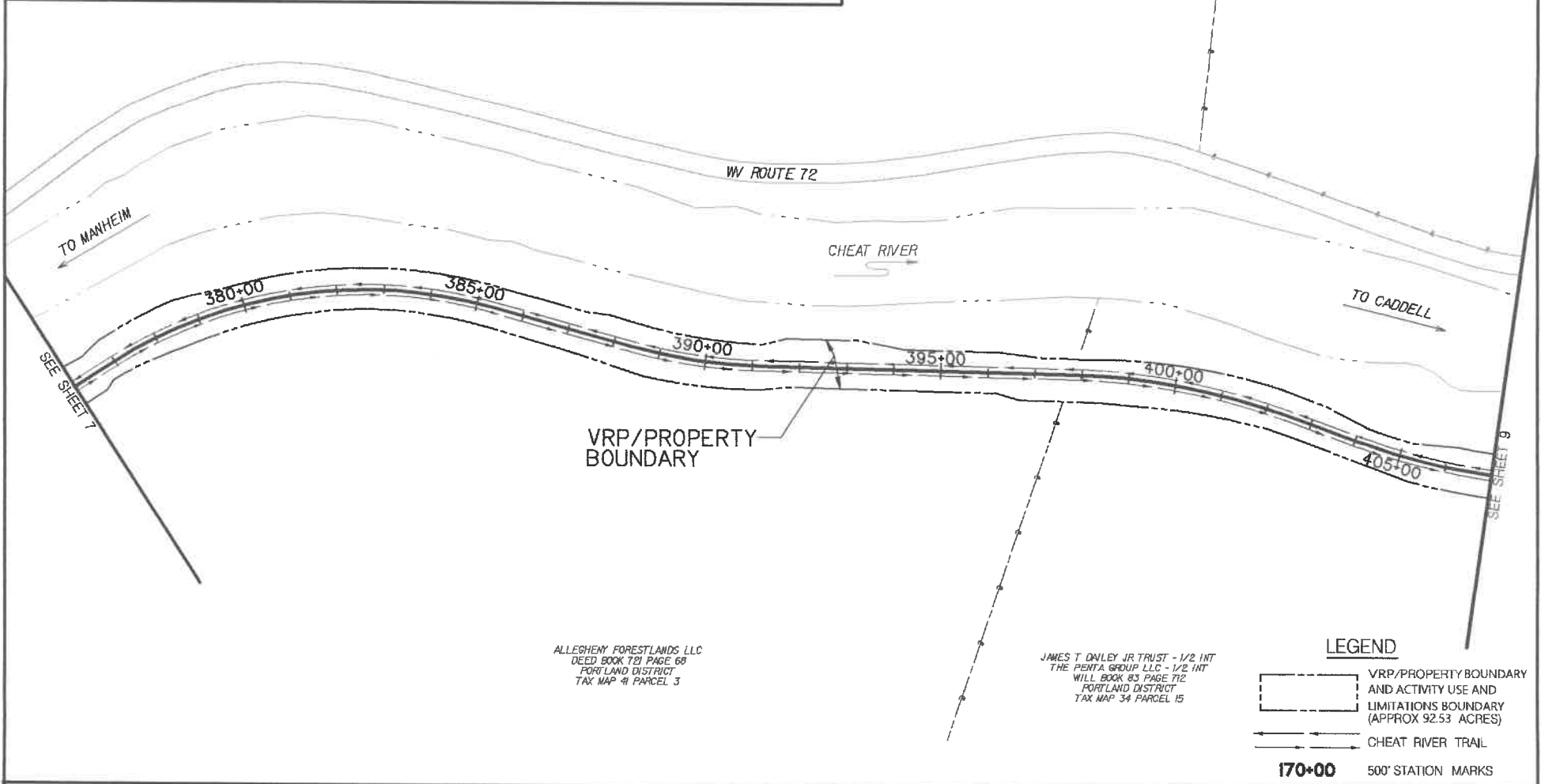
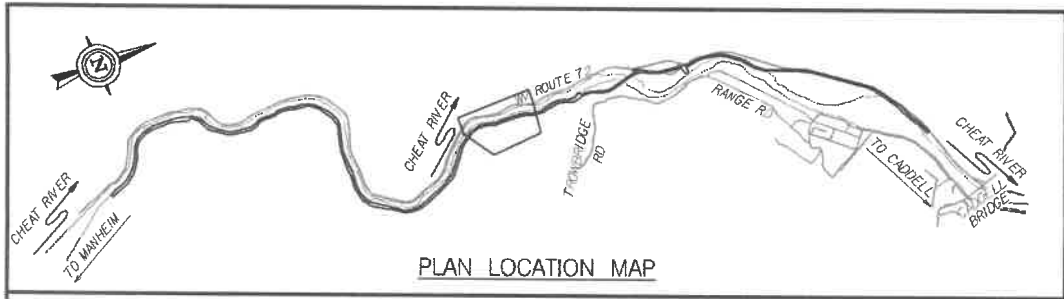


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VRP #20018

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**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**  
SHEET 7 OF 14



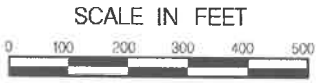
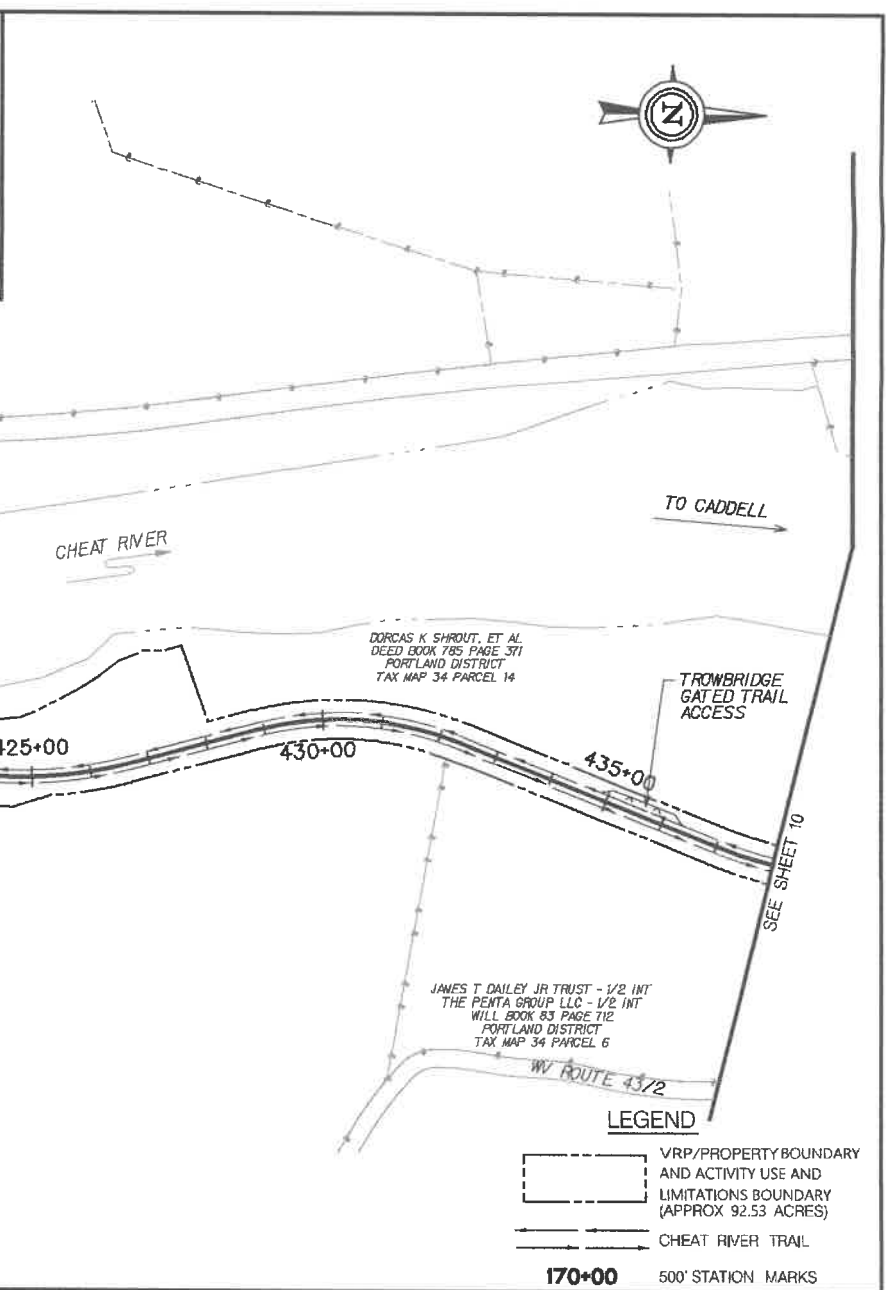
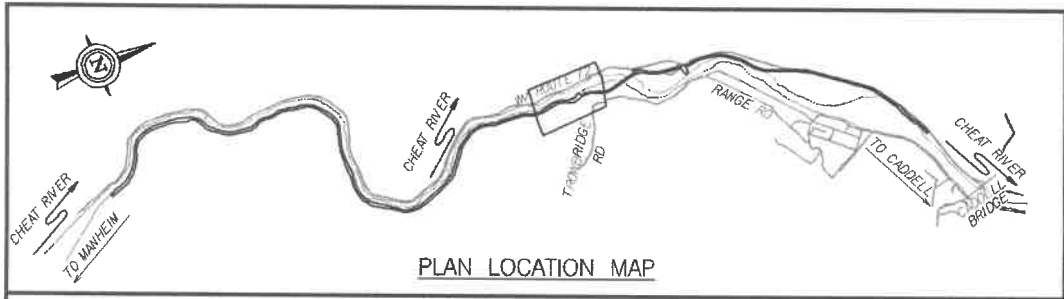
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**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**  
SHEET 8 OF 14



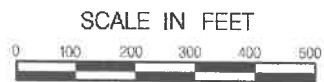
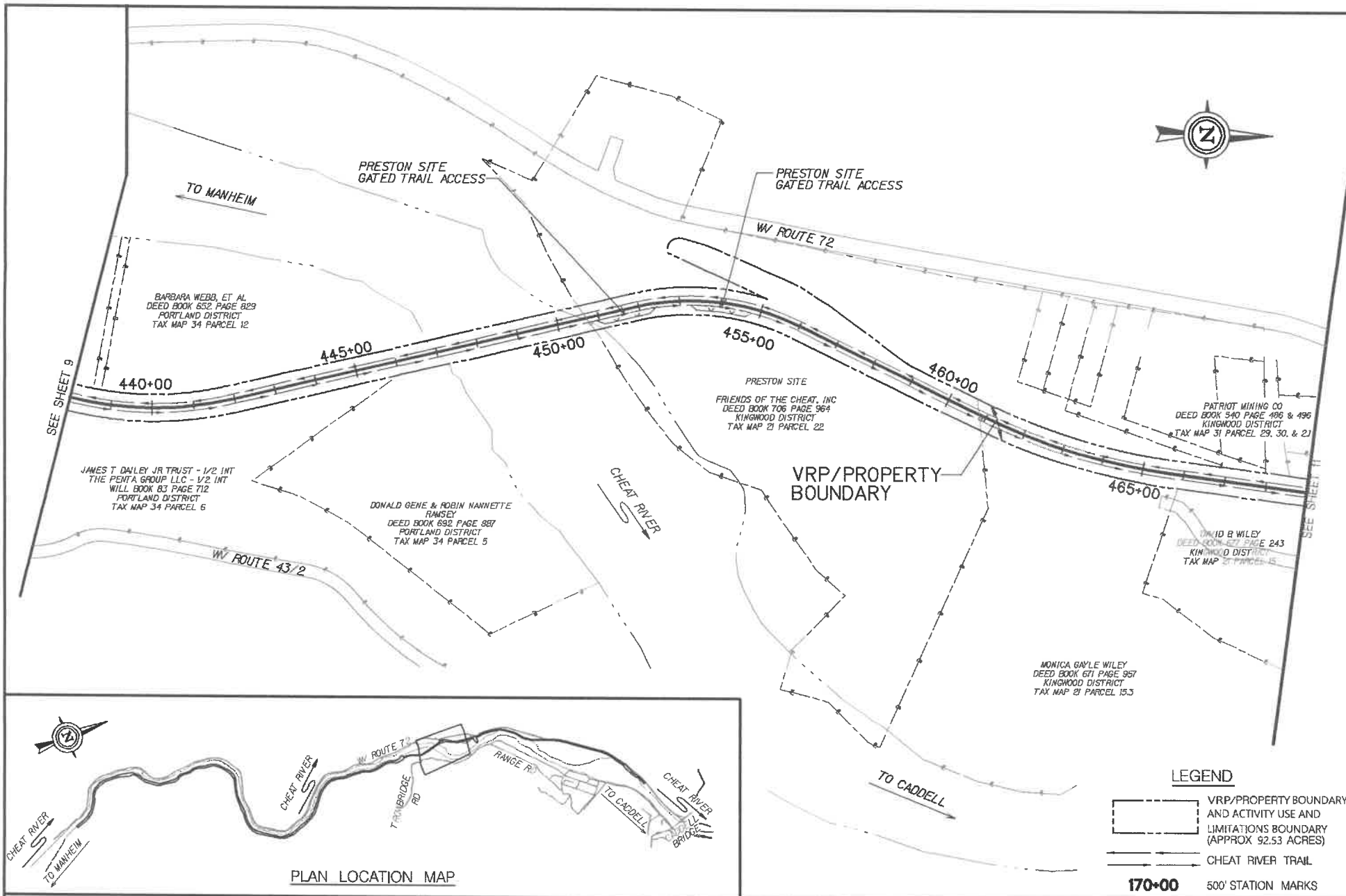


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**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**  
SHEET 9 OF 14



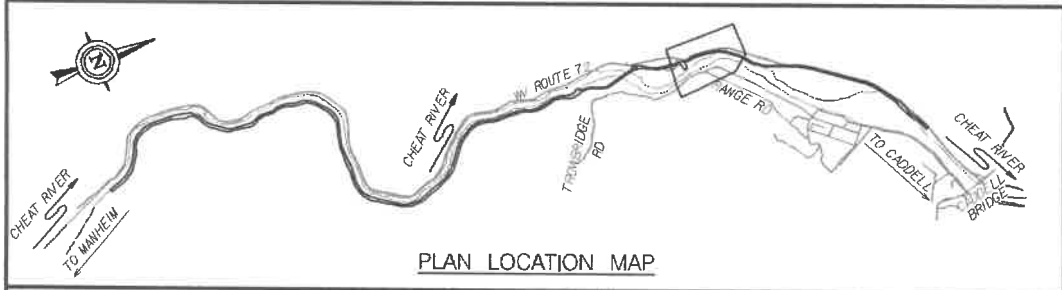
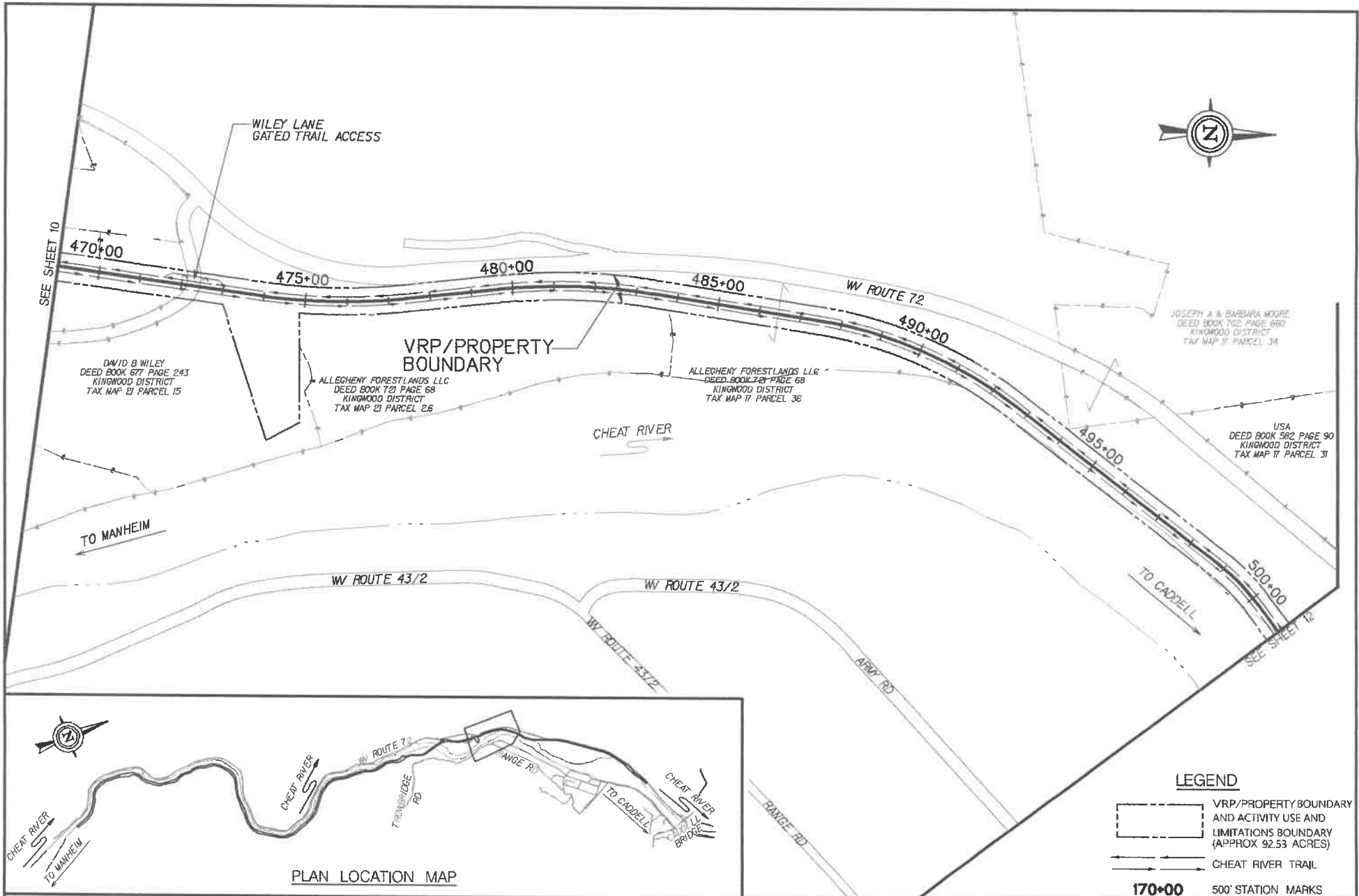
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**EXHIBIT A**  
SITE MAP SHOWING ACTIVITY AND  
USE LIMITATIONS

SHEET 10 OF 14



- LEGEND**
- VRP/PROPERTY BOUNDARY AND ACTIVITY USE AND LIMITATIONS BOUNDARY (APPROX 92.53 ACRES)
  - CHEAT RIVER TRAIL
  - 170+00 500' STATION MARKS

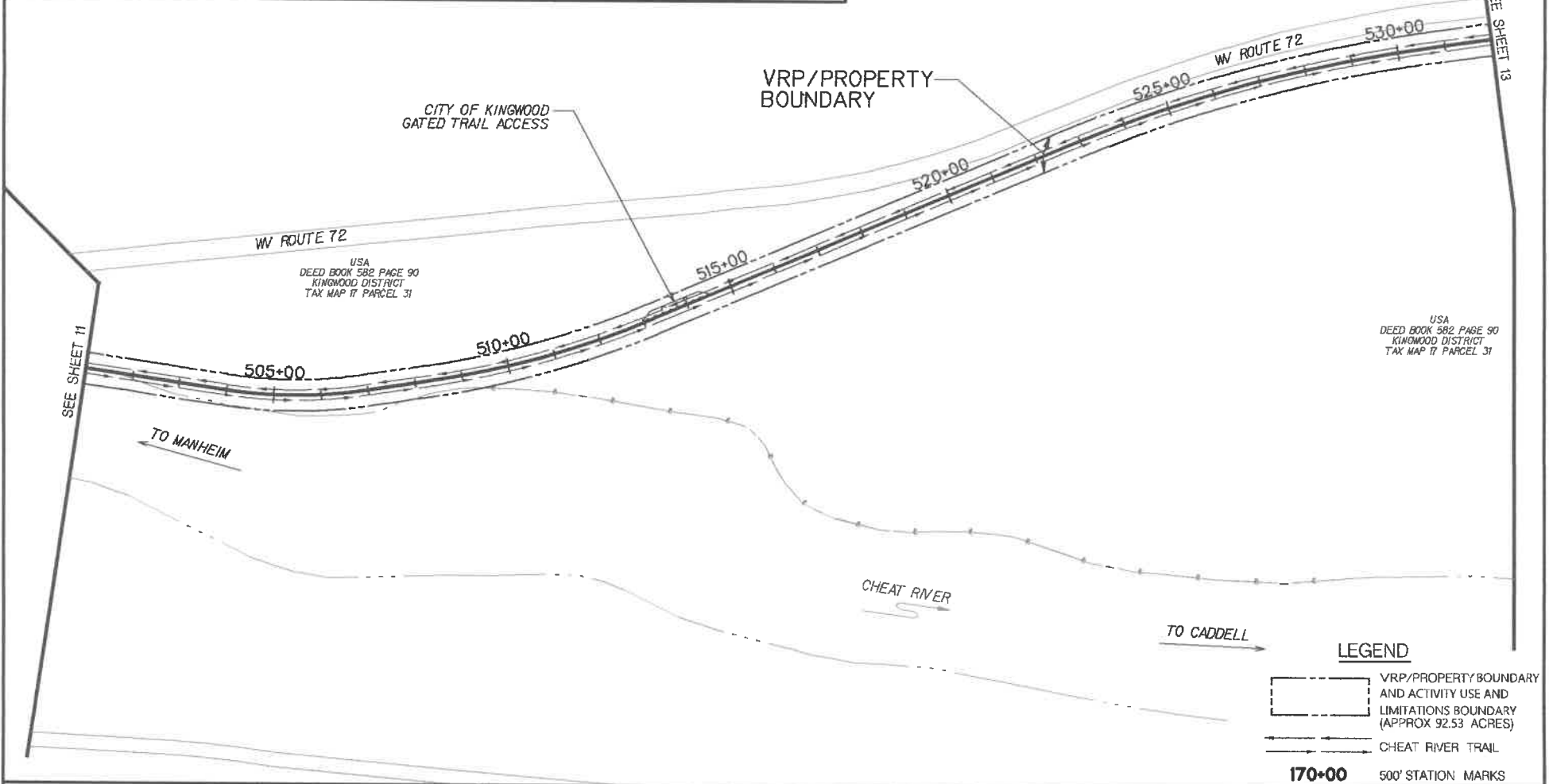
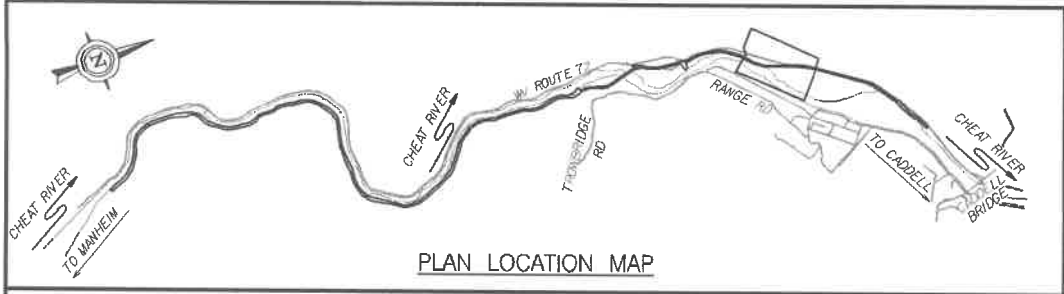


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VRP #20018

FRIENDS OF THE CHEAT  
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**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**  
 SHEET 11 OF 14



- LEGEND**
- VRP/PROPERTY BOUNDARY AND ACTIVITY USE AND LIMITATIONS BOUNDARY (APPROX 92.53 ACRES)
  - CHEAT RIVER TRAIL
  - 500' STATION MARKS

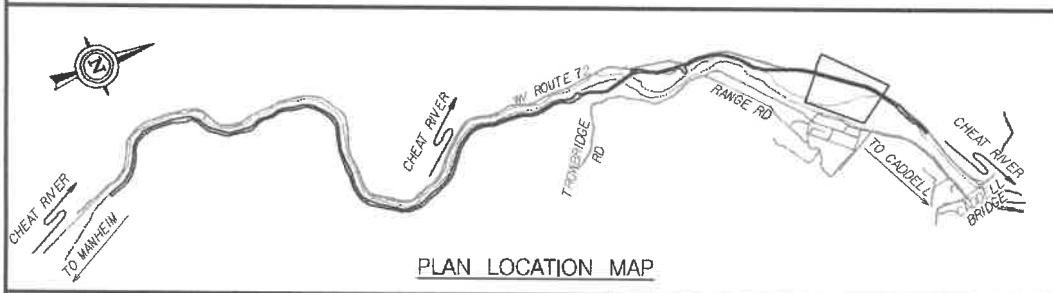
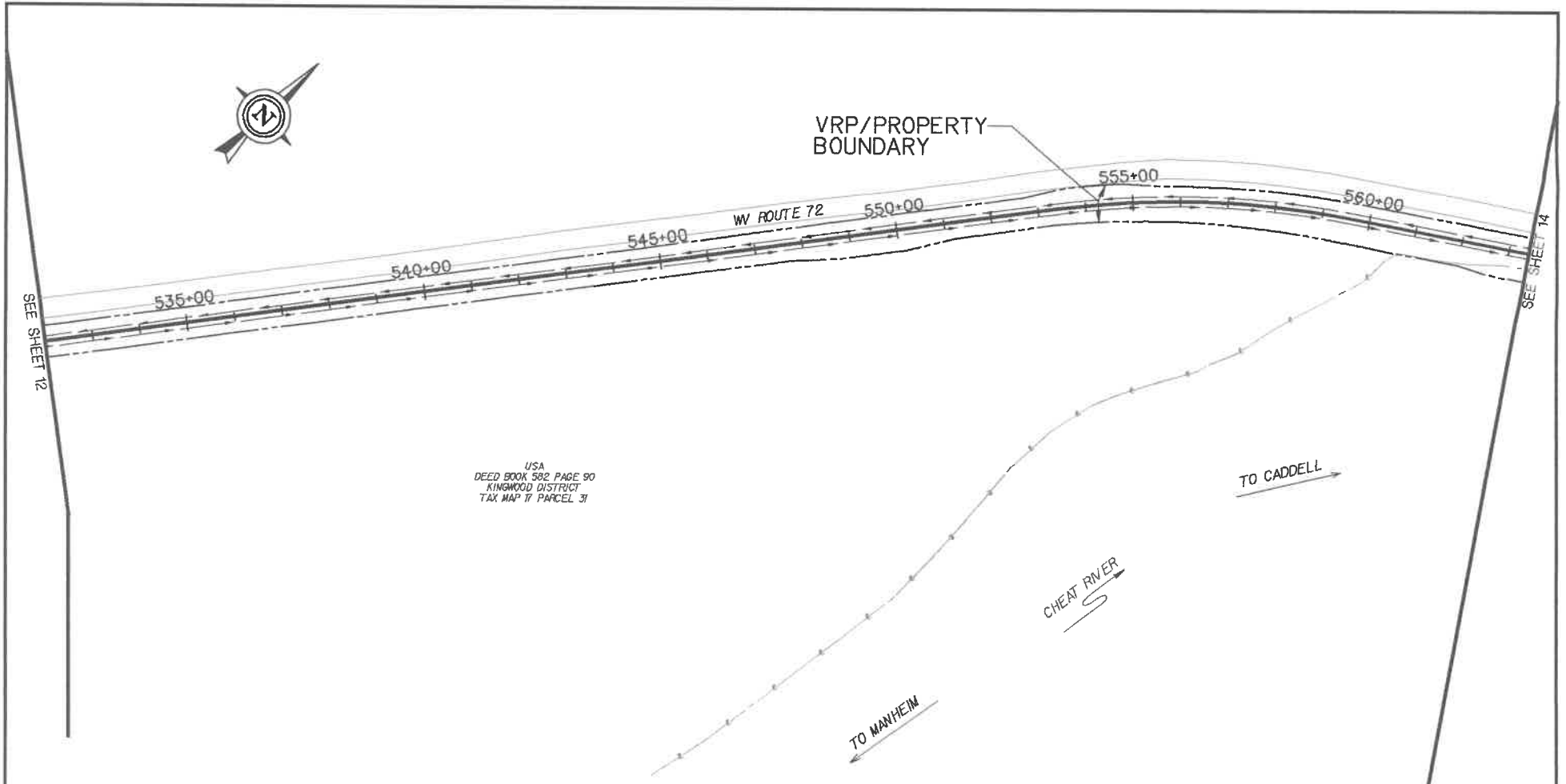


**AECOM** AECOM TECHNICAL SERVICES, INC.  
 150 CLAY STREET, SUITE 410  
 MORGANTOWN, WV 26501

VRP #20018

FRIENDS OF THE CHEAT  
 CHEAT RIVER RAIL TRAIL  
 MANHEIM/ROWLESBURG, PRESTON COUNTY, WV

**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**  
 SHEET 12 OF 14



**LEGEND**

	VRP/PROPERTY BOUNDARY AND ACTIVITY USE AND LIMITATIONS BOUNDARY (APPROX 92.53 ACRES)
	CHEAT RIVER TRAIL
	500' STATION MARKS



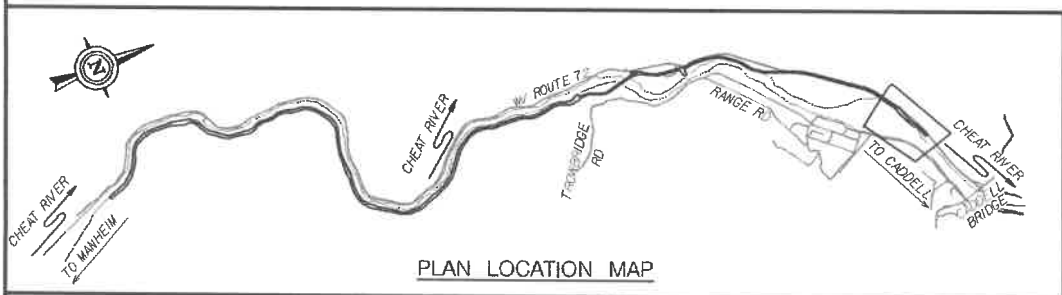
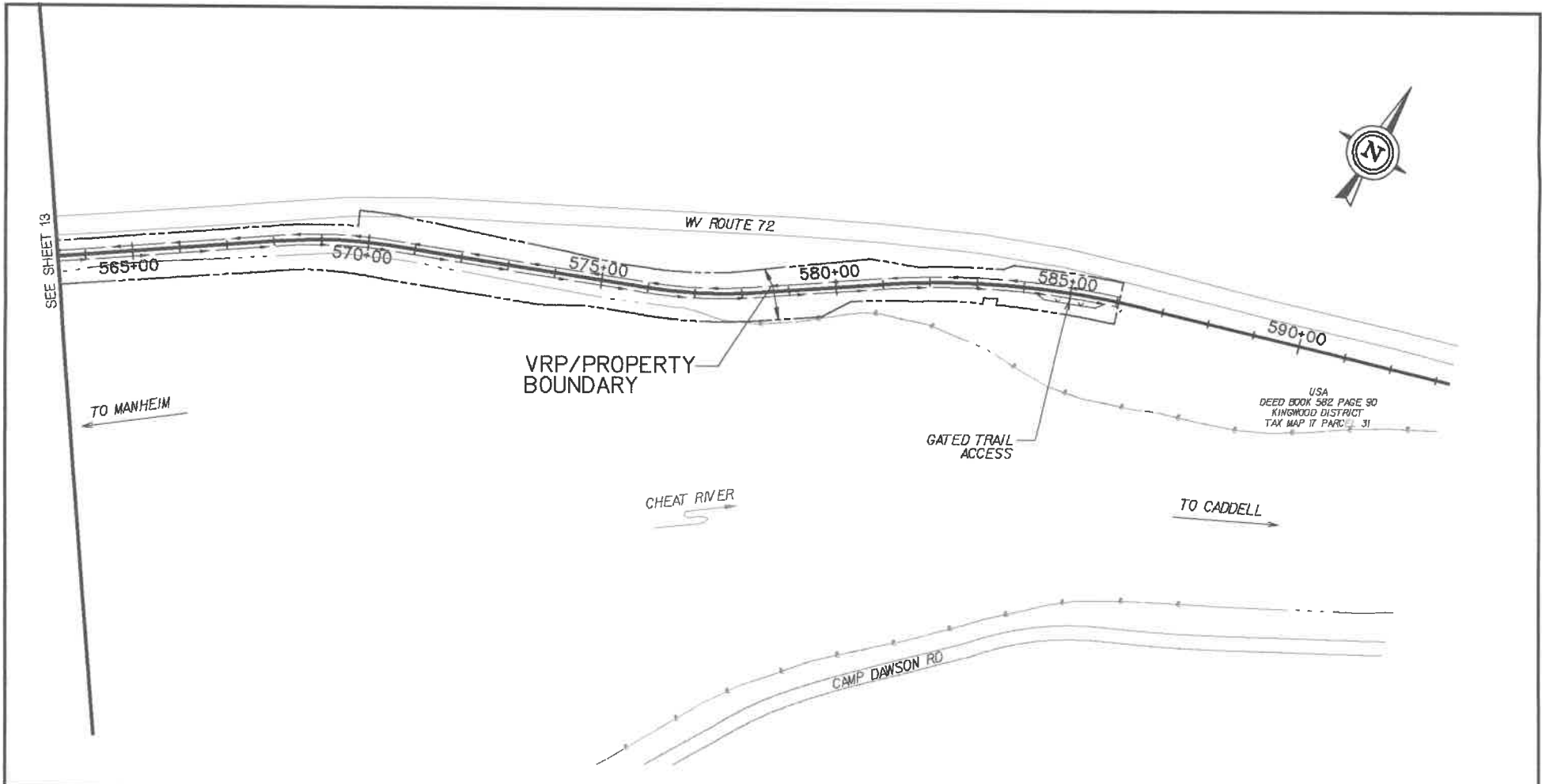
**AECOM** AECOM TECHNICAL SERVICES, INC.  
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MORGANTOWN, WV 26501

VRP #20018

FRIENDS OF THE CHEAT  
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MANHEIM/ROWLESBURG, PRESTON COUNTY, WV

**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**

SHEET 13 OF 14



**LEGEND**

- VRP/PROPERTY BOUNDARY AND ACTIVITY USE AND LIMITATIONS BOUNDARY (APPROX 92.53 ACRES)
- CHEAT RIVER TRAIL
- 500' STATION MARKS



**AECOM** AECOM TECHNICAL SERVICES, INC.  
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VRP #20018

FRIENDS OF THE CHEAT  
 CHEAT RIVER RAIL TRAIL  
 MANHEIM/ROWLESBURG, PRESTON COUNTY, WV

**EXHIBIT A**  
**SITE MAP SHOWING ACTIVITY AND USE LIMITATIONS**  
 SHEET 14 OF 14

# Exhibit B



## Land Use Covenant Inspection Form

*The property owner is responsible for conducting annual inspections of the site and submitting this form to WVDEP no more than sixty (60) days before or after the anniversary date of the LUC recording. The person conducting the inspection should refer to the recorded LUC for details, including a map of the affected property and descriptions of the activity and use limitations and engineering controls.*

Site Description				
Site ID Number <b>VRP #20018</b>	Site Name <b>Cheat River Rail Trail</b>	County <b>Preston</b>		
Address <b>Cheat River Rail Trail</b>		City <b>Manheim/Rowlesburg</b>	State <b>WV</b>	Zip Code <b>26425</b>
Property Owner on Land Use Covenant				
Property Owner Name <b>West Virginia State Rail Authority</b>				
Address <b>120 Water Plant Drive</b>		City <b>Moorefield</b>	State <b>WV</b>	Zip Code <b>26836</b>

Current Property Owner				
Has property ownership transferred since LUC recording? <input type="checkbox"/> No: <i>If contact information has not changed, skip to "Current Site Use."</i> <div style="text-align: right;"><input type="checkbox"/> Yes: <i>Provide new property owner contact information below.</i></div>				
Property Owner Name				
Address		City	State	Zip Code
Phone	Email			
Current Site Use				
Land Use (check all that apply) <input type="checkbox"/> Agricultural <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Recreational <input type="checkbox"/> Residential <input type="checkbox"/> School <input type="checkbox"/> Vacant <input type="checkbox"/> Other				
Provide brief description of current site use (including names of businesses located on property).				

Activity and Use Limitations		
<i>The following activities on and uses of the property may result in excessive human exposure or in the release of a contaminant that was contained as part of the remedial action. Inspect the site to determine if any of the prohibited activities and uses listed below have occurred in the past year.</i>		
Activity and Use Limitation	Occurred in past year?	If "yes", describe:
Residential Use	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Groundwater Use or Extraction	<input type="checkbox"/> No <input type="checkbox"/> Yes	



Contact Information			
Inspector Name	Relationship to Property		
Mailing Address	City	State	Zip Code
Phone	Email		
Statement of Affirmation			
I affirm that the information provided in this Land Use Covenant Inspection Form, to the best of my knowledge and belief, is true, complete, and accurate.			
_____ Signature		_____ Date	

Return completed and signed form, in addition to any attachments, electronically to [DEPOERFileCopy@wv.gov](mailto:DEPOERFileCopy@wv.gov), or mail to:

West Virginia Department of Environmental Protection  
Office of Environmental Remediation  
Attn.: LUC Inspections  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304