WEST VIRGINIA CODE: §31-21-2

§31-21-2. Definitions.

The following words used in this article, unless the context clearly indicates a different meaning, are defined as follows:

(1) "Agreement" means any agreement being entered into between the nonprofit corporation and a business, corporation, private party or local or state government.

(2) "All appropriate inquiries" or "AAI" means the process of evaluating a property's environmental conditions and assessing the likelihood of any contamination. Every Phase I environmental assessment must be conducted in compliance with the All Appropriate Inquiries Final Rule at 40 CFR Part 312.

(3) "Board of directors" or "board" means the board of directors of the corporation to be appointed under the provisions of section six of this article.

(4) "Certified sites" means those sites that are developable properties that have been prequalified as having proper land use designation, utilities, transportation improvements, availability, and pricing. Criteria for prequalification include, but are not limited to, established pricing terms and conditions so that property acquisition can be negotiated quickly and without time-consuming delays.

(5) "Charitable purposes" means the 501(c)(3) subclasses of "lessening the burden of the government" where the government identifies a need for the nonprofit entity to assist with a governmental service and the nonprofit collaborates with the government entity, and "environmental protection for the benefit of the public" where the services of the corporation benefit the general public by protecting public health and the environment as well as assisting with state and local economic development initiatives.

(6) "Contaminants" has the same meaning as defined in the environmental acts referenced in subdivision (13) of this section.

(7) "Corporation" means the West Virginia Land Stewardship Corporation, a nonstock, nonprofit corporation to be established under the West Virginia Nonprofit Corporation Act, article two, chapter thirty-one-e of this code, and with nonprofit status under one or more charitable purposes under 501(c) of the Internal Revenue Code of 1986, as amended.

(8) "Corporate directors" means the members of the board of directors of the corporation.

(9) "Department of Environmental Protection" or the "DEP" means the West Virginia Department of Environmental Protection or any successor agency.

(10) "Enforcement tools" means any order, permit, consent decree or environmental

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covenant or similar mechanisms which restrict or control certain land uses implemented at IEC Sites.

(11) "Engineering controls" or "ECs" means physical controls or measures designed to eliminate the potential for human exposure to contamination by limiting direct contact with contaminated areas, or controlling contaminants from migrating through environmental media into soil, groundwater or off-site.

(12) "Enrolled sites" means properties enrolled and accepted for participation in the voluntary Land Stewardship Program.

(13) "Environmental acts" means the Surface Coal Mining and Reclamation Act set forth in article three, chapter twenty-two of this code; the Air Pollution Control Act set forth in article five, chapter twenty-two of this code; the Water Pollution Control Act set forth in article eleven, chapter twenty-two of this code; the Groundwater Protection Act set forth in article twelve, chapter twenty-two of this code; the Solid Waste Management Act set forth in article fifteen, chapter twenty-two of this code; the Solid Waste Landfill Closure Assistance Program set forth in article sixteen, chapter twenty-two of this code; the Underground Storage Tank Act set forth in article seventeen, chapter twenty-two of this code; the Hazardous Waste Management Act set forth in article eighteen, chapter twenty-two of this code; section 103(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U. S. C. §9603(a)); section 304 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U. S. C. §§11001 to 11050); the Occupational Safety and Health Act set forth in 29 U. S. C. §§651 to 678; the Hazardous and Solid Waste Amendments of 1984, as amended, set forth in 42 U. S. C. §§6901, et seq.; and the Toxic Substances Control Act set forth in 15 U. S. C. §§2601, et seq.; and any applicable regulations promulgated under the foregoing environmental statutes.

(14) "Governmental controls" means any state laws, ordinances, orders, permits, consent decrees and similar mechanisms which restrict or control certain land uses implemented at IEC Sites in this state.

(15) "Institutional and Engineering Control Sites" or "IEC Sites" means sites in this state that have been remediated or closed under a federal or state environmental program, including, but not limited to, brownfields, underground storage tanks, closed landfills, open dumps, hazardous waste sites, and former mining sites with ongoing water treatment as part of mine reclamation efforts.

(16) "Informational devices" means deed notices or other written documents that describe the remediation that was conducted on an IEC Site, the constituents of concern, and the remediation standards that were achieved. Informational devices shall be filed with property records in the office of the county clerk of the county in which the property is located as an advisory to provide environmental information to future buyers or users of the IEC Site.

(17) "Institutional Controls" or "ICs" means administrative and legal controls that do not

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involve construction or physically changing the site and are generally divided into four categories: 1) Government controls, 2) Proprietary controls, 3) Enforcement tools, and 4) Informational devices. ICs are nonengineering measures that help minimize the potential for human exposure to contamination and/or protect the integrity of the remedy by limiting land or resource use.

(18) "Nonprofit corporation" means a corporation established under the West Virginia Nonprofit Corporation Act, article two, chapter thirty-one-e of this code, to fulfill the purposes of this article.

(19) "Pollutants" has the same meaning as defined in the environmental acts referenced in subdivision (13) of this section.

(20) "Proprietary controls" mean legal property interests created under real property laws that rely on legal documents recorded in the chain of title for the site, and "run with the land" to bind future landowners. Examples of proprietary controls include, but are not limited to, environmental covenants, deed land use restrictions, water withdrawal prohibitions and continuing right-of-entry easements for former owners or regulators to inspect, monitor and maintain the IECs.

(21) "Regulated substances" has the same meaning as defined in the environmental acts referenced in subdivision (13) of this section.

(22) "Releases" has the same meaning as defined in the environmental acts referenced in subdivision (13) of this section.

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