**Prepared by:**

Model Grant of Access Easement for Environmental Stewardship

version 2019.02.19 for

Abandoned Mine Drainage Remediation Projects

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Name:

Address:

Telephone:

**Return to:**

Name:

Address:

**Tax parcel(s):**

GRANT OF ACCESS EASEMENT

FOR ENVIRONMENTAL STEWARDSHIP

 THIS GRANT OF ACCESS EASEMENT FOR ENVIRONMENTAL STEWARDSHIP (“this grant”) dated \_\_\_\_\_\_\_\_\_\_\_\_\_ is made by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “undersigned Owners”) in favor of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Holder”).

# Background

## Property

The undersigned Owners are the sole owners in fee simple of the Property described in exhibit A (the “Property”). The Property is also described as:

Street address:

Municipality: County:

Parcel identifier: State: Pennsylvania

## Purpose

The undersigned Owners desire Holder to undertake a project (the “Project”) to improve the quality of water passing through or discharging from the Property and provide related public benefits. The Project, including any plantings, structures, and equipment (collectively, the “Installation”) to be installed, is more fully described in exhibit B.

## Easement Plan

Exhibit C provides a survey or other graphic depiction of the Property (the “Easement Plan”) showing the location (“the Project Area”) within which Holder intends to undertake the Project. The Easement Plan may also show the location of any of the following areas referred to in this grant: the “Staging Area,” which is to serve as a staging area for construction; the “Access Corridor,” which is to provide access to the Project Area from the public right of way; and the “Utility Corridor,” which is to provide electricity or other utilities for the Project.

## Title

The undersigned Owners represent and warrant to Holder that they are the sole owners in fee simple of the Property.

## Consideration

The undersigned Owners acknowledge receipt of $1.00 in consideration of this grant.

# Grant of Easements

## Grant

### Project Area. The undersigned Owners grant to Holder an easement over the Project Area to install, construct, and replace the Installation (those activities collectively, “Construction”); operate and maintain the Installation; monitor water quality; and other activities in furtherance of the Project’s purpose. These easement rights may be exercised at any time and from time to time by Holder.

Add the following additional grants as appropriate to the Project:

### Staging Area. The undersigned Owners grant to Holder an easement over the Staging Area to park vehicles, store materials and equipment, and conduct other activities related to Construction. Upon termination of use of the Staging Area for Construction, Holder must restore the Staging Area as nearly as possible to its condition prior to entry.

### Access Corridor. The undersigned Owners grant to Holder an easement to provide within the Access Corridor pedestrian and (if reasonably necessary for Project activities) vehicular access between the Project Area and the public right-of-way. If no Access Corridor is designated on the Easement Plan, then the easement will be over a path identified by Holder for which the Owners have no reasonable objection.

### Utility Corridor. The undersigned Owners grant to Holder an easement over the Utility Corridor to provide electricity or other utilities reasonably required in connection with the Project.

### Education. The undersigned Owners grant Holder the right to invite other Persons, accompanied by an authorized representative of Holder, to view and study the Project Area and Installation for scientific and educational purposes related to the Project. Holder is permitted to install signage identifying and explaining the Project and the interest of Holder and Beneficiaries with respect to the Project within the Project Area (and Access Corridor, if any).

## Term

The term of the easements granted in this article is perpetual, provided, however, that Holder may terminate Holder’s rights to enter the Property under this grant at any time following notice to Owners. Upon notice of termination, Owners and Holder must sign and record in the Public Records a release of this grant and, upon such recordation, neither Owners nor Holder have any further rights or obligations under this grant. Unless otherwise agreed in writing by Owners and Holder, Holder has no obligation to remove the Installation prior to or upon termination of this grant.

## Entry

Except for notice prior to Construction as required in the next article, no notice to Owners is required prior to entry onto the Property pursuant to the rights granted under this article.

## Beneficiaries

Should Holder fail to complete or maintain the Project, the rights of Holder under this grant may be exercised by Holder, any of the Persons identified below (collectively, the “Beneficiaries”), and the respective employees, agents, contractors, successors, and assigns of each of them.

* [none]

# Obligations

## No Interference

Owners must not interfere or allow any tenant or other person to interfere in any way with the Project or with the exercise of Holder’s rights with respect to the easements granted under article 2.

### Activities Consistent with Easement. Except as limited under this section, Owners have all the rights recognized under applicable law to use the Property for purposes consistent with and not interfering with the easement rights granted to Holder.

### Activities Requiring Holder Approval. Without limiting the breadth of the prohibition on interference under this section, listed below are activities prohibited to the Owners unless the prior written approval of Holder is first obtained:

#### Planting or removing vegetation within the Project Area.

#### Construction of any kind within the Project Area, Access Corridor, Staging Area, or Utility Corridor, if any.

#### Any activity on or about the Property that changes or redirects water resources within or flowing through the Project Area such as channelization of a stream or installation or expansion of a well or pond.

## Construction

### Notice. Holder must notify Owners not less than 30 days prior to commencement of Construction.

### Insurance. Holder must obtain, if requested by Owners, certificates evidencing liability insurance coverage with respect to Holder and all Persons entering the Property for the purpose of Construction.

### Permits. Holder must obtain, at Holder’s cost and expense, all permits and approvals required for Construction.

### Costs. Holder must promptly pay as and when due all costs and expenses incurred in connection with the Construction.

### Release of Liens. Upon completion of Construction, Holder must obtain, if requested by Owners, release of mechanic’s liens from Persons furnishing labor or materials in connection with Construction.

## Indemnity

### Scope of Indemnity. Holder must indemnify and defend the Owners against all Losses and Litigation Expenses arising out of or relating to:

#### Any breach or violation of this grant by Holder or other Person entering the Property at the request of Holder.

#### Damage to property or personal injury (including death) occurring on or about the Property if and to the extent such damage results from the negligent or wrongful acts or omissions of Holder or other Person entering the Property under the grant of easements set forth in article 2.

### Loss; Litigation Expense

#### The term “Loss” means any liability, loss, claim, settlement payment, cost and expense, interest, award, judgment, diminution in value, or damages other than a Litigation Expense.

#### The term “Litigation Expense” means any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any claim of violation or for indemnification under this grant including, in each case, attorneys’ fees, other professionals’ fees, and disbursements.

# Miscellaneous

## Notices

### Requirements. Each Person giving any notice pursuant to this grant must give the notice in writing and must use one of the following methods of delivery: (1) personal delivery; (2) certified mail, return receipt requested and postage prepaid; or (3) nationally recognized overnight courier, with all fees prepaid.

### Address for Notices. Each Person giving a notice must address the notice to the appropriate Person at the receiving party at the address listed below or to another address designated by that Person by notice to the other Person:

If to Owners:

If to Holder:

## Governing Law

The laws of the Commonwealth of Pennsylvania govern this grant.

## Assignment by Holder

Holder may not assign its rights under this grant except to a nonprofit organization or governmental entity that assumes the liabilities and obligations of Holder under this grant. The rights of any Beneficiary of this grant are not assignable without the prior written consent of Holder.

## Severability

If any provision of this grant is determined to be invalid, illegal, or unenforceable, the remaining provisions of this grant remain valid, binding, and enforceable. To the extent permitted by applicable law, the parties waive any provision of applicable law that renders any provision of this grant invalid, illegal, or unenforceable in any respect.

## Amendments; Waivers

No amendment or waiver of any provision of this grant or consent to any departure by Owners from the terms of this grant is effective unless the amendment, waiver, or consent is in writing and signed by an authorized signatory for Holder. A waiver or consent is effective only in the specific instance and for the specific purpose given. An amendment must be recorded in the Public Records.

## Counterparts

This grant may be signed in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement.

## Guides to Interpretation

### Captions. The descriptive headings of the articles, sections, and subsections of this grant are for convenience only and do not constitute a part of this grant.

### Other Terms. The following terms, whenever used in this grant, are to be interpreted as follows:

#### “Owners” means the undersigned Owners and all Persons after them who hold an interest in all or any part of the Property.

#### “Person” means an individual, organization, trust, or other entity.

#### “Public Records” means the public records of the office for the recording of deeds in and for the county in which the Easement Area is located.

#### “Including” means “including, without limitation.”

#### “May” is permissive and implies no obligation; “must” is obligatory.

## Entire Agreement

This grant is the entire agreement of Owners and Holder pertaining to the subject matter of this grant, superseding any other agreements, statements, or understandings, whether or not in writing.

## Incorporation by Reference

Each exhibit referred to in this grant is incorporated into this grant by this reference.

## Binding Agreement

This grant is a servitude running with the land binding upon the undersigned Owners, and, upon recordation in the Public Records, all subsequent Owners are bound by its terms whether or not the Owners had actual notice of this grant and whether or not the deed of transfer specifically referred to the transfer being under and subject to this grant.

INTENDING TO BE LEGALLY BOUND, the undersigned Owners have signed and delivered this grant to Holder as of the date set forth above.

Witness/Attest:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (SEAL)

 Owner’s name:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (SEAL)

 Owner’s name:

The Holder joins in this grant to evidence its intention to be legally bound by its terms:

 [NAME OF HOLDER]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (SEAL)

 Name of signatory:

 Title of signatory:

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The model on which this document is based should not be construed or relied upon as legal advice or legal opinion on any specific facts or circumstances. It should be revised under the guidance of legal counsel to reflect the specific situation.

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF :

 ON THIS DAY \_\_\_\_\_\_\_\_\_\_\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed the same for the purposes therein contained.

 IN WITNESS WHEREOF, I hereunto set my hand and official seal.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Notary Public

 Print Name:

COMMONWEALTH OF PENNSYLVANIA:

 SS

COUNTY OF :

 ON THIS DAY \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ before me, the undersigned officer, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who acknowledged him/herself to be the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a Pennsylvania non-profit corporation, and that he/she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by her/himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Notary Public

 Print Name: