

CONSENT TO RIGHT OF ENTRY FOR OPERATION AND MAINTENANCE OF A MINE DRAINAGE TREATMENT FACILITY COVERED BY A BOND OR A POST-MINING DISCHARGE TREATMENT TRUST AGREEMENT

Property Owner(s): List everyone with an ownership interest in the property which is the subject of this Agreement.

Name: BET Lehigh Real Estate, LLC Name: _____
Address: 1233 E. Broad Street, P.O. Box 150, Address: _____
Tamaqua, PA 18252-2229 _____

WHEREAS, the Property Owner(s) own surface property containing 445.8 acres located in Tamaqua Borough, Schuylkill County, Pennsylvania, and described in Deed Book Volume 2372, Page 2901, in the Schuylkill County Recorder's Office (the Property);

WHEREAS, the Commonwealth of Pennsylvania, Department of Environmental Protection (DEP) is authorized to administer and enforce the Surface Mining Conservation and Reclamation Act, 52 P.S. §§ 1396.1-1396.19a, the Clean Streams Law, 35 P.S. §§ 691.1-691.1001, and their implementing regulations, including requiring the construction, operation and maintenance of facilities designed to remediate the effects of mine drainage;

WHEREAS, BET Associates IV, LLC ("Operator") conducted surface mining activities on or adjacent to the Property pursuant to Surface Mining Permit No. 54733020;

WHEREAS, DEP has determined that mine drainage caused by Operator's mining activities is discharging from or passing through the Property, and the mine drainage on the Property is causing pollution, or a danger of pollution, to waters of the Commonwealth;

WHEREAS, Operator is required, under the mining law and its surface mining permit, to construct, operate and maintain mine drainage treatment facilities on a portion of the Property (the Treatment Facility Property), for purposes of treating the pollutional discharge(s);

WHEREAS, a map showing the boundaries of the Treatment Facility Property is attached as Exhibit A;

WHEREAS, Operator has established a trust with Woodlands Bank ("Trustee") as an alternative financial assurance mechanism in order to provide sufficient funds to guarantee Operator's legal obligation to operate and maintain the mine drainage treatment facilities on the Property and the Operator's obligation for long-term treatment, or abatement, of the post-mining pollutional discharge(s) on the Property;

WHEREAS, to assure compliance with its legal obligations, Operator, DEP and the Trustee must have access to the Treatment Facility Property to conduct and/or oversee the mine drainage treatment activities required by law and the mining permit;

WHEREAS, Operator and DEP have requested and the Property Owner(s) is willing to grant Operator, DEP and Trustee a right of entry into, under, over and upon the Treatment Facility Property to construct, operate and maintain mine drainage treatment facilities;

WHEREAS, the Property Owner(s) acknowledges that treatment of the mine drainage on the Property will provide benefits to the Property Owner(s) and to the Commonwealth through abatement of a nuisance, restoration of land affected by mining operations, and prevention of pollution to waters of the Commonwealth;

NOW THEREFORE, in consideration of the benefits which the Property Owner(s) and the general public will receive, and with the intention of being legally bound, it is agreed as follows:

1. Right of Entry. The Property Owner(s) hereby grants and conveys to *Operator, DEP and Trustee*, its employees, agents, servants, contractors and subcontractors, a right of entry into, under, over and upon the Treatment Facility Property. This right of entry includes all necessary rights of ingress, egress and regress with all personnel, materials, and equipment needed to perform the discharge treatment activities.

2. Duration of Right of Entry. The term of this Right of Entry shall extend for the length of time necessary to complete the discharge treatment activities in accordance with applicable law. It is specifically understood and agreed that the term of this Right of Entry extends for the length of time necessary to operate and maintain all mine drainage treatment facilities on the Treatment Facility Property, and shall only terminate when such treatment facilities are no longer necessary to remediate or prevent pollution to waters of the Commonwealth.

3. Insurance. DEP will require *Operator* to obtain and keep in force insurance coverage in accordance with the requirements of 25 Pa. Code § 86.168.

4. Property Use. During the term of this Right of Entry, the Property Owner(s) will not, without the written consent of DEP, make any use of the Property which will interfere with the construction, operation or maintenance of the mine drainage treatment facilities installed on the Treatment Facility Property.

5. Notification. This Consent to Right of Entry shall be recorded by *Operator* in the Schuylkill County Recorder's Office within thirty days of its execution. In the event that the Property Owner(s) intends to sell, lease, or otherwise transfer any interest in the Property prior to the termination of this Right of Entry, the Property Owner(s) shall advise the prospective owner or lessee of the terms and conditions of this Right of Entry. The Property Owner(s) shall advise DEP and the Trustee, by notifying their representatives whose signatures appear below or their successors, of the intent to sell the Property prior to any sale.

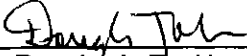
6. Representation of Interests. The Property Owner(s) represents that it is the only person(s) authorized to grant access to the Treatment Facility Property.

7. Binding on Successors. All the covenants, representations, consents, waivers and agreements contained herein shall be binding upon and inure to the benefit of the parties and their heirs, successors and assigns.

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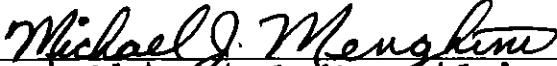
IN WITNESS WHEREOF, each of the parties set its respective hand and seal, for itself, its heirs, executors, administrators, successors and assigns, intending to be legally bound, this _____ day of _____, 2011.

For BET Associates IV, LLC



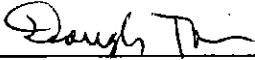
Name: Douglas L. Topkis
Title: Member

For the Department of Environmental Protection:



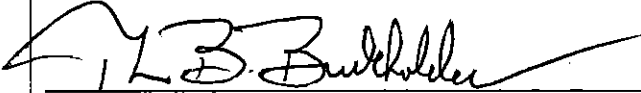
Name: Michael J. Menghini
Title: DISTRICT MINING MANAGER

For BET Lehigh Real Estate, LLC



Name: Douglas L. Topkis
Title: Member

For Woodlands Bank:



Name: Thomas B. Burkholder
Title: Vice President and Trust Officer

ACKNOWLEDGEMENT OF CORPORATIONS

STATE OF NEW YORK :
COUNTY OF NEW YORK : ss

On this, the 5th day of May, 2011, before me, the undersigned Notary, personally appeared Douglas Topkis, who acknowledged himself to be a Member of BET Lehigh Real Estate, LLC, a limited liability company, and that he, as such officer, being authorized to do so, executed this instrument on behalf of said limited liability company, and who desires it to be recorded.

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

(SEAL) [Signature]
Notary Public

My Commission Expires: 03/02/2013

EVETTE GAMBOA
Notary Public, State of New York
No. 01GA6201816
Qualified in Bronx County
COMMISSION EXPIRES 03/02/2013

This instrument has been recorded in _____ County, Pennsylvania, this _____ day of _____, 2011, at Book _____, Page(s) _____.

(Signed) + (Print Name)

(Seal)

ACKNOWLEDGEMENT OF CORPORATIONS

STATE OF NEW YORK

:
: SS
:

COUNTY OF NEW YORK

On this, the 5th day of May, 2011, before me, the undersigned Notary, personally appeared Douglas Topkis, who acknowledged himself to be a Member of BET Associates IV, LLC, a limited liability company, and that he, as such officer, being authorized to do so, executed this instrument on behalf of said limited liability company.

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

(SEAL) 
Notary Public

My Commission Expires: 03/02/2013

EVETTE GAMBOA
Notary Public, State of New York
No. 01GA6201816
Qualified in Bronx County
COMMISSION EXPIRES 03/02/2013

ACKNOWLEDGEMENT OF CORPORATIONS

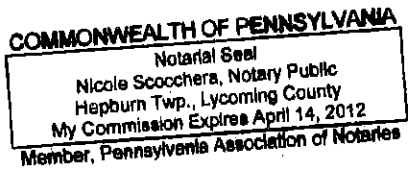
STATE OF PENNSYLVANIA :
 :
COUNTY OF LYCOMING : ss

On this, the 9TH day of MAY, 2011, before me, the undersigned Notary, personally appeared Thomas B. Burkholder, who acknowledged himself to be an officer of Woodlands Bank, a Pennsylvania financial institution, and that he, as such officer, being authorized to do so, executed this instrument on behalf of said financial institution.

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

(SEAL) Nicole Scochera
Notary Public

My Commission Expires: April 14, 2012





Treatment Facility

LAST REVISED DATE:	
BET ASSOCIATES IV, LLC	
1233 E. Broad St. (PO Box 150), Tamaqua, PA 18252	
MAP DATE: 3/14/11	S.M.P. 5473300
SCALE: 1" = 2000'	EXHIBIT A - Consent to Right of Entry
DRAWN BY: KCP	for Post-Mining Discharge Treatment Facility
CHECKED BY: WWK	

