

08-299-CD
Holly Yarnell vs Lee D. Srock

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

Holly Yornall
(Plaintiff)
Homeowner

6537 Main St
(Street Address)

Burnside, PA 15721
(City, State ZIP)

CIVIL ACTION

No. 08-299-CJ

Type of Case: Civil

Type of Pleading: WML

vs.

Lee D. Shrock
(Defendant)
Contractor

104 SCOTTS R.D.
(Street Address)

HOUTZDALE PA 16651
(City, State ZIP)

Filed on Behalf of:

Holly P. Fred Yornall
(Plaintiff/Defendant)
Homeowner

Central PA Community Action
(Filed by)

207 E. Cherry St. Clearfield, PA 16830
(Address)

765-1551
(Phone)

Mandy Greene
(Signature)

FILED No CC

01/27/08
FEB 21 2008 Community Action

pd \$20.00

William A. Shaw
Prothonotary/Clerk of Courts

EXHIBIT "C"

CONTRACTOR'S WAIVER OF LIENS

STIPULATION AND FINAL WAIVER AND RELEASE OF LIENS

This WAIVER, RELEASE, STIPULATION and AGREEMENT (collectively the "Agreement") is made effective as of the 4th day of FEBRUARY, 2008, by Srock Contracting, with an office located at 104 Scotts Rd., Houtzdale, PA (the "Contractor") in favor and for the benefit of Fred W. & Holly J. Yamall (the "Owner") residing at 6537 Main St., Burnside, Clearfield County, Pennsylvania.

WHEREAS, Owner and Contractor effective as of the above date entered into a certain construction contract ("Contract") relating to the repair, installation, erection and/or construction and completion of certain improvements described in the Contract and generally described as work relating to reduction, control and/or the elimination of identified lead hazards in housing and/or other improvements and alterations ("Project") upon a parcel(s) of land owned by Owner and known as **6537 Main St., Burnside, Pennsylvania**, ("Property") and which Property is more fully described in **Exhibit "A"** attached hereto and incorporated herein by reference; and

WHEREAS, Contractor is a contractor within the meaning of the Mechanics Lien Law of 1963, 49 P.S. Section 1101, et seq. as exists now or in the future ("Law"). Whenever used in this Agreement, the terms "improvement", "labor", "materials" and "subcontractor" shall include and have the same meaning as set forth in the Law; and

WHEREAS, Contractor, in accordance with the Law and by this Agreement and the promises contained herein and in the Contract, warrants, covenants, promises and agrees that no mechanics' or materialmen's liens or any similar or other types or kinds of liens, claims, encumbrances, charges, security interests upon real or personal property or claims or demands of any kind whatsoever (individually and collectively "Liens") shall be filed, asserted, claimed or maintained against the improvements, Project, Property, estate, rights or title of Owner in the Property or any interest therein or any part thereof, or the appurtenances thereto, by or on behalf of Contractor, any subcontractor, materialman or any person or entity claiming or acting for, through or under Contractor or any of them for or on account of any work, labor, equipment, supplies or materials performed or supplied in the performance of any of the work (as defined or indicated in the Contract) or relating to the Project or under any supplemental contract or contract for additional or extra work in the construction, erection, repair, installation or completion of the improvements and/or alterations, Project or Work or on the Property or any part thereof or appurtenance thereto.

NOW, THEREFORE, to induce Owner to enter into the Contract and in consideration of the agreements of Owner therein contained, other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Contractor stipulates, covenants, warrants and agrees as follows:



1. **Incorporation.** All of the foregoing is incorporated herein by reference the same as though herein fully set forth.

2. **Waiver and Release of Liens.** Contractor, for himself/itself any and all subcontractors, laborers, materialmen and any person or entity (individually and collectively the "Subcontractors") claiming or acting for, through or under Contractor, does hereby fully and forever waive, release and relinquish all rights to have, file, maintain, claim or assert any Liens whatsoever or notice of intention to file any Liens and does hereby warrant, covenant and agree that no Liens shall be filed, maintained, asserted or claimed against the building, improvements, work, Project, Property, estate, rights or title of Owner in the Property or any part thereof or interest therein or the appurtenances thereto, by or in the name of Contractor, or by any Subcontractor or any person claiming or acting for, through or under any of them for any labor, work or services performed or supplies or materials furnished in connection with or relating to the work, Project, Contract, or Property or by any other person. Further, the Contractor for itself, any and all Subcontractors and any other person forever quitclaims to Owner all manner of Liens, claims and demands whatsoever which Contractor or any of them may have now or in the future on, in or against the Property, Project, work or improvements or any part thereof or the Owner.

3. **Independent Covenant.** This Agreement waiving and releasing all rights to have, file, assert, claim or maintain any Liens shall be and is an independent covenant and warranty by Contractor for itself, any Subcontractor and any person claiming or acting for, through or under Contractor and shall operate and be effective irrespective of Owner's performance and applies to all labor, work and services done, supplies, equipment and materials furnished under any supplemental agreement or for additional or extra work or otherwise in the erection, installation, construction and completion of the work or Project or in connection with or relating to the Contract, Property or above-described Project on or about the Property in the same manner and to the same extent as any work and labor done, supplies, services and materials furnished under or relating to the Contract or in connection with the Project or Property.

4. **Power of Attorney to Satisfy Lien.** To give Owner full power and authority to protect, himself, all buildings, improvements, the Project, Property, the estate, rights, interests and title of Owner therein, and all appurtenances thereto, against any Liens filed by Contractor or any Subcontractor or person claiming or acting for, through or under Contractor in violation of the foregoing covenant or this Agreement, Contractor hereby irrevocably authorizes and empowers any attorney of any Court of Common Pleas of the Commonwealth of Pennsylvania: (i) to appear as attorney for Contractor, Subcontractor or any of them, in any such court, and in Contractor's, Subcontractor's or their name or names, to the fullest extent permitted by law to strike and/or mark satisfied of record at the sole cost and expense of Contractor or of any Subcontractor or any other person, any Liens, filed or asserted in violation of the foregoing covenant, warranty or this Agreement, or (ii) to cause to be filed and served in connection with such Liens any pleading or instrument, or any amendment to any pleading or instrument previously filed by or on behalf of Contractor, Subcontractor or any of them, and to incorporate therein, as part of the record, the full release and waiver contained in this Agreement; and for such act or acts this Agreement shall be good and sufficient warrant and authority. A reference to the court, term and number in which and where this Agreement shall have been filed shall be conclusive and binding evidence of the full authority herein to warrant and authorize all such action, and Contractor, for himself/itself and for all Subcontractor and any person and their respective heirs, personal representatives, successors and assigns, hereby fully and forever remises, releases, waives, and quitclaims all rights and all manner of errors, defects and imperfections whatsoever in striking any Liens or entering such satisfaction or in filing such pleading, instrument or amendment, or in any way relating to or concerning them or any of them.



5. **Hold Harmless.** Contractor covenants and agrees that all Subcontractors shall look to and hold only the Contractor personally liable and that there shall not be any Liens, claims or demands whatsoever against the Property or Owner for any work or labor done or supplies or materials furnished under or in connection with the Contract, Project, work or otherwise. Contractor agrees to and shall hold the Owner and his heirs, personal representatives, successors and assigns ("Indemnitees") harmless from and fully indemnify and defend Indemnitees and each of them against any and all Liens, losses, damages, liabilities, suits, judgments, fines, penalties, actions, costs and expenses including, without limitation, attorneys' and experts' fees, incurred by any or all Indemnitees and all demands or claims of any kind whatsoever asserted, made or brought and arising or alleged to arise, directly or indirectly, out of or resulting from, in whole or in part, any violation or breach of the agreements or representations in this Agreement or the Contract or from any Liens asserted, maintained, claimed or filed in violation of this Agreement or the Contract.

6. **Binding Effect.** It is the express purpose and intent of this Agreement that the Owner and his heirs, personal representatives, successors and assigns shall hold, have, use and enjoy the Project, Property and all materials and improvements free, clear and discharged from any and all Liens and claims whatsoever which Contractor, Subcontractor or anyone claiming or acting for, through or under, Contractor now have, or might or could have against the same if this Agreement had not been made. It is hereby warranted, stipulated and agreed, as part of the Contract and for the consideration therein set forth, that neither the Contractor, any Subcontractor nor any other person furnishing any work, services, labor, supplies, materials or equipment to or for the Contractor, work, Project or Property under or relating to the Contract or in regard to the Property, Project, work or improvements shall have the right to or will assert, claim, maintain or file any Liens for any work, labor or services done or supplies or materials furnished to or for the said improvements, work, Project, Property or any part thereof. Every part of this Agreement shall be fully binding upon Contractor, all Subcontractors and persons claiming or acting for, under or through Contractor or any of them and their respective heirs, personal or legal representatives, successors and assigns and inure to the benefit of Owner and his heirs, personal or legal representatives, successors and assigns.

7. **Interpretation.** If any one or more of the terms or provisions contained in this Agreement shall be held to be invalid or unenforceable in any respect as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, it is the specific intent of the Contractor and this Agreement that any such offending provision or term shall be deemed to be modified to be within the maximum limits of validity and be enforceable while most nearly preserving its original intent and purpose; however, if the offending provision cannot be so modified, it shall be stricken and all other terms and provisions of this Agreement in all respects shall remain valid and fully enforceable. Each paragraph, provision and part of this Agreement is separable and constitutes a separate and distinct covenant, warranty, stipulation, condition and agreement. Whenever used in this Agreement, the singular includes the plural, the plural the singular and the use of any gender includes all genders. Contractor covenants and agrees that this Agreement shall be construed in a neutral manner, and in interpreting this Agreement, there shall be no inference or presumption by operation of law or otherwise that any term, part or provision of this Agreement shall be more strictly construed against any person for any reason whatsoever. The term "person" whenever used in this Agreement shall mean and include any natural person, corporation, partnership, association, limited liability company, trust, estate, governmental or any other type of entity. Words or terms used herein and which are defined in the Contract shall have the meaning set forth in the Contract unless otherwise defined herein or the context otherwise requires.



8. **Work Not Commenced.** Contractor certifies and warrants to Owner and all other persons and entities that as of the date hereof, no labor, work or services of any kind or nature have yet been done nor any materials furnished relating to or for the Contract, work, improvements or on or about the Project or Property by any person. Further, Contractor warrants that the execution and delivery of this Agreement by the undersigned person has been duly authorized and approved by all requisite corporate and other action and constitutes a legal, valid and binding obligation of Contractor.

9. **Further Actions.** The Contractor agrees to and shall sign, acknowledge and deliver promptly to Owner and Lawrence County Social Services, Inc. ("LCSS") all such other documents and writings and promptly take all actions requested by Owner or LCSS to accomplish or more fully put into binding effect any or all of the provisions, purposes or intent as indicated in or contemplated by this Agreement and/or the Contract.

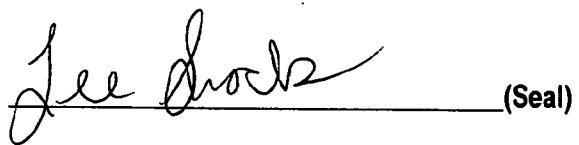
10. **Filing With the Prothonotary.** This Waiver, Release, Stipulation and Agreement is made and intended to be valid and enforceable to the maximum extent permitted by Law and to be filed with the Prothonotary for the County of Clearfield, Commonwealth of Pennsylvania in accordance with the requirements of all applicable laws including, without limitation, Section 402 of the Pennsylvania Mechanics' Lien Law of 1963, 49 P.S. Section 1402.

IN WITNESS WHEREOF, the Contractor, intending to be legally bound, has set his hand and seal effective the date first above written.

**Signed, sealed, and delivered
In the presence of:**

Witness/Attest:

Contractor:


(Seal)

ACKNOWLEDGMENT FOR CORPORATION

COMMONWEALTH OF PENNSYLVANIA :

:ss.

COUNTY OF CLEARFIELD :

On this 14th day of _____, 20_____, before me a notary public in and for the Commonwealth of Pennsylvania personally appeared _____, who first being duly sworn according to law, deposes and says that he/she is the _____ of _____, a Pennsylvania corporation, and that he/she as such _____ has read and fully understands the foregoing Stipulation and Final Waiver and Release of Liens and being fully authorized to do so, signed and sealed the foregoing Stipulation and Final Waiver and Release of Liens for the purposes therein contained by signing the name of the corporation by himself or herself as such _____ and desires that the same shall be recorded as such.

Sworn to or affirmed, acknowledged and signed before me this _____ day of _____, 20_____, and in witness whereof, I hereunder set my hand and official seal.



Notary Public
My Commission Expires:

(Notarial Seal)



ACKNOWLEDGMENT FOR INDIVIDUAL

COMMONWEALTH OF PENNSYLVANIA

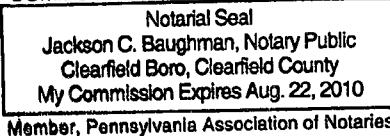
:SS.

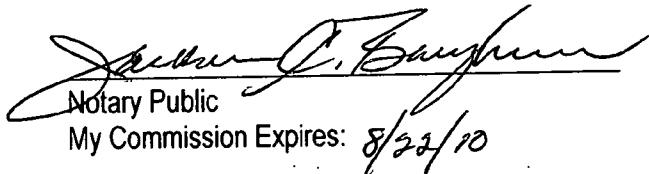
COUNTY OF CLEARFIELD

On this 4th day of FEBRUARY, 2008, before me a notary public in and for the Commonwealth of Pennsylvania personally appeared LEE STOCK, who first being duly sworn according to law, deposes and says that he/she has read and fully understands the foregoing Stipulation and Final Waiver and Release of Liens and has signed and sealed the foregoing Stipulation and Final Waiver and Release of Liens for the purposes therein contained and desires that the same shall be recorded as such.

Sworn to or affirmed, acknowledged and signed before me this 4th day of FEBRUARY, 2008 and in witness whereof, I hereunder set my hand and official seal.

COMMONWEALTH OF PENNSYLVANIA




Notary Public
My Commission Expires: 8/22/10

(Notarial Seal)



CLEARFIELD COUNTY RECORDER OF DEEDS

Karen L. Starck, Recorder

Maurene Inlow - Chief Deputy

P.O. Box 361

1 North Second Street, Suite 103

Clearfield, Pennsylvania 16830

***RETURN DOCUMENT TO:**

JAMIE C STELLO

Instrument Number - 200706608

Recorded On 4/24/2007 At 8:36:28 AM

***Instrument Type - DEED**

***Total Pages - 6**

Invoice Number - 165757

***Grantor - SUNDERLAND, BRUCE D**

***Grantee - YARNALL, FRED W**

***Customer - JAMIE C STELLO**

***FEES**

STATE TRANSFER TAX	\$359.47
STATE WRIT TAX	\$0.50
JCS/ACCESS TO JUSTICE	\$10.00
RECORDING FEES -	\$15.50
RECODER	
RECODER IMPROVEMENT	\$3.00
FUND	
COUNTY IMPROVEMENT FUND	\$2.00
PURCHASE LINE AREA	\$179.74
SCHOOLS REALTY TAX	
BURNSIDE BOROUGH	\$179.73
TOTAL PAID	\$749.94

I hereby CERTIFY that this document
is recorded in the Recorder's Office of
Clearfield County, Pennsylvania.



Karen J. Starck

Karen L. Starck
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

DO NOT PUBLISH Map No. 0020-A13-000-00038
THIS DEED

MADE THE 24th day of April, in the year of our Lord two thousand and seven
(2007)

BETWEEN **BRUCE D. SUNDERLAND** and **VIOLET LOUISE SUNDERLAND**,
individually, and as Trustees of **THE SUNDERLAND FAMILY TRUST** dated December 6, 1990,
of 400 Westmoreland Street, Akron, Ohio 44314,

GRANTORS

AND **FRED W. YARNALL** and **HOLLY J. YARNALL**, husband and wife, of 1897 Braughler
Road, Rochester Mills, Pennsylvania 15771, as tenants by the entirety,

GRANTEEES

WITNESSETH, that in consideration of One Dollar (\$1.00) and other good and valuable
consideration, in hand paid, the receipt whereof is hereby acknowledged, the said Grantors do hereby
grant and convey to the said Grantees, their heirs and assigns,

ALL those certain pieces, parcels or lots of land situate, lying and being in the **BOROUGH OF
BURNSIDE, CLEARFIELD COUNTY, PENNSYLVANIA**, more particularly bounded and
described as follows, to-wit:

THE FIRST THEREOF:

ALL that a certain house and lot of ground formerly known as the Mary Jane Smith property in
Burnside Borough, Clearfield County, Pennsylvania bounded and described as follows:

BEGINNING at a post on Main Street of Burnside Borough southward from the bridge; thence
East along Lot No. 2, ten (10) rods to an alley; thence along said alley South eight (8) rods;
thence along Lot No. five (5) West, ten (10) rods to Main Street; thence along Main Street
North, eight (8) rods to place of beginning. **CONTAINING** one-half (1/2) acre of ground and
being the Lots numbered three (3) and four (4) in Notley's General Plan of South Burnside.

THE SECOND THEREOF:

ALL that certain Building Lot being Lot No. 5 in Notley's New Plan of Addition to the Town
of Burnside, known as South Burnside, and being bounded as follows:

BEGINNING at the corner of Main Street and Third Avenue; thence North four (4) rods along
Main Street; thence along Lot No. four (4) now or formerly of Mrs. Mary Jane Smith, East ten
(10) rods to an alley; thence along said alley South four (4) rods to Third Avenue; thence along
Third Avenue West, ten (10) rods to place of beginning. **CONTAINING** one-fourth (1/4) acre.

BEING the same premises conveyed to Trustee, Sunderland Family Trust, by Deed dated December 6, 1990, from Bruce D. Sunderland, married of record in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, in Deed Book Volume 1393, at page 426. The Grantors herein are the said Bruce D. Sunderland and Violet Louise Sunderland, individually, and as Trustees of the Sunderland Family Trust, and the said Bruce D. Sunderland is signing individually, to confirm his conveyance of any right, title and interest which he may have had in and to the premises, and the said Violet Louise Sunderland is signing individually, to confirm her conveyance of any right, title and interest which she may have had in and to the premises, by virtue of her marital status.

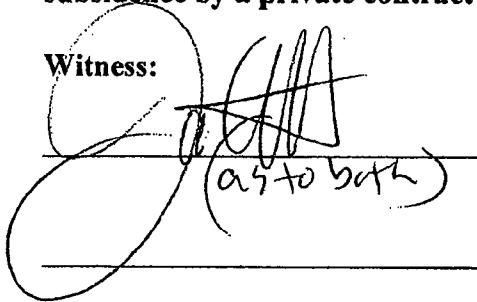
This conveyance is being made pursuant to the powers granted to the said Bruce D. Sunderland and Violet Louise Sunderland, as Trustees of the Sunderland Family Trust, they being the appointed Trustees of said Trust, and authorized to sell or convey the property described herein, pursuant to the terms of the Sunderland Family Trust dated December 6, 1990. A Memorandum of Trust regarding the Sunderland Family Trust, executed by Bruce D. Sunderland, Settlor and Trustee, and Violet Louise Sunderland, Settlor and Trustee, on April 13, 2007, verifying their status as Settlors and Trustees of the Sunderland Family Trust, and their power to sell or convey real or personal property titled in the name of the Sunderland Family Trust will be recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania.

The premises are more particularly identified in the Clearfield County Assessment Records as having Tax ID #0020-A13-000-00038 (Control #0020-00186).

NOTICE

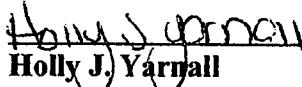
I/we the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal.

Witness:



(as to both)


Fred W. Yarnall


Holly J. Yarnall

This 24th day of April, 2007

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURES ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT.

(This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

THE GRANTOR(S) HEREIN STATE(S) THAT THE HEREINABOVE DESCRIBED PROPERTY IS NOT PRESENTLY BEING USED FOR THE DISPOSAL OF HAZARDOUS WASTE NOR TO THE BEST OF HIS/HER/THEIR KNOWLEDGE, INFORMATION AND BELIEF HAS IT EVER BEEN USED FOR THE DISPOSAL OF HAZARDOUS WASTE. THIS STATEMENT IS MADE IN COMPLIANCE WITH THE SOLID WASTE MANAGEMENT ACT, NO. 1980-97, SECTION 405.

It is hereby certified to comply with Pennsylvania Realty Transfer Tax Act that the true, full, and complete value of the premises herein being conveyed, and the consideration of and for this conveyance is \$35,947.00.

AND, the said grantors do hereby covenant and agree to and with the said grantees, that they, the grantors, their heirs, executors and administrators, shall and will warrant GENERALLY and forever defend the herein above described premises, with the hereditaments and appurtenances, unto the said grantees, their heirs and assigns, against the said grantors, and against every other person lawfully claiming or who shall hereafter claim the same or any part thereof.

IN WITNESS WHEREOF, the said Grantors have hereunto set their hands and seals the day and year first above-written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

IN THE PRESENCE OF
John E. Stith
as to both

Bruce D. Sunderland (SEAL)
Bruce D. Sunderland, individually

Violet Louise Sunderland (SEAL)
Violet Louise Sunderland, individually
(Joinder of Spouse)

Bruce D. Sunderland (SEAL)
**Bruce D. Sunderland, Trustee of
The Sunderland Family Trust**

Violet Louise Sunderland (SEAL)
**Violet Louise Sunderland, Trustee of
The Sunderland Family Trust**

CERTIFICATE OF RESIDENCE

I do hereby certify that the precise residence and complete post office address of the within named grantees is as follows:

6537 Main Street, P.O. Box 305
Burnside, PA 15721

Attorney for Grantees

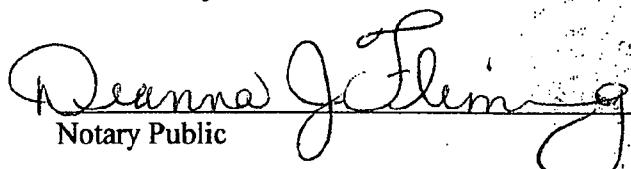
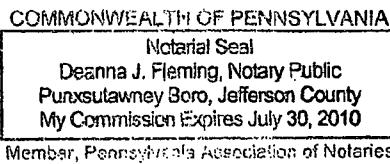
COMMONWEALTH OF PENNSYLVANIA

COUNTY OF JEFFERSON

ss:

On this, the 24th day of April, 2007, before me, a Notary Public, the undersigned officer, personally appeared **BRUCE D. SUNDERLAND** and **VIOLET LOUISE SUNDERLAND**, individually, and as Trustees of **THE SUNDERLAND FAMILY TRUST** dated **December 6, 1990**, known to me (or satisfactorily proven) to be, the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained, and being authorized to do so.

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



DO NOT PUBLISH
DEED

BRUCE D. SUNDERLAND and VIOLET LOUISE SUNDERLAND, individually, and as Trustees of THE SUNDERLAND FAMILY TRUST dated December 6, 1990, GRANTORS
-TO-

**FRED W. YARNALL and HOLLY J. YARNALL, husband and wife,
as tenants by the entirety, GRANTEES**

Prepared by:
JAMIE C. STELLO
Attorney at Law
103 North Gilpin Street
Punxsutawney, PA 15767
(814) 938-2296

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

ss:

Recorded this _____ day of _____, 2007, in the Recorder's Office of the said County in Record Book/Deed Book Volume _____ at page _____.

Given under my hand and the seal of the said office, the date above written.

Recorder