

08-881-CD

James Gilliland vs Eleanor Nixon et al

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

James H. Gilliland, individually,  
Plaintiff,

VS.

No. 2008- 881 -C.D.

Eleanor M. Nixon, individually and as Agent for all Co-Defendants and Leon C. Carberry, Hannah R. Slocum, County National Bank, Trustee for David and Jared McNaul, Selma A. Johnson, Anna M. Martinez, Sally M. Goss, Martha L. McNaul, Richard Gattuso, Virginia McNaul, David W. McNaul, Patricia M. Bender, George E. Bender, Michael D. McNaul, Allan A. McNaul, Ann Argo, Ralph R. Monaco, Ardash Morgan, Sonya Lea McNaul a/k/a Sonya Lea Hart, William D. McNaul, Frances A. Gattuso, John M. Derr, Robert A. Derr, Jenine McNaul Campbell, Richard Peluse, Kathryn Collord, Barbara J. McNaul, Martha Jane Spinelli, Michael R. McNaul and Robert G. McNaul, Defendants.

**Type of case: Civil Action**

## Equity cause of action for specific performance

FILED  
MAY 12 2008  
03:30 (was)  
William A. Shaw  
Notary/Clerk of Courts  
I CERT. TO HAVING  
1/30 WRITES OF  
Summons

## **PRAECIPE FOR WRIT OF SUMMONS**

TO: WILLIAM A. SHAW, PROTHONOTARY.

Kindly issue a Writ of Summons in a civil action in the above-captioned matter directed to each of the above named Defendants. This is a civil action seeking equitable relief and the amount in controversy is in excess of \$20,000. Certify the Writs of Summons to the Sheriff of Clearfield County with directions to serve the same on Defendants at their residences.

This action involves real property located Pike Township, Clearfield County, Pennsylvania, more particularly described on Exhibit A, attached hereto and incorporated herein by reference. Kindly attach a copy of Exhibit A to the Writ of Summons.

John Sughrue, Esquire  
Attorney for Plaintiff(s)  
Attorney I. D. #01037  
23 North Second Street  
Clearfield, PA 16830  
Phone: (814) 765-1704  
Fax: (814) 765-6959

cc: Chester A. Hawkins, Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

James H. Gilliland, individually,  
Plaintiff,

VS.

Eleanor M. Nixon, individually and as Agent for all Co-Defendants and Leon C. Carberry, Hannah R. Slocum, County National Bank, Trustee for David and Jared McNaul, Selma A. Johnson, Anna M. Martinez, Sally M. Goss, Martha L. McNaul, Richard Gattuso, Virginia McNaul, David W. McNaul, Patricia M. Bender, George E. Bender, Michael D. McNaul, Allan A. McNaul, Ann Argo, Ralph R. Monaco, Ardath Morgan, Sonya Lea McNaul a/k/a Sonya Lea Hart, William D. McNaul, Frances A. Gattuso, John M. Derr, Robert A. Derr, Jenine McNaul Campbell, Richard Peluse, Kathryn Collord, Barbara J. McNaul, Martha Jane Spinelli, Michael R. McNaul and Robert G. McNaul,

## Defendants.

No. 2008-\_\_\_\_\_ -C.D.

**Type of case: Civil Action**

## Equity cause of action for specific performance

**Filed on Behalf of:** Plaintiff

**Counsel of Record for this Party:**

John Sughrue, Esquire  
Supreme Ct. I.D. 01037  
23 North Second Street  
Clearfield, Pa 16830  
Phone: 814-765-1704  
Fax: 814-765-6959

**Other Counsel of Record:**

**EXHIBIT A TO CIVIL ACTION FILED**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
AT

James H. Gilliland, individually,	*
Plaintiff,	*
	*
vs.	*
	*
	*
Eleanor M. Nixon, individually and as Agent for all Co-Defendants, et al.	No. 2008-_____ -C.D.
	*
	*

All of the oil, gas, coal and other minerals in, under, and upon those certain parcels of land situate Pike Township, Clearfield County, Pennsylvania, bounded and described as follows:

**THE FIRST THEREOF:** BEGINNING at a post; thence extending South eighty-five (85) degrees East one hundred forty-seven (147) perches to a post; thence South one and one-half (1½) degrees West one hundred sixty-two (162) perches to a post; thence North eighty-eight (88½) degrees West one hundred sixteen (116) perches to a chestnut (down); thence North one (1) degree East fifty (50) perches to a post; thence North eighty-five (85) degrees West twenty-four (24) perches to a post; thence North one (1) degree West one hundred eighteen (118) perches to a post and place of beginning. Believed to contain one hundred thirty-one (131) acres and one hundred fifty (150) perches, more or less.

**THE SECOND THEREOF:** BEGINNING at a post; thence South eighty-seven (87) degrees East one hundred forty-seven and one-half (147½) perches to a post; thence by land now or formerly of Urban W. McNaul fifty-eight and eight-tenths (58.8) perches to a stump; thence North eighty-eight (88) degrees West one hundred forty-seven (147) perches to a rock oak; thence by the old line of Tract #5778 fifty-four (54) perches to the place of beginning. Believed to contain forty-eight (48) acres and fifty (50) perches and allowances, more or less.

The surface of the above described property is presently assessed on the tax map records of Clearfield County as 126-H08-7 and 126-G9-5.

**IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY PENNSYLVANIA  
CIVIL ACTION**

**SUMMONS**

**James H. Gilliland, individually  
Plaintiff**

**Vs.**

**NO.: 2008-00881-CD**

**Eleanor M. Nixon, individually and as Agent  
for all Co-Defendants and Leon C Carberry,  
Hannah R. Slocum, County National Bank,  
Trustee for David and Jared McNaul  
Selma A. Johnson, Anna M. Martinez, Sally M. Goss  
Martha L. McNaul, Richard Gattuso, Virginia McNaul  
David W. McNaul, Patricia M. Bender, George E. Bender  
Michael D. McNaul, Allan A. McNaul, Ann Argo, Ralph Monaco  
Ardath Morgan, Sonya Lea McNaul, a/k/a Sonya Lea Hart,  
William D. McNaul, Frances A. Gattuso, John M. Derr  
Robert A. Derr, Jenine McNaul Campbell, Richard Peluse  
Kathryn Collord, Barbara J. McNaul, Martha Jane Spinelli,  
Michael R. McNaul and Robert G. McNaul**

**Defendants**

**TO: ELEANOR M. NIXON  
LEON C CARBERRY  
HANNAH R. SLOCUM  
COUNTY NATIONAL BANK  
DAVID MCNAUL  
JARED MCNAUL  
SELMA A. JOHNSON  
ANNA M. MARTINEZ  
SALLY M. GOSS  
MARTHA L. MCNAUL  
RICHARD GATTUSO  
VIRGINIA MCNAUL  
DAVID W. MCNAUL  
PATRICIA M. BENDER**

GEORGE E. BENDER  
MICHAEL D. MCNAUL  
ALLAN A. MCNAUL  
ANN ARGO  
RALPH MONACO  
ARDATH MORGAN  
SONYA LEA MCNAUL  
SONYA LEA HART  
WILLIAM D. MCNAUL  
FRANCES A. GATTUSO  
JOHN M. DERR  
ROBERT A. DERR  
JENINE MCNAUL CAMPBELL  
RICHARD PELUSE  
KATHRYN COLLORD  
BARBARA J. MCNAUL  
MARTHA JANE SPINELLI  
MICHAEL R. MCNAUL  
ROBERT G. MCNAUL

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 5/12/2008

---

William A. Shaw  
Prothonotary

Issuing Attorney:

John Sughrue  
23 North Second Street  
Clearfield, PA 16830  
(814) 765-1704

**EXHIBIT A TO CIVIL ACTION FILED**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
AT

James H. Gilliland, individually,	*
Plaintiff,	*
	*
vs.	*
	*
	*
Eleanor M. Nixon, individually and as Agent for all Co-Defendants, et al.	No. 2008- <u>881</u> -C.D.
	*
	*

All of the oil, gas, coal and other minerals in, under, and upon those certain parcels of land situate Pike Township, Clearfield County, Pennsylvania, bounded and described as follows:

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**THE SECOND THEREOF:** BEGINNING at a post; thence South eighty-seven (87) degrees East one hundred forty-seven and one-half (147½) perches to a post; thence by land now or formerly of Urban W. McNaul fifty-eight and eight-tenths (58.8) perches to a stump; thence North eighty-eight (88) degrees West one hundred forty-seven (147) perches to a rock oak; thence by the old line of Tract #5778 fifty-four (54) perches to the place of beginning. Believed to contain forty-eight (48) acres and fifty (50) perches and allowances, more or less.

The surface of the above described property is presently assessed on the tax map records of Clearfield County as 126-H08-7 and 126-G9-5.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, Plaintiff :  
vs. :  
: No. 08-00881-CD  
Eleanor M. Nixon, individually and as Agent :  
for all Co-Defendants and Leon C. Carberry, :  
Hannah R. Slocum, County National Bank, :  
Trustee for David and Jared McNaul, Selma A. :  
Johnson, Anna M. Martinez, Sally M. Goss, :  
Martha L. McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. Bender, :  
George E. Bender, Michael D. McNaul, Allan A. :  
McNaul, Ann Argo, Ralph Monaco, Ardash :  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea :  
Hart, William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine McNaul :  
Campbell, Richard Peluse, Kathryn Collord, :  
Barbara J. McNaul, Martha Jane Spinelli, :  
Michael R. McNaul and Robert G. McNaul, :  
Defendants :  
:

CERTIFICATE OF SERVICE

AND NOW, this 24 day of September, 2008, I hereby certify that a true and correct photocopy of the PRAECIPE FOR ENTRY OF APPEARANCE AND RULE TO FILE COMPLAINT and RULE was mailed by regular first class U.S. Mail, postage prepaid, to:

John Sughrue, Esquire  
225 East Market Street  
Clearfield, PA 16830

GATES & SEAMAN

By: 

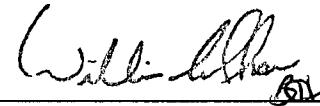
Laurance B. Seaman, Esq.  
Attorney for Defendant,  
Eleanor M. Nixon, individually

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, Plaintiff :  
vs. :  
: No. 08-00881-CD  
:  
Eleanor M. Nixon, individually and as Agent :  
for all Co-Defendants and Leon C. Carberry, :  
Hannah R. Slocum, County National Bank, :  
Trustee for David and Jared McNaul, Selma A. :  
Johnson, Anna M. Martinez, Sally M. Goss, :  
Martha L. McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. Bender, :  
George E. Bender, Michael D. McNaul, Allan A.:  
McNaul, Ann Argo, Ralph Monaco, Ardash :  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea :  
Hart, William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine McNaul :  
Campbell, Richard Peluse, Kathryn Collord, :  
Barbara J. McNaul, Martha Jane Spinelli, :  
Michael R. McNaul and Robert G. McNaul, :  
Defendants :

RULE TO FILE COMPLAINT

AND NOW, THIS 24<sup>th</sup> day of September, 2008, a Rule is hereby granted upon Plaintiff, James H. Gilliland, individually, to file a Complaint herein within twenty (20) days after service hereof or suffer the entry of a Judgment of Non Pros.



\_\_\_\_\_  
William A. Shaw, Prothonotary

Date: September 24, 2008.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

James H. Gilliland, individually,  
Plaintiff,

VS.

Eleanor M. Nixon, individually and as Agent for all Co-Defendants and Leon C. Carberry, Hannah R. Slocum, County National Bank, Trustee for David and Jared McNaul, Selma A. Johnson, Anna M. Martinez, Sally M. Goss, Martha L. McNaul, Richard Gattuso, Virginia McNaul, David W. McNaul, Patricia M. Bender, George E. Bender, Michael D. McNaul, Allan A. McNaul, Ann Argo, Ralph R. Monaco, Ardath Morgan, Sonya Lea McNaul a/k/a Sonya Lea Hart, William D. McNaul, Frances A. Gattuso, John M. Derr, Robert A. Derr, Jenine McNaul Campbell, Richard Peluse, Kathryn Collord, Barbara J. McNaul, Martha Jane Spinelli, Michael R. McNaul and Robert G. McNaul,

## Defendants.

\* \* \* \* \*

No. 2008-881-C.D.

\* \* \* \* \*

**Type of case: Civil Action**

\* \* \* \* \*

Equity cause of action  
for specific performance

\* \* \* \* \*

**Type of Pleading:** Praeclipe for  
Reissuance of Writ of Summons

\* Filed on Behalf of: Plaintiff

\* **Counsel of Record for**  
\* John Sughrue, Esquire  
\* Supreme Ct. I.D. 01037  
\* 225 East Market Street  
\* Clearfield, PA 16830  
\* Phone: 814-765-1704  
\* Fax: 814-765-6959

- \* **Other Counsel of Record:**
- \* Laurance B. Seaman, Esquire
- \* Gates & Seaman
- \* 2 North Front Street
- \* P.O. Box 846
- \* Clearfield, PA 16830
- \* Phone: 814-765-1766
- \*
- \*

5 **FILED** 3CC Atty Sughue  
01/24/08  
OCT 14 2008 29 Reissued Writs  
to Sheriff

William A. Shaw  
Prothonotary/Clerk of Courts

610

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

James H. Gilliland, individually,	*
Plaintiff,	*
vs.	*
Eleanor M. Nixon, individually and as Agent	*
for all Co-Defendants and Leon C. Carberry,	*
Hannah R. Slocum, County National Bank,	*
Trustee for David and Jared McNaul, Selma A.	*
Johnson, Anna M. Martinez, Sally M. Goss,	*
Martha L. McNaul, Richard Gattuso, Virginia	*
McNaul, David W. McNaul, Patricia M. Bender,	*
George E. Bender, Michael D. McNaul, Allan A.	*
McNaul, Ann Argo, Ralph R. Monaco, Ardarth	*
Morgan, Sonya Lea McNaul a/k/a Sonya Lea Hart,	*
William D. McNaul, Frances A. Gattuso, John M.	*
Derr, Robert A. Derr, Jenine McNaul Campbell,	*
Richard Peluse, Kathryn Collord, Barbara J.	*
McNaul, Martha Jane Spinelli, Michael R.	*
McNaul and Robert G. McNaul,	*
Defendants.	*

**PRAEICE FOR REISSUANCE OF WRIT OF SUMMONS**

## TO WILLIAM A. SHAW, PROTHONOTARY.

Kindly reissue Writ of Summons in a Civil Action filed in the above-captioned matter. It is necessary to reissue this Writ because timely service could not be made on all Defendants by personal service and/or certified mail and more than thirty (30) days have elapsed from the date the original Writ was previously issued. Certify 29 Writs of Summons to the Sheriff of Clearfield County with directions to serve the same on all Defendants except Eleanor M. Nixon, at their residences located at the addresses set forth on a list of the Defendants attached hereto.

This action involves real property located Pike Township, Clearfield County, Pennsylvania, more particularly described on Exhibit A, attached hereto and incorporated herein by reference. Kindly attach a copy of Exhibit A to the Writ of Summons.

John Sughrue, Esquire  
Attorney for Plaintiff(s)  
Attorney I. D. #01037  
225 East Market Street  
Clearfield, PA 16830  
Phone: (814) 765-1704  
Fax: (814) 765-6959

cc: Chester A. Hawkins, Sheriff

**EXHIBIT A TO CIVIL ACTION FILED**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
AT

James H. Gilliland, individually,  
Plaintiff

vs.

Eleanor M. Nixon, individually and as Agent  
for all Co-Defendants, et al.

\*  
\*  
\*  
\*  
\*  
\*  
\*

No. 2008- 881 -C.D.

All of the oil, gas, coal and other minerals in, under, and upon those certain parcels of land situate Pike Township, Clearfield County, Pennsylvania, bounded and described as follows:

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The surface of the above described property is presently assessed on the tax map records of Clearfield County as 126-H08-7 and 126-G9-5.

In Re: Gilliland v. Nixon, et al.  
No. 2008-881-CD

**DEFENDANTS' LIST**

- A. Leon C. Carberry resides at Kent, England.
- B. Hannah R. Slocum resides at 49 Showers Drive, Mountain View, CA, 94040.
- C. County National Bank (now CNB Bank), Trustee for David McNaul and Jared McNaul, is a corporate fiduciary and maintains its principal office at 1 South 2<sup>nd</sup> St., Clearfield, PA, 16830.
- D. Selma Johnson resides at 12639 Caminito Hercuba, San Diego, CA, 92128.
- E. Anna M. Martinez resides at 1498 Marin Avenue, Albany, CA, 94706.
- F. Sally M. Goss resides at 1630 Scenic Mountain Court, Kingwood, TX, 77345.
- G. Martha L. McNaul resides at 202 Spring Garden Rd., Ancora, NJ, 08037.
- H. Richard Gattuso resides at 202 Spring Garden Road, Ancora, NJ, 08037.
- I. Virginia McNaul resides at State College, PA.
- J. David W. McNaul resides at Boone County, MO.
- K. Patricia M. Bender resides at 221 S. Barnard St. #3, State College, PA, 16801.
- L. George E. Bender resides at 221 S. Barnard St. #3, State College, PA, 16801.
- M. Michael D. McNaul resides at Bucks County, PA.
- N. Allan A. McNaul resides at 10250 Gentlewind Drive, Cincinnati, OH, 45242.
- O. Ann Argo resides at Contra Costa County, CA.
- P. Ralph R. Monaco resides at 7542 Kilmer Rd., Tobyhanna, PA, 18466.
- Q. Arda Morgan resides at 408 W. Lloyd Street, Ebensburg, PA, 15931.
- R. Sonya Lea McNaul a/k/a Sonya Lea Hart resides at 4520 Briarwood Dr., Sacramento, CA, 95821.
- S. William D. McNaul resides at Cumberland County, PA.
- T. Frances A. Gattuso resides at 1302 Gibson Road, Bensalem, PA, 19020.
- U. John M. Derr resides at 8150 Rosalind Ave., Apt. 6, Cape Canaveral, FL, 32920.
- V. Robert A. Derr resides at 1000 Gibboney Drive, Duncansville, PA, 16635.
- W. Jenine McNaul Campbell resides at 280 Bridgewater Rd. Apt. F15, Brookhaven, PA, 19015.
- X. Richard Peluse resides at 3656 Westwood Blvd. # 114, Los Angeles, CA, 90034.
- Y. Kathryn Collord resides at 124 William Street, Portland, ME, 04103.
- Z. Barbara J. McNaul resides at 725 Paseo Santa Isabel, Green Valley, AZ, 85614.
- AA. Martha Jane Spinelli resides at Clearfield County, PA.
- BB. Michael R. McNaul resides at 2577 Terraced Hill Ct., Pottstown, PA, 19464.
- CC. Robert G. McNaul resides at Amarillo, TX.

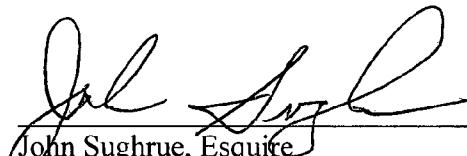
**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on October 14, 2008, I caused a true and correct copy of the PRAECIPE FOR REISSUANCE OF WRIT OF SUMMONS to be served on the following and in the manner indicated below:

**By United States Mail, First Class, Postage Prepaid**  
**Addressed as Follows:**

Laurance B. Seaman, Esquire  
Gates & Seaman  
2 North Front Street  
P.O. Box 846  
Clearfield, PA 16830

Date: October 14, 2008



John Sughrue, Esquire  
Attorney for James H. Gilliland, Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

James H. Gilliland, individually,  
Plaintiff,

VS.

Eleanor M. Nixon, individually and as Agent for all Co-Defendants and Leon C. Carberry, Hannah R. Slocum, County National Bank, Trustee for David and Jared McNaul, Selma A. Johnson, Anna M. Martinez, Sally M. Goss, Martha L. McNaul, Richard Gattuso, Virginia McNaul, David W. McNaul, Patricia M. Bender, George E. Bender, Michael D. McNaul, Allan A. McNaul, Ann Argo, Ralph R. Monaco, Ardath Morgan, Sonya Lea McNaul a/k/a Sonya Lea Hart, William D. McNaul, Frances A. Gattuso, John M. Derr, Robert A. Derr, Jenine McNaul Campbell, Richard Peluse, Kathryn Collord, Barbara J. McNaul, Martha Jane Spinelli, Michael R. McNaul and Robert G. McNaul.

**Defendants.**

\* Filed on Behalf of: Plaintiff

- \* **Counsel of Record for this Party:**
- \* John Sughrue, Esquire
- \* Supreme Ct. I.D. 01037
- \* 225 East Market Street
- \* Clearfield, Pa 16830
- \* Phone: 814-765-1704
- \* Fax: 814-765-6959
- \*

- \* **Other Counsel of Record:**
- \* Laurance B. Seaman, Esquire
- \* Gates & Seaman
- \* 2 North Front Street
- \* P.O. Box 846
- \* Clearfield, PA 16830
- \* Phone: 814-765-1766

ij **FILED** *cc*  
8/3/2008 *Atty Sehgal*  
OCT 14 2008

✓ William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

## NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff(s). You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET HELP.**

Daniel Nelson, Court Administrator  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, PA 16830  
(814) 765-2641, Extension 5982



3. The following named individual Defendants are all adult individuals (hereafter referred to individually and collectively as "Co-Defendants") who presently reside at or have last known addresses as follows:

- A. Leon C. Carberry resides at Kent, England.
- B. Hannah R. Slocum resides at 49 Showers Drive, Mountain View, CA, 94040.
- C. County National Bank (now CNB Bank), Trustee for David McNaul and Jared McNaul, is a corporate fiduciary and maintains its principal office at 1 South 2<sup>nd</sup> St., Clearfield, PA, 16830.
- D. Selma Johnson resides at 12639 Caminito Hercuba, San Diego, CA, 92128.
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- I. Virginia McNaul resides at State College, PA.
- J. David W. McNaul resides at Boone County, MO.
- K. Patricia M. Bender resides at 221 S. Barnard St. #3, State College, PA, 16801.
- L. George E. Bender resides at 221 S. Barnard St. #3, State College, PA, 16801.
- M. Michael D. McNaul resides at Bucks County, PA.
- N. Allan A. McNaul resides at 10250 Gentlewind Drive, Cincinnati, OH, 45242.
- O. Ann Argo resides at Contra Costa County, CA.
- P. Ralph R. Monaco resides at 7542 Kilmer Rd., Tobyhanna, PA, 18466.
- Q. Ardash Morgan resides at 408 W. Lloyd Street, Ebensburg, PA, 15931.

R. Sonya Lea McNaul a/k/a Sonya Lea Hart resides at 4520 Briarwood Drive, Sacramento, CA, 95821.

S. William D. McNaul resides at Cumberland County, PA.

T. Frances A. Gattuso resides at 1302 Gibson Road, Bensalem, PA, 19020.

U. John M. Derr resides at 8150 Rosalind Ave., Apt. 6, Cape Canaveral, FL, 32920.

V. Robert A. Derr resides at 1000 Gibboney Drive, Duncansville, PA, 16635.

W. Jenine McNaul Campbell resides at 280 Bridgewater Rd. Apt. F15, Brookhaven, PA, 19015.

X. Richard Peluse resides at 3656 Westwood Blvd. # 114, Los Angeles, CA, 90034.

Y. Kathryn Collord resides at 124 William Street, Portland, ME, 04103.

Z. Barbara J. McNaul resides at 725 Paseo Santa Isabel, Green Valley, AZ, 85614.

AA. Martha Jane Spinelli resides at Clearfield County, PA.

BB. Michael R. McNaul resides at 2577 Terraced Hill Ct., Pottstown, PA, 19464.

CC. Robert G. McNaul resides at Amarillo, TX.

DD. Cleo S. McNaul resides at Ector County, Texas.

EE. Janet M. Leathem resides at Allegheny County, PA.

FF. Charles A. Irvin resides at 30 Trappers Lane, East Greenwich, RI, 02818.

GG. Melissa C. Roos resides at York County, PA.

4. At all times relevant hereto, Plaintiff was and continues to be an owner of certain real property located in Pike Township, Clearfield County, PA (hereafter referred to as "Gilliland Premises"), more particularly bounded and described as follows:

**THE FIRST THEREOF:** BEGINNING at a post; thence extending South eighty-five (85) degrees East one hundred forty-seven (147) perches to a post; thence South one and one-half (1½) degrees West one hundred sixty-two (162) perches to a post; thence North eighty-eight (88½) degrees West one hundred sixteen

(116) perches to a chestnut (down); thence North one (1) degree East fifty (50) perches to a post; thence North eighty-five (85) degrees West twenty-four (24) perches to a post; thence North one (1) degree West one hundred eighteen (118) perches to a post and place of beginning. Believed to contain one hundred thirty-one (131) acres and one hundred fifty (150) perches, more or less.

THE SECOND THEREOF: BEGINNING at a post; thence South eighty-seven (87) degrees East one hundred forty-seven and one-half (147½) perches to a post; thence by land now or formerly of Urban W. McNaul fifty-eight and eight-tenths (58.8) perches to a stump; thence North eighty-eight (88) degrees West one hundred forty-seven (147) perches to a rock oak; thence by the old line of Tract #5778 fifty-four (54) perches to the place of beginning. Believed to contain forty-eight (48) acres and fifty (50) perches and allowances, more or less.

UNDER AND SUBJECT TO all documents of record in the chain of title for the above described Gilliland Premises and EXCEPTING all exceptions and reservations by Plaintiffs' predecessors in title as appears of record in the chain of title for the Gilliland Premises.

5. At all times pertinent hereto, including the present time, the Defendants, individually and collectively, their heirs and assigns, are vested with right, title, interest, choses in action, rights, privileges and other claims of whatsoever nature, in and to a certain parcel of the land situate Pike Township, Clearfield County, PA (hereafter referred to as, "McNaul Premises"), more particularly bounded and described as follows:

ALL of the oil, gas, coal and other minerals in, under, and upon those certain parcels of land situate Pike Township, Clearfield County, Pennsylvania, bounded and described as follows:

THE FIRST THEREOF: BEGINNING at a post; thence extending South eighty-five (85) degrees East one hundred forty-seven (147) perches to a post; thence South one and one-half (1½) degrees West one hundred sixty-two (162) perches to a post; thence North eighty-eight (88½) degrees West one hundred sixteen (116) perches to a chestnut (down); thence North one (1) degree East fifty (50) perches to a post; thence North eighty-five (85) degrees West twenty-four (24) perches to a post; thence North one (1) degree West one hundred eighteen (118) perches to a post and place of beginning. Believed to contain one hundred thirty-one (131) acres and one hundred fifty (150) perches, more or less.

THE SECOND THEREOF: BEGINNING at a post; thence South eighty-seven (87) degrees East one hundred forty-seven and one-half (147½) perches to a post; thence by land now or formerly of Urban W. McNaul fifty-eight and eight-tenths (58.8) perches to a stump; thence North eighty-eight (88) degrees West one

hundred forty-seven (147) perches to a rock oak; thence by the old line of Tract #5778 fifty-four (54) perches to the place of beginning. Believed to contain forty-eight (48) acres and fifty (50) perches and allowances, more or less.

TOGETHER with all rights, privileges, easements and uses relating to exploring for, locating, extracting, transporting and marketing the coal, minerals, oil and gas vested in all Defendants. The surface of the above described property is presently assessed on the tax map records of Clearfield County as 126-H8-7 and 126-G9-5.

BEING the same premises as were conveyed to R. Wilson McNaul by deed of Mary W. Gordon, et al., dated March 20, 1906 and recorded in the Clearfield County Recorder of Deeds Office in DBV 160, page 265 and being the same premises which by various and sundry conveyances and estates has vested and is presently vested in the defendants above named.

6. At all times relevant hereto, Defendant Nixon represented she was the duly authorized Agent for all Co-Defendants pursuant to written recorded Power of Attorneys and Plaintiff believes and therefore avers that she was at all times relevant hereto acting on her own behalf and as Attorney-in-Fact for all Co-Defendants in accordance with and within the scope of the authority granted to her by said written Power of Attorneys, including the power and authority, in her discretion, to manage and administer the McNaul Premises, to negotiate and enter into agreements for the sale of the McNaul Premises and the power to execute and deliver deeds for the McNaul Premises in accordance with such agreements. A true and correct copy of the Defendants' recorded Power of Attorneys referenced herein are attached hereto as **Exhibits 1 through 29** and are incorporated herein by reference as though the same were set forth herein at length verbatim.

7. The McNaul Premises are located in, under, upon and beneath the Gilliland Premises in Pike Township, Clearfield County, PA.

8. At all times relevant hereto, the Gilliland Premises were assessed on the tax assessment records of Clearfield County, PA, as 126-G9-5 and 126-H8-7.

9. At all times relevant hereto, part of the McNaul Premises were assessed on the tax assessment records of Clearfield County, PA, as 126-G9-5-MN and 126-H8-7-MN.

10. Nixon and Co-Defendants did not pay real estate taxes assessed on the McNaul Premises by Pike Township, Clearfield County and Curwensville Area School District in a timely manner for the tax years 2005, 2006 and 2007 (hereafter referred to separately and collectively as, "Delinquent Taxes").

11. As a result of the Delinquent Taxes, the Tax Collector of Pike Township returned the tax assessments as unpaid to the Tax Claim Bureau of Clearfield County, Pennsylvania, located at the Courthouse Annex, 230 East Market Street, Clearfield, PA, 16830.

12. As a result of the Delinquent Taxes and said return, the Clearfield County Tax Claim Bureau, in accordance with the laws of the Commonwealth of Pennsylvania, determined that the real property so assessed should be offered for sale at the annual public tax sale of delinquent tax properties which was scheduled to be held on September 14, 2007.

13. As a result of the Delinquent Taxes and the impending tax sale, the Clearfield County Tax Claim Bureau caused such delinquency and sale to be advertised in the Clearfield County Progress, the Clearfield County Legal Journal and to be posted for public view on the property and in the Clearfield County Tax Claim Bureau Office.

14. On or about mid-August 2007, Gilliland noted the listing of the McNaul Premises for tax sale and recognized that the same was located as aforesaid.

15. On or about early September 2007, Gilliland identified Nixon as the individual who was managing and administering the McNaul Premises and contacted her by phone.

16. On or about two occasions, Gilliland conversed with Nixon concerning the impending sale and was advised by Nixon that she and the Co-Defendants had determined to permit the

McNaul Premises to be sold at tax sale because they considered the McNaul Premises valueless and no longer desired to pay the taxes on the McNaul Premises.

17. At said time and place, Nixon advised Gilliland that she was authorized, as aforesaid, to act on behalf of the owners of the McNaul Premises and represented that such authority was delegated and memorialized in writings filed of record in the Clearfield County Recorder's Office.

18. At said time and place, Gilliland offered to purchase from Nixon, all of the ownership interest of Nixon and the Co-Defendants in the real property described in this Complaint as the McNaul Premises.

19. At said time and place, Gilliland offered to purchase the McNaul Premises in consideration of Gilliland being responsible for all of the outstanding taxes on the McNaul Premises plus paying the sum of \$500.00 to Nixon.

20. At said time and place, Nixon accepted Gilliland's offer and indicated that he should cause an appropriate deed to be prepared and forwarded to her and that she would execute and deliver a deed for the McNaul Premises to him, on her own behalf and as Attorney-in-Fact for all Co-Owners.

21. As a result of said Agreement, Gilliland undertook to perform his obligation and did, in fact, pay the delinquent taxes due on the McNaul Premises, thereby exempting the McNaul Premises from being sold at said tax sale. Receipts of the Clearfield County Tax Claim Bureau for the payment of said real estate taxes are attached hereto as **Exhibit 30, 31, 32 and 33.**

22. Immediately following the payment of the McNaul Premises taxes as aforesaid, Plaintiff referred the matter to Attorney James Naddeo for the preparation of a deed to be executed by Nixon.

23. Nixon was, at all times relevant hereto, authorized as alleged herein, as evidenced by deed dated December 3, 1997 and recorded in the Recorder's Office of Clearfield County, Pennsylvania, in DBV 1938, Page 233 by which Nixon executed and delivered a deed for the sale of real property in Clearfield County, Pennsylvania, in accordance with an Agreement of Sale that she had negotiated and made. A true and correct copy of said deed is attached hereto as **Exhibit 34** and incorporated herein by reference.

24. At said time and place, Gilliland and Nixon agreed that Gilliland would perform his obligation under the Agreement by immediately paying the 2005 and 2006 Delinquent Taxes on the McNaul Premises and would be thereafter responsible for the 2007 taxes on the McNaul Premises and would pay the \$500.00 to Nixon upon his attorney's receipt of the executed deed.

25. Immediately following said Agreement, Gilliland paid the 2005 Delinquent Taxes consisting of two claims, claim number 2005007784 on 80% interest and 48 acre mineral rights except clay and claim number 2005007785 on 132 acres mineral rights and claim number 2006007713 on 80% interest in 48 acre mineral rights except clay and claim 2006007714 on 132 acres mineral rights, as evidenced by receipts of the Clearfield County Tax Claim Bureau for the same which are attached hereto as **Exhibits 30, 31, 32 and 33** and incorporated herein by reference.

26. Thereafter, in accordance with said Agreement, Gilliland's Attorney, James A. Naddeo, forwarded to Nixon, by letter dated April 10, 2008, a deed which Gilliland had prepared at his expense for Nixon's signature. Copies of said letter and deed are attached hereto as **Exhibit 35** and **Exhibit 36**, respectively, and incorporated herein by reference.

27. Notwithstanding their Agreement and the performance undertaken by Gilliland as aforesaid, Nixon failed or refused to execute and return the deed in accordance with her obligation.

28. Instead of completing the Agreement as agreed, Nixon by letter dated May 6, 2008, returned the deed unsigned to the Naddeo Law Office advising that she had not received the \$500.00 and therefore declaring the deed as "not applicable". A true and correct copy of Nixon's letter of May 6, 2008 is attached hereto as **Exhibit 37**.

29. Thereafter, Nixon by her check dated April 28, 2008 in the amount of \$631.12 attempted to reimburse Gilliland for the sums that he had expended in the performance of his obligation under the Agreement. Such offer of refund and/or restitution was refused by Gilliland by letter dated May 27, 2008 from his Attorney in the instant case. Said letter was forwarded to Nixon by certified mail, number 7004251000761019175 on May 27, 2008 and is believed to have been received by her on June 10, 2008, as evidenced by US Postal Certified Mail Receipt and Return Card, Restricted Delivery, copies of which are attached as **Exhibit 38** and incorporated herein by reference.

30. Nixon's check dated April 8, 2008 in the amount of \$631.12 by which she attempted to reimburse Gilliland for taxes paid is likewise attached hereto as **Exhibit 39** and incorporated herein by reference.

31. As of the making of the Agreement and the forwarding of the deed as aforesaid, Gilliland was and continues to be, at all times, ready, willing and able to complete performance under the Agreement and was deterred from doing so by the willful breach of the Agreement by Nixon.

32. By failing and/or refusing to execute and deliver the deed as aforesaid, Nixon breached the Agreement between the parties.

33. As a result of Nixon's breach of the Agreement, as aforesaid, Gilliland has suffered damages, including the loss of ownership of the coal, mineral, oil and gas in, under and upon the Gilliland Premise together with the sums of money already expended in performance of his obligation under the Agreement.

34. The McNaul Premises are unique and specifically related to the substance of the Agreement because the McNaul Premises constitute an integral part of the Gilliland Premises and are necessary and desirable in order for Gilliland to own, possess and protect the Gilliland Premises.

35. That the damages sustained by Gilliland are not adequately compensable by the payment of money.

36. That Gilliland can be made whole and fully compensated for Nixon's breach only by acquisition of the specific McNaul Premises which were the subject of the Agreement.

37. Based on the facts set forth above, Nixon, individually and as Agent for the Co-Defendants, was obligated and continues to be obligated to execute and deliver a deed in proper form conveying the McNaul Premises to Gilliland.

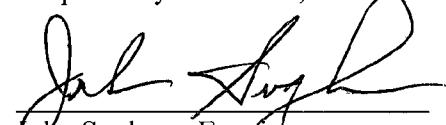
38. As a result of the facts set forth above, Gilliland has satisfied the requirements of the Pennsylvania Statutes of Fraud or, in the alternative, has by virtue of his partial performance under the contract secured an exception to the application of the Statute of Frauds. As a result, Defendant Nixon, individually and as Agent for all other Co-Defendants and the Co-Defendants themselves are obligated to execute and deliver an appropriate deed for the conveyance of the McNaul Premises.

39. If Eleanor Nixon was not authorized as she represented she was, she is liable to Plaintiff for all money damages sustained by Plaintiff as a result of her misrepresentation of her authority, including the value of all oil, gas, coal and other minerals owned by Nixon and her Co-Owners and Plaintiff's out of pocket expenses, including real estate taxes paid on the McNaul Premises, attorney's fees and expenses.

**WHEREFORE**, Plaintiff, James H. Gilliland, respectfully moves the Honorable Court to forthwith enter a final order as follows:

1. Directing the above named Defendant, Eleanor M. Nixon, individually and as Agent for all Co-Defendants and the Co-Defendants to execute and deliver a proper deed sufficient to satisfy Defendants' obligations under the Agreement as set forth in this Complaint;
2. Entering Judgment for Plaintiff and against Defendants for all money damages to which he may be entitled under the law on the above causes of action in an amount in excess of \$8,000.00;
3. Granting such other relief in equity and law as the Plaintiff may be entitled under the law and circumstances of this case; and
4. Taxing attorney's fees, expenses and court costs of this action to the Defendants.

Respectfully submitted,

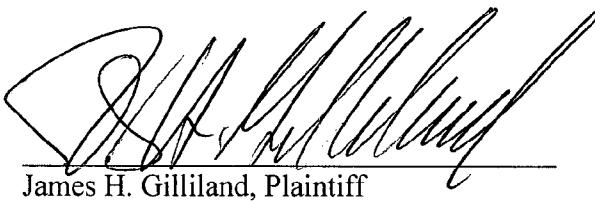


John Sughrue, Esquire  
Attorney for Plaintiff

**VERIFICATION**

I, James H. Gilliland, Plaintiff, verify that the statements made in this COMPLAINT are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: October 13, 2008



A handwritten signature in black ink, appearing to read "James H. Gilliland". The signature is somewhat stylized and cursive.

James H. Gilliland, Plaintiff

# 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:**

**NADDEO & ASSOCIATES**  
**P.O. BOX 552**  
**CLEARFIELD, PA 16830**

Instrument Number - 200600133  
Recorded On 1/4/2006 At 11:02:59 AM  
**\* Instrument Type - POWER OF ATTORNEY**  
**\* Total Pages - 3**  
**Invoice Number - 141810**  
**\* Grantor - SLOCUM, HANNAH R**  
**\* Grantee - NIXON, ELEANOR**  
**\* Customer - NADDEO & ASSOCIATES**

**\* FEES**

STATE WRIT TAX	\$0.50
RECORDING FEES -	\$13.00
RECORDER	
RECORDER IMPROVEMENT	\$3.00
FUND	
COUNTY IMPROVEMENT FUND	\$2.00
<b>TOTAL</b>	<b>\$18.50</b>

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

\* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

**Ex. 1**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO

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### Power of Attorney for Finances (Limited Power)

I, HANNAH R. SLOCUM (your name),  
of MOUNTAIN VIEW, CA 94040 (your city and state),  
appoint ELEANOR NIXON

(name of your attorney-in-fact) to act in my place for the purposes of:

SELLING PROPERTY IN THE MCNAUL ESTATE  
(MAP# F07-000-00004) IN CLEARFIELD COUNTY,  
PENNSYLVANIA

This power of attorney takes effect on 5/4/05  
and shall continue until terminated in writing, or until not applicable  
whichever comes first.

I grant my attorney-in-fact full authority to act in any manner both proper and necessary to the exercise of the foregoing powers, and I ratify every act that my attorney-in-fact may lawfully perform in exercising those powers.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed: This fourth day of May, 2005,

State of: California County of: Santa Clara

Signature: Hannah R. Slocum, Principal

Social Security Number: 124-36-7945

### Witnesses

On the date written above, the principal declared to me that this instrument is his or her financial power of attorney, and that he or she willingly executed it as a free and voluntary act. The principal signed this instrument in my presence.

Witness 1

Soo Yun Kim

Signature

Soo Yun Kim

Name

530 Showers Dr #7

Address Mtn View, CA 94040



[www.nolo.com](http://www.nolo.com)

Power of Attorney for Finances (Limited Power)

Page 1 of 2

## Witness 2

Signature

Name

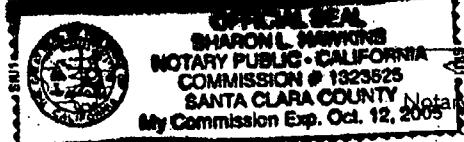
Address

## Certificate of Acknowledgment of Notary Public

State of California }  
County of Santa Clara } ss

On May 4 2005, before me, Sharon L. Hawkins, a notary public in and for said state, personally appeared Hannah B. Slocum, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he or she executed the same in his or her authorized capacity and that by his or her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



My commission expires

10/12/05

[NOTARY SEAL]

## Acknowledgment of Attorney-in-Fact

By accepting or acting under the appointment, the attorney-in-fact assumes the fiduciary and other legal responsibilities and liabilities of an agent.

Name of Attorney-in-Fact:

Signature of Attorney-in-Fact:

## Preparation Statement

This document was prepared by:

Name:

Address:

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOCe THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

Carl J. Peterson, Senior Vice President & Senior  
1 Trust Officer of County National Bank (our name and address) appoint Santa Rosa, CA (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

## INITIAL

(A) Real property transactions. — and to.

(B) Tangible personal property transactions.

(C) Stock and bond transactions.

(C) Commodity and option transactions.

(E) Banking and other financial institution transactions.

(F) Business operating transactions.

(G) Insurance and annuity transactions.

(H) Estate, trust, and other beneficiary transactions.

(I) Claims and litigation.

(J) Personal and family maintenance.

(K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

(L) Retirement plan transactions.

(M) Tax Matters.

(N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

vol 1927 PAGE 416

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-1, deed reference 46/115

~~160 acres, Pike Township, # 126-H8-1, deed reference 46/115~~

89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act None

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 4th day of November, 19 97  
County National Bank Trustees for David & Jared McNaul  


(Your signature)

25-6259842

(Your social security number)

State of Pennsylvania

County of Clearfield

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

PENNSYLVANIA  
State of ~~PENNSYLVANIA~~

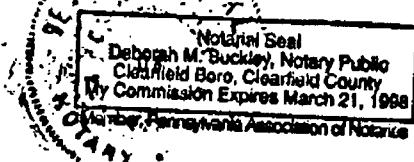
## CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

County of CLEARFIELD

On November 4, 1997 before me, a notary public, personally appeared Carl J. Peterson personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) [is/are] subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized capacity(ies), and that by [his/her/their] signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

Deborah M. Buckley (signature of notary public)



This instrument is witnessed and acknowledged and is recorded in the Recorder's Office of Clearfield County, Pennsylvania.

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 1:30 PM 4-29-98  
BY Karen L. Starck  
FEES 15.00  
Karen L. Starck, Recorder



Karen L. Starck  
Karen L. Starck  
Recorder of Deeds

This document is only a general form which may be proper for use in simple transactions and is no way acts, or is intended to act, as a substitute for the advice of an attorney. The parties do not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

Connelly's Form No. 4025 - (Rev No. 2002) - POWER OF ATTORNEY - Uniform Form Act, 46 C.C. 2470 (Rev. 1979)

Entered of Record 4-29-1998 2:30 PM Karen L. Starck, Reco

# 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

Instrument Number - 200600135

Recorded On 1/4/2006 At 11:03:01 AM

\* Instrument Type - POWER OF ATTORNEY

\* Total Pages - 5

Invoice Number - 141810

\* Grantor - JOHNSON, SELMA A

\* Grantee - NIXON, ELEANOR

\* Customer - NADDEO & ASSOCIATES

**\* FEES**

STATE WRIT TAX	\$0.50
RECORDING FEES -	\$13.00
RECORDER	
RECORDER IMPROVEMENT	\$3.00
FUND	
COUNTY IMPROVEMENT FUND	\$2.00
TOTAL	\$18.50

**\*RETURN DOCUMENT TO:**

NADDEO & ASSOCIATES

P.O. BOX 552

CLEARFIELD, PA 16830

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



*Karen L. Starck*

Karen L. Starck  
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

## Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

\* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

Ex. 3

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

Name

Street  
Address

City  
State  
Zip

L

Space above this line for recorder's use

WWW.WOLCOTTSFORMS.COM

SINCE 1893

## Power of Attorney

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT MAY BE BROAD AND SWEEPING. THIS DOCUMENT IS NOT INTENDED TO AUTHORIZE ANYONE TO MAKE MEDICAL OR OTHER HEALTH-CARE DECISIONS FOR YOU. IF YOU WISH TO DO SO, FORM #1401 IS DESIGNED FOR THAT PURPOSE. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO (FORM #1404).

I, SELMA A. JOHNSON  
12639 CAMINITO HERCUBA  
SAN DIEGO CA 92128-1724

NAME AND ADDRESS

the undersigned (jointly or severally, if more than one) appoint ELEANOR NIXON  
2759 Bennett Ridge Rd., Santa Rosa, CA 95404  
Tel- 707-573-8641

NAME AND ADDRESS OF THE PERSON APPOINTED OR OF EACH PERSON APPOINTED IF YOU WANT TO DESIGNATE MORE THAN ONE

as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

INITIAL

SAN (A) Real Property transactions. *Only this*  
 (B) Tangible personal property transactions.  
 (C) Stock and bond transactions.  
 (D) Commodity and option transactions.  
 (E) Banking and other financial transactions.  
 (F) Business operating transactions.  
 (G) Insurance and annuity transactions.  
 (H) Estate, Trust, and other beneficiary transactions.  
 (I) Claims and litigation.  
 (J) Personal and family maintenance.  
 (K) Benefits from Social Security, Medicare, Medicaid or other Governmental programs or Civil or Military Service.

INITIAL

(L) Retirement plan transactions.  
 (M) Tax matters.  
 (N) Making gifts to my spouse, children, and more remote descendants, and parents, not to exceed in the aggregate \$10,000 to each of such persons in any year.  
 (O) Full and unqualified authority to my attorney(s)-in-fact to delegate any or all of the foregoing powers to any person or persons whom my attorney(s)-in-fact shall select.  
**ALL THE POWERS LISTED ABOVE.**  
**ONLY THE POWERS SPECIFIED IN SPECIAL INSTRUCTIONS ON TOP OF PAGE 2.**

(R) ALL POWERS EXCEPT MEDICAL (GENERAL POWER OF ATTORNEY)

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (P) or (Q) or (R).

- TO GRANT ALL OF THE ABOVE POWERS, INITIAL THE LINE IN FRONT OF (P) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS OR TO MAKE THIS A GENERAL POWER, INITIAL (R) ONLY.
- TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.
- TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

Wolcotts Forms, our resellers and agents make no representations or warranty, express or implied, as to the fitness of this form for any specific use or purpose. If you have any question, it is always best to consult a qualified attorney before using this or any legal document.

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7 67775 01410 5  
CLASS 04 #1410 REV. 4-04

**SPECIAL INSTRUCTIONS:**

On the following lines you may give special instructions limiting or extending the powers granted to your agent.

30% interest in 1020 acres. Map # F07-000-0000-4

**YOU MAY INITIAL ONLY ONE OF THE FOLLOWING THREE PARAGRAPHS,  
BUT NEED NOT INITIAL ANY.**

**INITIAL**

Limited - This Power of Attorney is granted for a period of \_\_\_\_\_

shall become effective on \_\_\_\_\_ and  
shall terminate on \_\_\_\_\_

Durable - This Power of Attorney shall not be affected by subsequent incapacity of the principal and

shall remain effective for a period of \_\_\_\_\_ years or after the disability or incapacity occurs.

shall not terminate unless specifically revoked.

Springing - This Power of Attorney shall become effective upon the incapacity of the principal and shall

shall remain effective for a period of \_\_\_\_\_ years or after the disability or incapacity occurs.

shall not terminate unless specifically revoked.

**UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY  
IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED**

If either of the Durable or Springing paragraphs are initialed then the NOTICE TO PERSONS EXECUTING DURABLE POWER OF ATTORNEY below applies.

**NOTICE TO PERSON EXECUTING DURABLE POWER OF ATTORNEY**

A durable power of attorney is an important legal document. By signing the durable power of attorney, you are authorizing another person to act for you, the principal. Before you sign this durable power of attorney, you should know these important facts:

Your agent (attorney-in-fact) has no duty to act unless you and your agent agree otherwise in writing.

This document gives your agent the powers to manage, dispose of, sell, and convey your real and personal property, and to use your property as security if your agent borrows money on your behalf. This document does not give your agent the power to accept or receive any of your property, in trust or otherwise, as a gift, unless you specifically authorize the agent to accept or receive a gift.

Your agent will have the right to receive reasonable payment for services provided under this durable power of attorney unless you provide otherwise in this power of attorney.

The powers you give your agent will continue to exist for your entire lifetime, unless you state that the durable power of attorney will last for a shorter period of time or unless you otherwise terminate the durable power of attorney. The powers you give your agent in this durable power of attorney will continue to exist even if you can no longer make your own decisions respecting the management of your property.

You can amend or change this durable power of attorney only by executing a new durable power of attorney or by executing an amendment through the same formalities as an original. You have the right to revoke or terminate this durable power of attorney at any time, so long as you are competent.

This durable power of attorney must be dated and must be acknowledged before a notary public or signed by two witnesses. If it is signed by two witnesses, they must witness either (1) the signing of the power of attorney or (2) the principal's signing or acknowledgment of his or her signature. A durable power of attorney that may affect real property should be acknowledged before a notary public so that it may easily be recorded.

You should read this durable power of attorney carefully. When effective, this durable power of attorney will give your agent the right to deal with property that you now have or might acquire in the future. The durable power of attorney is important to you. If you do not understand the durable power of attorney, or any provision of it, then you should obtain the assistance of an attorney or other qualified person.

## EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

**IF YOU APPOINT MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY", THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.**

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 7th day of May 2005

Selma A. Johnson  
AUTOGRAF

554-30-1343

SOCIAL SECURITY NUMBER

State of California

County of San Diego

**BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT**

### NOTICE TO PERSON ACCEPTING THE APPOINTMENT AS ATTORNEY-IN-FACT

By acting or agreeing to act as the agent (attorney-in-fact) under this power of attorney you assume the fiduciary and other legal responsibilities of an agent. These responsibilities include:

1. The legal duty to act solely in the interest of the principal and to avoid conflicts of interest.
2. The legal duty to keep the principal's property separate and distinct from any other property owned or controlled by you.

You may not transfer the principal's property to yourself without full and adequate consideration or accept a gift of the principal's property unless this power of attorney specifically authorizes you to transfer property to yourself or accept a gift of the principal's property. If you transfer the principal's property to yourself without specific authorization in the power of attorney, you may be prosecuted for fraud and/or embezzlement. If the principal is 65 years of age or older at the time that the property is transferred to you without authority, you may also be prosecuted for elder abuse under applicable state law. In addition to criminal prosecution, you may also be sued in civil court.

I/We have read the foregoing notice and I/We understand the legal and fiduciary duties that I/We assume by acting or agreeing to act as the agent(s) (attorney-in-fact) under the terms of this power of attorney.

Date: 5.14.05

Eleanor Nixon

PRINT NAME OF AGENT

Eleanor Nixon

AUTOGRAF OF AGENT

Date: \_\_\_\_\_

Eleanor Nixon

PRINT NAME OF AGENT

Eleanor Nixon

AUTOGRAF OF AGENT

# CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

## Individual

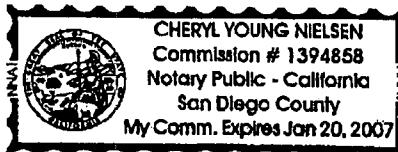
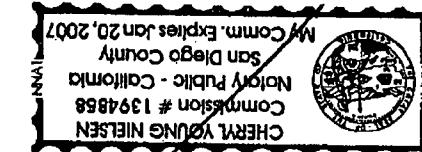
STATE OF California }  
COUNTY OF San Diego } SS.

On this 7<sup>th</sup> day of May in the year 2005 before me, Cherylynn Nielsen, a Notary Public, duly commissioned and qualified in above said County and State, personally appeared Cherylynn Nielsen

personally known to me or  proved to me on this basis of satisfactory evidence consisting of an identifying document or  
 the oath of \_\_\_\_\_ to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the same.

WITNESS my hand and official seal.

Cherylynn Nielsen  
AUTOGRAPH



(Seal)

## OR WITNESSES

We declare under penalty of perjury under the laws of the State of \_\_\_\_\_ that the person who signed or acknowledged this document is personally known to us (or proved to us on the basis of convincing evidence) to be the principal who signed or acknowledged this power of attorney in our presence.

Executed this \_\_\_\_\_ day of \_\_\_\_\_.

WITNESS

WITNESS

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I, Se. Jim. Johnson, San Diego, CA (your name and address) appoint Eleanor Nixon (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

X S A J (A) Real property transactions. — on my things.

\_\_\_\_\_ (B) Tangible personal property transactions.

\_\_\_\_\_ (C) Stock and bond transactions.

\_\_\_\_\_ (C) Commodity and option transactions.

\_\_\_\_\_ (E) Banking and other financial institution transactions.

\_\_\_\_\_ (F) Business operating transactions.

\_\_\_\_\_ (G) Insurance and annuity transactions.

\_\_\_\_\_ (H) Estate, trust, and other beneficiary transactions.

\_\_\_\_\_ (I) Claims and litigation.

\_\_\_\_\_ (J) Personal and family maintenance.

\_\_\_\_\_ (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

\_\_\_\_\_ (L) Retirement plan transactions.

\_\_\_\_\_ (M) Tax matters.

\_\_\_\_\_ (N) ALL OF THE POWERS LISTED ABOVE.

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 3:03 pm 4-29-98  
BY Michele Johnson  
FEES 15.50  
Karen L. Starck, Recorder

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

Ex. 4

## SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-1, deed reference 46/115

1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431

89 acres, Pike Township, 126-H8-17

Agents may represent in re: a/c in sale, but Selma Johnson withholds any agreement to accept more of her money for current or back taxes on the property. Power of attorney expires UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED. Dec 31, 1999

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act N/A

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 28 day of July, 1997.

X Selma C. Johnson (Your signature)

55430 1343 (Your social security number)

State of California

County of San Diego

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

VOL 1927 PAGE 178

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

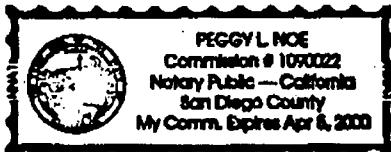
State of California as.

County of San Diego

On July 28, 1997 before me, Peggy L. Noe, personally appeared Selma A. Johnson, personally known to me, and proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) [is/are] subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized capacity(ies), and that by [his/her/their] signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

Peggy L. Noe (signature of notary public)



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



Karen L. Starck  
Karen L. Starck  
Recorder of Deeds

Entered of Record 4-28-1998 : 3:03 pm Karen L. Starck, Rec'd.

This document is only a general form which may be proper for use in simple transactions and in no way area, or is intended to act, as a substitute for the advice of an attorney. The printer does not enter any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

Courtesy's Form No. 1023 - (Rev. No. 2002) - POWER OF ATTORNEY - Uniform Summary Form - (C.C.C. 3475) (Rev. 1-93)

# 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

Instrument Number - 200600129  
Recorded On 1/4/2006 At 11:02:55 AM  
\*Instrument Type - POWER OF ATTORNEY  
\*Total Pages - 3  
Invoice Number - 141810  
\*Grantor - MCNAUL, MARTHA L  
\*Grantee - NIXON, ELEANOR  
\*Customer - NADDEO & ASSOCIATES

\* FEES

STATE WRIT TAX	\$0.50
RECORDING FEES -	\$13.00
RECODER	
RECODER IMPROVEMENT FUND	\$3.00
COUNTY IMPROVEMENT FUND	\$2.00
TOTAL	\$18.50

\*RETURN DOCUMENT TO:

NADDEO & ASSOCIATES  
P.O. BOX 552  
CLEARFIELD, PA 16830

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



*Karen L. Starck*

Karen L. Starck  
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

## Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

\* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

Ex. 5

# General Power of Attorney

(with Durable Provision)

NOTICE: THIS IS AN IMPORTANT DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS. THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE PERSON WHOM YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR PROPERTY, WHICH MAY INCLUDE POWERS TO PLEDGE, SELL OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU. YOU MAY SPECIFY THAT THESE POWERS WILL EXIST EVEN AFTER YOU BECOME DISABLED, INCAPACITATED OR INCOMPETENT. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL OR OTHER HEALTH CARE DECISIONS FOR YOU. IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

TO ALL PERSONS, be it known that I, MARTHA L. McNAYL  
of 2516 GRIECE PL NW; APT 404/404E, NM 87107  
the undersigned Principal, do hereby make and grant a general power of attorney to ELEANOR NIKON  
95404 of 2759 BENNETT AVENUE; SANTA ROSA, CA  
and do thereupon constitute and appoint said individual as my attorney-in-fact/agent.

If my Agent is unable to serve for any reason, I designate NONE DESIGNATED  
of \_\_\_\_\_, as my successor Agent.

My attorney-in-fact/agent shall act in my name, place and stead in any way which I myself could do, if I were personally present, with respect to the following matters, to the extent that I am permitted by law to act through an agent:

(NOTICE: The Principal must write his or her initials in the corresponding blank space of a box below with respect to each of the subdivisions (A) through (N) below for which the Principal wants to give the agent authority. If the blank space within a box for any particular subdivision is NOT initialed, NO AUTHORITY WILL BE GRANTED for matters that are included in that subdivision. Cross out each power withheld.)

POWER OF ATTORNEY IS GRANTED  
ONLY IN REGARD TO 30% INTEREST  
IN 1020 ACRES, IDENTIFIED AS  
MAP # F07-000-00004 AND  
ALSO IN REGARD TO  
MINERAL RIGHTS OF 2  
SEPARATE PROPERTIES.

- (A) Real estate transactions
- (B) Tangible personal property transactions
- (C) Bond, share and commodity transactions
- (D) Banking transactions
- (E) Business operating transactions
- (F) Insurance transactions
- (G) Gifts to charities and individuals other than Attorney-in-Fact/Agent  
(If trust distributions are involved or tax consequences are anticipated,  
consult an attorney.)
- (H) Claims and litigation
- (I) Personal relationships and affairs
- (J) Benefits from military service
- (K) Records, reports and statements
- (L) Full and unqualified authority to my attorney-in-fact/agent to delegate any or all of the foregoing powers to any person or persons whom my attorney-in-fact/agent shall select
- (M) Access to safe deposit box(es)
- (N) All other matters

Durable Provision:

(O) If the blank space in the block to the left is initialed by the Principal, this power of attorney shall not be affected by the subsequent disability or incompetence of the Grantor.

Other Terms: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

My attorney-in-fact/agent hereby accepts this appointment subject to its terms and agrees to act and perform in said fiduciary capacity consistent with my best interests as he/she in his/her best discretion deems advisable, and I affirm and ratify all acts so undertaken.

TO INDUCE ANY THIRD PARTY TO ACT HEREUNDER, I HEREBY AGREE THAT ANY THIRD PARTY RECEIVING A DULY EXECUTED COPY OR FACSIMILE OF THIS INSTRUMENT MAY ACT HEREUNDER, AND THAT REVOCATION OR TERMINATION HEREOF SHALL BE INEFFECTIVE AS TO SUCH THIRD PARTY UNLESS AND UNTIL ACTUAL NOTICE OR KNOWLEDGE OF SUCH REVOCATION OR TERMINATION SHALL HAVE BEEN RECEIVED BY SUCH THIRD PARTY, AND I FOR MYSELF AND FOR MY HEIRS, EXECUTORS, LEGAL REPRESENTATIVES AND ASSIGNS, HEREBY AGREE TO INDEMNIFY AND HOLD HARMLESS ANY SUCH THIRD PARTY FROM AND AGAINST ANY AND ALL CLAIMS THAT MAY ARISE AGAINST SUCH THIRD PARTY BY REASON OF SUCH THIRD PARTY HAVING RELIED ON THE PROVISIONS OF THIS INSTRUMENT.

Signed under seal this 16th day of May, 2005.

Signed in the presence of:

Witness \_\_\_\_\_

Grantor Martha M. Noland

Witness \_\_\_\_\_

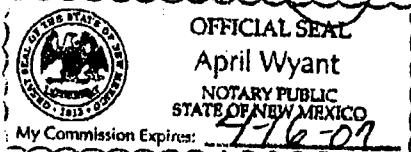
Attorney-in-Fact/Agent \_\_\_\_\_

State of New Mexico  
County of Santa Fe

On May 16th 2005 before me, April Wyant, appeared  
MARTHA MC NOLD, personally known to  
me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument  
and acknowledged to me that he/she/they executed the same in his/her authorized capacity, and that by his/her signature on  
the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: April Wyant



Affiant \_\_\_\_\_ Known \_\_\_\_\_ Produced ID \_\_\_\_\_  
Type of ID Driver's License (Seal)

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 3:14 PM 4-28-98  
BY Karen L. Stark  
FEES 15.50

Karen L. Stark, Recorder

VOL 1327 PAGE 209

LIMITED POWER OF ATTORNEY FOR REAL ESTATE TRANSACTIONS

I, RICHARD GATTUSO, present of 202 Spring Garden Road, Ancora, New Jersey 08037-9699, hereby appoint ELEANOR NIXON, of 2759 Bennett Ridge Road, Santa Rosa, California 95404, my Attorney-in-fact ("agent") to do the following on my behalf:

To lease, sell, release and/or convey my interest in surface, oil, gas and all minerals in any properties located in Clearfield County, Pennsylvania, which interest I may have inherited through the Estate of R. Wils McNaull, deceased, including, but not limited to, (1) 160 acres in Pike Township identified by Clearfield County Assessment Map No. 126-H8-1, (2) 1020 acres in Bloom Township identified by Clearfield County Assessment Map No. 104-F7-4, and (3) 89 acres in Pike Township identified by Clearfield County Assessment Map No. 126-H8-17, on such terms as my agent deems advisable; and to receive the proceeds of any such sale of said property; and to pay my share of the same to my brother, Francis A. Gattuso, to be held by him for my benefit to be paid to me upon my request; and

To execute, acknowledge and deliver in my name such leases, agreements with brokers, agreements of sale or any other documents respecting the lease, sale, or transfer of said property, and such deeds or conveyances with such covenants or conditions as my agent may deem proper for the lease, sale or transfer of said property.

This Power shall not be affected by my subsequent disability or incapacity. All acts done by my agent pursuant to this power during any period of my disability or incapacity shall have the same effect and inure to the benefit of and bind me and my successors in interest as if I were competent and not disabled.

I further give to my said agent the power and authority to perform any act required in the exercise of any of

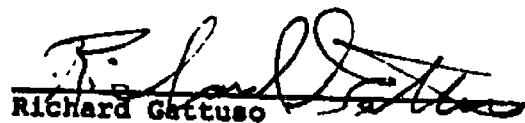
Ex. 6

Vol 1327 PAGE 210

the foregoing powers as fully as I could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that my agent shall lawfully do or cause to be done by virtue hereof.

If Eleanor Nixon is unable or unwilling to serve or, having qualified, is unable to unwilling to continue to serve as such agent, I appoint my brother, Francis A. Gattuso, as my agent.

IN WITNESS WHEREOF, and intending to be legally bound hereby, I have signed this 23<sup>rd</sup> day of December, 1997.

  
Richard Gattuso

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



  
Karen L. Starck  
Recorder of Deeds

VOL 1927 PAGE 211

STATE OF NEW JERSEY

COUNTY OF Camden

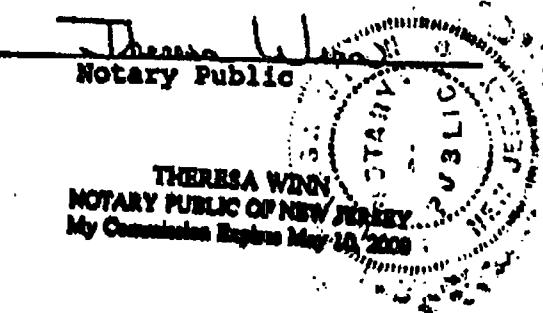
:  
: SS.  
:

On this, the 23<sup>rd</sup> day of December, 1997, before me, the undersigned officer, personally appeared Richard Gattuso, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same in his capacity as heir, for the purposes therein contained.

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

Theresa Wynn  
Notary Public

THERESA WYNN  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires May 10, 2009



Entered at Record 4-28 1998 : 314pm Karen L. Stanck, Records

VOL 1927 PAGE 182

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I, David W. McNaul (your name and address) appoint Elanor Nixon (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

- (A) Real property transactions. - only Illinois See Special Instructions.
- (B) Tangible personal property transactions.
- (C) Stock and bond transactions.
- (D) Commodity and option transactions.
- (E) Banking and other financial institution transactions.
- (F) Business operating transactions.
- (G) Insurance and annuity transactions.
- (H) Estate, trust, and other beneficiary transactions.
- (I) Claims and litigation.
- (J) Personal and family maintenance.
- (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.
- (L) Retirement plan transactions.
- (M) Tax matters.
- (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 3:05 pm 4-28-98  
BY Gates - Leason  
FEE 15.50  
Karen L. Stark, Recorder

Clearfield Form No. 1923 - (Rev. No. 2002A) - POWER OF ATTORNEY - Uniform Statutory Form - W.C.C. 2070 (Rev. 1-98)

EX. 7

CLEARFIELD COUNTY

Oct-05-97 10:37A

P.03

vol 1927 PAGE 183

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-3, deed reference 46/115

1020 acres, Bloom Township, #104-P7-4, deed reference 500/486 and 1509/431

89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS  
EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though  
I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF  
ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT  
DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT  
THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT  
INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS  
MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is  
not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party  
for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 12 day of OCT, 19 97

(Your signature)

580-33-4076

(Your social security number)

State of Missouri

County of Browne

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND  
OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

Oct-01-97 10:37A

P.04

VOL 1927 PAGE 184

MISSOURI  
State of California ss.

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

County of Boone

On October 2, 1997 before me, Cheryl Williams, personally appeared David McNaull, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacity(ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

Cheryl L. Williams

(signature of notary public)

CHERYL L WILLIAMS  
NOTARY PUBLIC STATE OF MISSOURI  
BOONE COUNTY  
MY COMMISSION EXP. MAY 15,1998

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



Karen L. Starck

Karen L. Starck  
Recorder of Deeds

Entered at Record 4-28 1998 : 3:05 Karen L. Starck, Recorder

This document is only a general form which may be proper for use in simple transactions and is not legal, or is intended to act as a substitute for the advice of an attorney. The power given herein may be limited, either expressly or impliedly, as to the legal validity of any provision or the applicability of these terms to any specific transaction.  
Creditor's Power No. 4002 - (Rev No. 2002) - POWER OF ATTORNEY - Uniform Statuary Power - NC.C.C. 2475 (Rev 1-85)

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

PATRICIA M BENDER 2213 BAKER RD ST #43 ELEANOR NIXON  
GEORGE E. BENDER STATE COLLEGE PA 16801 2759 BENNETT RIDGE RD  
 address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

PmB

Q (A) Real property transactions. — and the.

       (B) Tangible personal property transactions.

       (C) Stock and bond transactions.

       (C) Commodity and option transactions.

       (E) Banking and other financial institution transactions.

       (F) Business operating transactions.

       (G) Insurance and annuity transactions.

       (H) Estate, trust, and other beneficiary transactions.

       (I) Claims and litigation.

       (J) Personal and family maintenance.

       (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

       (L) Retirement plan transactions.

       (M) Tax matters.

       (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

CLEARFIELD COUNTY  
 ENTERED OF RECORD  
 TIME 3:06 pm 4-28-98  
 BY Gate - Lessor  
 PAGE 15/10  
Karen L. Storch, Recorder

County's Form No. 2020 (Rev. No. 2000) - POWER OF ATTORNEY - Uniform Statutory Form - (E.C.C. 2000) (Rev. 1-93)

Ex. 8

Vol 1927 PAGE 186

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 26<sup>th</sup> day of June, 1997.

George E Bender 193-12-784 (Your signature)

Patricia M Bender 175-24-023 (Your social security number)

State of PENNSYLVANIA

County of CENTRE

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

## CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

Commonwealth  
State of California ss.  
w/this

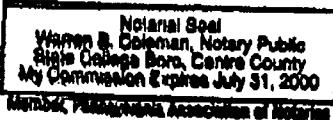
County of Centre

On July 26<sup>th</sup>, 1997 before me, Warren B. Coleman, personally appeared George E. Patterson,  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) [is/are] subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized capacity(ies), and that by [his/her/their] signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

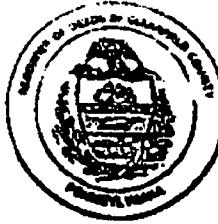
WITNESS my hand and official seal. (Seal)

Warren B. Coleman

(signature of notary public)



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



Karen L. Starck

Karen L. Starck  
Recorder of Deeds

Entered at Record 4-28-1997 : 3:06pm Karen L. Starck, Recorder

This document is only a general form which may be proper for use in simple transactions and is no way acts, or is intended to act, as a substitute for the advice of an attorney. The printer does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

County Form No. 1003 - (Rev. 3-1-2002) - POWER OF ATTORNEY - Uniform Inventory Form - (C.C.C. 3475) (Rev. 1-98)

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

Michael D. McNaul

(your name and address) appoint ELEANOR Nixon (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

M.D.M. (A) Real property transactions. — only thru.

       (B) Tangible personal property transactions.

       (C) Stock and bond transactions.

       (C) Commodity and option transactions.

       (E) Banking and other financial institution transactions.

       (F) Business operating transactions.

       (G) Insurance and annuity transactions.

       (H) Estate, trust, and other beneficiary transactions.

       (I) Claims and litigation.

       (J) Personal and family maintenance.

       (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

       (L) Retirement plan transactions.

       (M) Tax matters.

       (N) ALL OF THE POWERS LISTED ABOVE.

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 3:07pm 4-28-98  
BY Patricia Deaman  
FEES 15.50  
Karen L Storch, Recorder

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

Country's Form No. 1025 - (Rev. No. 30022) - POWER OF ATTORNEY - Uniform Statutory Form - (C.C.C. 2472) (Rev. 1-93)

Ex. 9

SPECIAL INSTRUCTIONS:

Vol 1927 PAGE 189

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-1, deed reference 46/115

1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431

89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_.

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 28<sup>th</sup> day of JULY, 19 97.

Elmer J. D. Miller (Your signature)

180-38-5800 (Your social security number)

State of PENNSYLVANIA

County of BUCKS

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

Vol 1927 PAGE 190

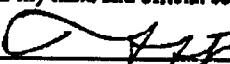
CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

PENNS.  
State of California et al.

County of BUCKS

On July 28, 1997 before me, Doris McCafferty, personally appeared Michael D. McAdoo, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) \_\_ [is/are] \_\_ subscribed to the within instrument and acknowledged to me that \_\_ [he/she/they] \_\_ executed the same in \_\_ [his/her/their] authorized capacity(ies), and that by \_\_ [his/her/their] \_\_ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

 (signature of notary public)

Notary Seal  
Doris McCafferty, Notary Public  
Langhorne Boro, Bucks County  
My Commission Expires Oct. 2, 1998  
Member, Pennsylvania Association of Notaries

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



 Karen L. Starck

Karen L. Starck  
Recorder of Deeds

Entered of Record 4-28-1998 : 3:07 Karen L. Starck, Recorder

This document is only a general form which may be proper for use in simple transactions and is no way, nor is intended to be, an substitute for the advice of an attorney. The printer does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

County's Form No. M023 - (Rev. No. 2002) - POWER OF ATTORNEY - Uniform Statuary Form - (C.C.C. 2475) (Rev. 1-95)

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

SANTA ROSA, CA

I, ALLAN A MCNAUL, CINCINNATI OH (your name and address) appoint FLEANOR NIXON (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

## INITIAL

A (A) Real property transactions. - only. this.

       (B) Tangible personal property transactions.

       (C) Stock and bond transactions.

       (C) Commodity and option transactions.

       (E) Banking and other financial institution transactions.

       (F) Business operating transactions.

       (G) Insurance and annuity transactions.

       (H) Estate, trust, and other beneficiary transactions.

       (I) Claims and litigation.

       (J) Personal and family maintenance.

       (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

       (L) Retirement plan transactions.

       (M) Tax Matters.

       (N) ALL OF THE POWERS LISTED ABOVE.

CLEARFIELD COUNTY  
ENTERED OF RECORD 4-28-98  
TIME 3:08 PM  
BY Debra Deane  
FEE 15.50  
Karen L. Stark, Recorder

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

VOL 1927 PAGE 192

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:  
160 acres, Pike Township, # 126-H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 22 nd day of July, 19 97.

Allen A. M. Crum (Your signature)

185 18 6185 (Your social security number)

State of Ohio

County of Hamilton

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

VOL 1927 PAGE 193

Ohio  
State of California.

County of Hamilton

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

PAULETTE KING

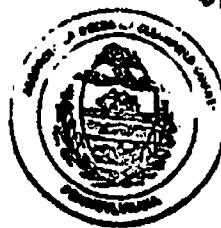
Notary Public, State of Ohio

On 7/23/97 before me, My Commission Expires April 22, 1998, personally appeared Allyn A. McNamee, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) [is/are] subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized capacity(ies), and that by [his/her/their] signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS: my hand and official seal. (Seal)

Paulette King (signature of notary public)

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



Karen L. Starck

Karen L. Starck  
Recorder of Deeds

Entered of Record 4-28-1998 3:08pm Karen L. Starck, Recorder

This document is only a general form which may be proper for use in simple transactions and in no way sets, or is intended to set, an authority for the action of an attorney. The principal does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms to any specific transaction.

County Form No. 1023 - (Rev. 10-2002) - POWER OF ATTORNEY - Uniform Statuary Form - 4C.C.C. 2472 (Rev. 1-93)

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

**NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.**

I, George J. Gago (your name and address) appoint Charles H. Gray (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

A (A) Real property transactions. — only Illinoi.

B (B) Tangible personal property transactions.

C (C) Stock and bond transactions.

D (D) Commodity and option transactions.

E (E) Banking and other financial institution transactions.

F (F) Business operating transactions.

G (G) Insurance and annuity transactions.

H (H) Estate, trust, and other beneficiary transactions.

I (I) Claims and litigation.

J (J) Personal and family maintenance.

K (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

L (L) Retirement plan transactions.

M (M) Tax Matters.

N (N) ALL OF THE POWERS LISTED ABOVE.

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 3:09 pm 4-28-97  
BY Abbie Seaman  
FEES 15.50  
Karen L. Stark, Recorder

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

Ex. 11

SPECIAL INSTRUCTIONS:

VOL 1927 PAGE 195

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-1, deed reference 46/115

1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431

89 acres, Pike Township, 126 H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 18 1977 day of July, 19 77.

(Your signature)

Allego  
210-32-4662

(Your social security number)

State of PA  
County of COSTIKA

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

VOL 1927 PAGE 196

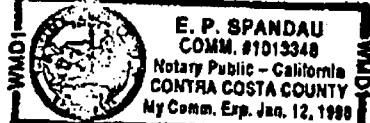
CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

State of California ss.

County of CONTRA COSTA

On JULY 18, 1997 before me, E. P. SPANDAU, personally appeared ANN ARGO, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that [he/she] [he/she] executed the same in [in his/her] authorized capacity(ies), and that by [his/her] [his/her] signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)



E.P. Spandau (signature of notary public)

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



Karen L. Stark

Karen L. Stark  
Recorder of Deeds

Entered at Record 4-28 1998 : 3:09 pm Karen L. Stark, Recorder

This document is only a general form which may be proper for use in simple transactions and in no way and, or is intended to act, as a substitute for the advice of an attorney. The printer does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

County's Form No. 1023 - (Rev. No. 2002) - POWER OF ATTORNEY - Uniform Statuary Form - P.C.C.C 3473 (Rev. 1-93)

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

*Trans. R. M. A. 000  
17542 Kilmer Rd., Pleasanton* (your name and address) appoint *Elmer N. Yor* (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialled subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

## INITIAL

*LGM*

(A) Real property transactions. — Bank, Business.

(B) Tangible personal property transactions.

(C) Stock and bond transactions.

(C) Commodity and option transactions.

(E) Banking and other financial institution transactions.

(F) Business operating transactions.

(G) Insurance and annuity transactions.

(H) Estate, trust, and other beneficiary transactions.

(I) Claims and litigation.

(J) Personal and family maintenance.

(K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

(L) Retirement plan transactions.

(M) Tax matters.

(N) ALL OF THE POWERS LISTED ABOVE.

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 3:10 pm 4-28-98  
BY Galena Jackson  
FEE 15.00  
Karen L. Stark, Recorder

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

VOL 1927 PAGE 198

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 23rd day of July, 19 77.

(Your signature)

Edith Phenom  
176-18-0289 (Your social security number)

State of Pennsylvania  
County of Monroe

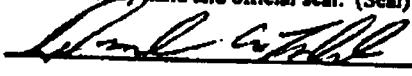
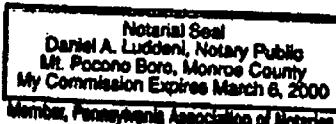
BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

## CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

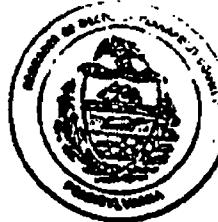
Pennsylvania  
State of California ss.County of Monroe

On 7/22/97 before me, a Notary Public, personally appeared Ralph K. Monaco, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacity(ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)


 (signature of notary public)


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



*Karen L. Starck*  
Karen L. Starck  
Recorder of Deeds

Entered at Record 4-28-1998 : 3:10pm Karen L. Starck, Recorder

This document is only a general form which may be proper for use in simple transactions and is no way acts, or is intended to act, as a substitute for the advice of an attorney. The attorney does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

Country Form No. NRS-1 (Rev. No. 2002) - POWER OF ATTORNEY - Uniform Statuary Form - (C.C.C. 3472) (Rev. 1-93)

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

Ardath Morgan of  
1408 W. Lloyd St., Ebensburg, PA (your name and address) appoint Santa Rosa, CA (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

### INITIAL

Class (A) Real property transactions. — only thus.

       (B) Tangible personal property transactions.

       (C) Stock and bond transactions.

       (C) Commodity and option transactions.

       (E) Banking and other financial institution transactions.

       (F) Business operating transactions.

       (G) Insurance and annuity transactions.

       (H) Estate, trust, and other beneficiary transactions.

       (I) Claims and litigation.

       (J) Personal and family maintenance.

       (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

       (L) Retirement plan transactions.

       (M) Tax Matters.

       (N) ALL OF THE POWERS LISTED ABOVE.

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 3:15pm 4-28-98  
BY Debra  
FEE 15.50  
Karen L. Stark, Recorder

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

SPECIAL INSTRUCTIONS:

Vol 1327 PAGE 201

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 11th day of August, 1997.

Donald M. Head - 218 (Your signature)

198-20-0987 (Your social security number)

State of Pennsylvania

County of Cambris

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

VOL 1927 PAGE 202

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

State of ~~Pennsylvania~~ Pennsylvania

County of Cambridge

On August 11, 1997 before me, Darlene M. Walker, personally appeared Ardath Morgan, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) [is/are] subscribed to the within instrument and acknowledged to me that he/she/they executed the same in [his/her] authorized capacity(ies), and that by [his/her/their] signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

Darlene M. Walker

(signature of notary public)

Notarial Seal  
Darlene M. Walker, Notary Public  
Ebensburg Boro, Cambria County  
My Commission Expires April 17, 1998

...to verify that this is a true and correct copy of this document  
is recorded in the Recorder's Office of  
Clearfield, Pennsylvania.



*Karen L. Stark*

Karen L. Stark  
Recorder of Deeds

Entered of Record 4-28 1998 :31pm Karen L. Stark, Recorder:

This document is only a general form which may be proper for use in simple transactions and is no legal form, or is intended to be, or is substituted for the advice of an attorney. The printer does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.  
Courtney Form No. NRS-1 (Rev No. 2002) - POWER OF ATTORNEY - Uniform Statutory Form - (C.C.C. 3473) (Rev. 1-95)

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

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*Samya Lea McNall 4520 Elmwood Dr.  
1. Samya Lea McNall Sacramento, CA 95821* (your name and address) appoint *Sam Rosa, CA 95404* (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

*Sam* (A) Real property transactions. — only Elmwood

(B) Tangible personal property transactions.

(C) Stock and bond transactions.

(C) Commodity and option transactions.

(E) Banking and other financial institution transactions.

(F) Business operating transactions.

(G) Insurance and annuity transactions.

(H) Estate, trust, and other beneficiary transactions.

(I) Claims and litigation.

(J) Personal and family maintenance.

(K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

(L) Retirement plan transactions.

(M) Tax Matters.

(N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 3:12 pm 4-28-94  
BY Heister Leaman

*Karen L. Stark, Recorder*

Vol 1927 PAGE 204

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 24 day of August, 19 97.

Sueyra McNeil (Your signature)

554-35-0931 (Your social security number)

State of California

County of SACRAMENTO

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

## CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

VOL 1927 PAGE 205

State of California ss.

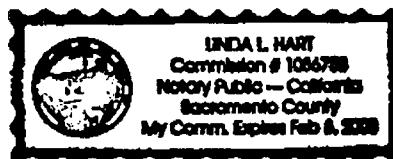
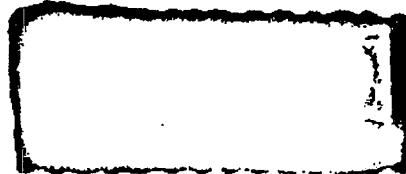
County of Sacramento

On Aug 24, 1997 before me, Linda L. Hart, personally appeared Sonya M. Paul personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) [is/are] subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized capacity(ies); and that by [his/her/their] signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

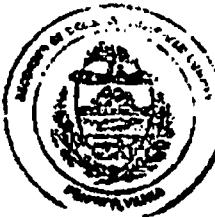
WITNESS my hand and official seal. (Seal)

Linda L. Hart

(signature of notary public)



I hereby certify that the instrument  
is recorded in the Recorder's Office of  
Clearfield County, Pennsylvania.

Karen L. StarckKaren L. Starck  
Recorder of DeedsEntered of Record 4-28 1998 : 3:12pm Karen L. Starck, Recorder

This document is only a general form which may be proper for use in simple transactions and is so very generalized, or is intended to act, as a substitute for the advice of an attorney. The principal does not make any warranty, either express or implied, as to the legal validity of any provision or as to the suitability of these forms to any specific transaction.

Courtney's Form No. N-225 (Rev. No. 2002) - POWER OF ATTORNEY - Uniform Statuary Form - U.C.C. 2479 (Rev. 1-93)

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

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I William B. McNamee (your name and address) appoint Stephen W. Miller (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

WBM (A) Real property transactions. — only this

       (B) Tangible personal property transactions.

       (C) Stock and bond transactions.

       (C) Commodity and option transactions.

       (E) Banking and other financial institution transactions.

       (F) Business operating transactions.

       (G) Insurance and annuity transactions.

       (H) Estate, trust, and other beneficiary transactions.

       (I) Claims and litigation.

       (J) Personal and family maintenance.

       (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

       (L) Retirement plan transactions.

       (M) Tax matters.

       (N) ALL OF THE POWERS LISTED ABOVE.

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 3:13 pm 4-28-98  
BY Melvin Stearns  
FEES 15.50  
Karen L. Starns, Recorder

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N):

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-P7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 27 day of Aug, 1997.

William D. Marshall (Your signature)

William D. Marshall 178-10-7577 (Your social security number)

State of PA

County of CAMB

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

vol 1927 PAGE 208

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

PA  
State of California ss.

County of Cumberland

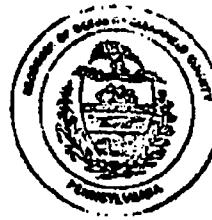
On Aug 27, 1997 before me,  Dawn M Shughart personally appeared William McNew personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) \_\_\_ [is/are] \_\_\_ subscribed to the within instrument and acknowledged to me that \_\_\_ [he/she/they] \_\_\_ executed the same in \_\_\_ [his/her/their] authorized capacity(ies), and that by \_\_\_ [his/her/their] \_\_\_ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

Dawn M Shughart (signature of notary public)



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

Entered at Record 4-28-1998 : 3:13 p.m. Karen L. Starck, Recorder

This document is only a general form which may be proper for use in simple transactions and is no way safe, or is intended to act, as a substitute for the advice of an attorney. The power does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

County's Form No. 1025 - (Rev. No. 30003) - POWER OF ATTORNEY - Uniform Statuary Form - (C.C.C. 3073) (Rev. 1-95)

LIMITED POWER OF ATTORNEY FOR REAL ESTATE TRANSACTIONS

I, FRANCIS A. GATTUSO, of 1302 Gibson Road, Lot No. 98, Bensalem, Pennsylvania 19020, hereby appoint ELEANOR NIXON, of 2759 Bennett Ridge Road, Santa Rosa, California 95404, my Attorney-in-fact ("agent") to do the following on my behalf:

To lease, sell, release and/or convey my interest in surface, oil, gas and all minerals in any properties located in Clearfield County, Pennsylvania, which interest I may have inherited through the Estate of R. Wils McNaul, deceased, including, but not limited to, (1) 160 acres in Pike Township identified by Clearfield County Assessment Map No. 126-H8-1, (2) 1020 acres in Bloom Township identified by Clearfield County Assessment Map No. 104-F7-4, and (3) 89 acres in Pike Township identified by Clearfield County Assessment Map No. 126-H8-17, on such terms as my agent deems advisable; and to receive the proceeds of any such sale of said property; and

To execute, acknowledge and deliver in my name such leases, agreements with brokers, agreements of sale or any other documents respecting the lease, sale, or transfer of said property, and such deeds or conveyances with such covenants or conditions as my agent may deem proper for the lease, sale or transfer of said property.

This Power shall not be affected by my subsequent disability or incapacity. All acts done by my agent pursuant to this power during any period of my disability or incapacity shall have the same effect and inure to the benefit of and bind me and my successors in interest as if I were competent and not disabled.

I further give to my said agent the power and authority to perform any act required in the exercise of any of the foregoing powers as fully as I could do if personally

Ex. 16

VOL 1927 PAGE 401

present, with full power of substitution and revocation, hereby ratifying and confirming all that my agent shall lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, and intending to be legally bound hereby, I have signed this document this 4<sup>th</sup> day of December, 1997.

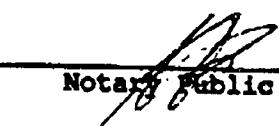
Francis A. Gattuso  
Francis A. Gattuso

VOL 1927 PAGE 402

COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF Bucks : SS.

On this, the 1978 day of December,  
1997, before me, the undersigned officer, personally appeared  
Francis A. Gattuso, known to me (or satisfactorily proven) to be  
the person whose name is subscribed to the within instrument and  
acknowledged that he executed the same in his capacity as  
Heir, for the purposes therein contained.

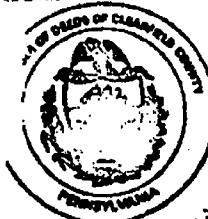
IN WITNESS WHEREOF, I hereunto set my hand and  
official seal.

  
Notary Public

Notarial Seal  
David M. Zane, Notary Public  
Bensalem Twp., Bucks County  
My Commission Expires June 18, 1998  
Member, Pennsylvania Association of Notaries

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

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 4-29-98  
BY Karen L. Starck  
FEES 15.00  
Karen L. Starck, Recorder



  
Karen L. Starck  
Recorder of Deeds

Entered of Record 4-29 1998 2:28 p.m. Karen L. Starck, Recorder

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

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I  John M. Derr  
8150 Rosalind Ave. Apt. 6  
Cape Canaveral, FL 32920  
YOU LATER WISH TO DO SO.

I  (your name and address) appoint Eleanor Minor (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

## INITIAL

(A) Real property transactions. — only minor.

(B) Tangible personal property transactions.

(C) Stock and bond transactions.

(C) Commodity and option transactions.

(E) Banking and other financial institution transactions.

(F) Business operating transactions.

(G) Insurance and annuity transactions.

(H) Estate, trust, and other beneficiary transactions.

(I) Claims and litigation.

(J) Personal and family maintenance.

(K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

(L) Retirement plan transactions.

(M) Tax matters.

(N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

Ex. 17

Vol 1927 PAGE 404

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H-1, deed reference 46/115  
1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 21 day of July, 19 97.

John D. Danner (Your signature)

178-10-6858 (Your social security number)

State of \_\_\_\_\_

County of \_\_\_\_\_

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

Commonwealth of Pennsylvania  
State of California as.

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

VOL 1927 PAGE 405

County of Blair

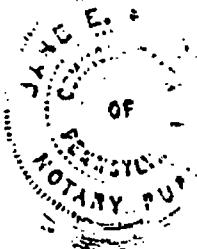
On July 21, 1997 before me, Jane E Shultz, personally appeared John Derr, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) [is/are] subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized capacity(ies), and that by [his/her/their] signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

Jane E Shultz

(signature of notary public)

NOTARIAL SEAL  
JANE E. SCHULTZ, Notary Public  
Tyson Creek, Blair County, PA  
My Commission Expires Oct. 16, 2000



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



Karen L. Stark

Karen L. Stark  
Recorder of Deeds

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 4:29 PM 4-29-98  
BY Karen L. Stark  
FEE \$5.00  
Karen L. Stark, Recorder

This document is only a general form which may be proper for use in simple transactions and in no way acts, or is intended to act, as a substitute for the advice of an attorney. The printer does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

Commonwealth Form No. 1003 - OAG No. 20020 - POWER OF ATTORNEY - Notary Acknowledgment Form - C.C.C. 24079 (Rev. 1-99)

Entered of Record 4-29-1998 2:17 PM Karen L. Stark, Recorder

Vol 1927 page 406

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

*ROBERT A. DEER*  
1400 GEORGE DR. DUNAVILLE, PA (your name and address) appoint ELEANOR NIXON  
3755 ESKWELL RIDGE RD  
SANTA ROSA, CA (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

RAD (A) Real property transactions. -- only this.

       (B) Tangible personal property transactions.

       (C) Stock and bond transactions.

       (D) Commodity and option transactions.

       (E) Banking and other financial institution transactions.

       (F) Business operating transactions.

       (G) Insurance and annuity transactions.

       (H) Estate, trust, and other beneficiary transactions.

       (I) Claims and litigation.

       (J) Personal and family maintenance.

       (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

       (L) Retirement plan transactions.

       (M) Tax Matters.

       (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

Courtesy's Form No. 1003 - (Rev. No. 2002) - POWER OF ATTORNEY - Uniform Statutory Form - (C.C.C. 2470) (Rev. 1-95)

Ex. 18

## SPECIAL INSTRUCTIONS:

VOL 1927 PAGE 407

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:  
160 acres, Pike Township, # 126-H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-27-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_.

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 31 day of AUG, 1997.

(Your signature)

Robert C. Her  
173-32-2423 (Your social security number)

State of PENNSYLVANIA

County of BLAIR

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

VOL 1927 PAGE 408

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

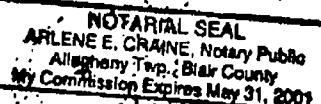
State of Pennsylvania.

County of Blair

On 31<sup>st</sup> Day of Aug 1997 before me, Arlene E. Craine, personally appeared Robert Dean, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) [is/are] subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized capacity(ies), and that by [his/her/their] signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

Arlene E. Craine (signature of notary public)



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



Karen L. Stark

Karen L. Stark  
Recorder of Deeds

CLEARFIELD COUNTY  
RECEIVED  
ENTERED OR RECORDED  
TIME 4:30 P.M. DATE 5-29-97  
BY J.H. Acosta  
FEE 1.50  
Karen L. Stark, Recorder

This document is only a general form which may be proper for use in simple transactions and in no way sets, or is intended to set, as a substitute for the advice of an attorney. The printer  
does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

Courtesy Form No. 1025 - (Rev. No. 2002) - POWER OF ATTORNEY - Notary Public Form - N.C.C.C. 3473 (Rev. 1-95)

Entered of Record 4-29-1997 2:50 p.m. Karen L. Stark, Recorder

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

JENINE (MENSAUL) CAMPBELL  
 1X 280 BRIDGEWATER RD. #15 (your name and address) appoint ELEANOR NIXON  
ROCKDALE, PA 19051 2757 BENNETT RIDGE RD.  
SANTA ROSA, CALIFORNIA (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

## INITIAL

X gc (A) Real property transactions. — only. also.

       (B) Tangible personal property transactions.

       (C) Stock and bond transactions.

       (D) Commodity and option transactions.

       (E) Banking and other financial institution transactions.

       (F) Business operating transactions.

       (G) Insurance and annuity transactions.

       (H) Estate, trust, and other beneficiary transactions.

       (I) Claims and litigation.

       (J) Personal and family maintenance.

       (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

       (L) Retirement plan transactions.

       (M) Tax Matters.

       (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

Ex. 19

## SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:  
160 acres, Pike Township, # 126-H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-77-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 1st day of October, 19 97.

Jenine McNeal Campbell (Your signature)

201-40-6870 (Your social security number)

State of Pennsylvania

County of Philadelphia

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

## CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

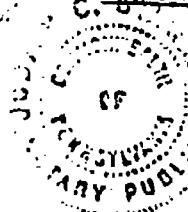
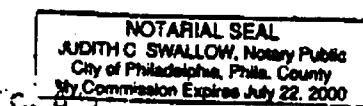
State of California ss.

County of Philadelphia

On 10/1/97 before me, Jessie McDonald Campbell personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) \_\_\_ [is/are] \_\_\_ subscribed to the within instrument and acknowledged to me that \_\_\_ [he/she/they] \_\_\_ executed the same in \_\_\_ [his/her/their] authorized capacity(ies), and that by \_\_\_ [his/her/their] \_\_\_ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

Judith C. Swallow (signature of notary public)



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



Karen J. Starck

Karen J. Starck  
Recorder of Deeds

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 4:23pm 4-29-98  
BY Karen J. Starck  
FEE \$5.70  
Karen J. Starck, Recorder

This document is only a general form which may be proper for use in simple transactions and in no way acts, or is intended to act, as a substitute for the advice of an attorney. The person who uses this form waives any attorney, either express or implied, as to the legal validity of any provision or the suitability of these forms to any specific transaction.

Courtesy's Form No. 1003 - (Rev. No. 2002) - POWER OF ATTORNEY - Uniform Statuary Form - C.C.C. 3475 (Rev. 1-92)

Entered of Record 4-29-1998 4:23pm Karen L. Starck, Recorder

# 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:**

Instrument Number - 200600127

Recorded On 1/4/2006 At 11:02:53 AM

\* Instrument Type - POWER OF ATTORNEY

\* Total Pages - 3

Invoice Number - 141810

\* Grantor - PELUSE, RICHARD

\* Grantee - NIXON, ELEANOR

\* Customer - NADDEO & ASSOCIATES

**\* FEES**

STATE WRIT TAX	\$0.50
RECORDING FEES -	\$13.00
RECODER	
RECODER IMPROVEMENT FUND	\$3.00
COUNTY IMPROVEMENT FUND	\$2.00
TOTAL	\$18.50

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



*Karen L. Starck*

Karen L. Starck  
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

## Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

\* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

Ex. 20

# General Power of Attorney

(with Durable Provision)

NOTICE: THIS IS AN IMPORTANT DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS. THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE PERSON WHOM YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR PROPERTY, WHICH MAY INCLUDE POWERS TO PLEDGE, SELL OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU. YOU MAY SPECIFY THAT THESE POWERS WILL EXIST EVEN AFTER YOU BECOME DISABLED, INCAPACITATED OR INCOMPETENT. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL OR OTHER HEALTH CARE DECISIONS FOR YOU. IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

TO ALL PERSONS, be it known that I, Richard Peluse  
of 3656 Westwood Blvd, #114, Los Angeles, CA 90034,  
the undersigned Principal, do hereby make and grant a general power of attorney to Eleanor Nixon  
of 2759 Bennett Ridge Rd., Santa Rosa, CA 95404,  
and do thereupon constitute and appoint said individual as my attorney-in-fact/agent.

If my Agent is unable to serve for any reason, I designate NA  
of \_\_\_\_\_, as my successor Agent.

My attorney-in-fact/agent shall act in my name, place and stead in any way which I myself could do, if I were personally present, with respect to the following matters, to the extent that I am permitted by law to act through an agent:

(NOTICE: The Principal must write his or her initials in the corresponding blank space of a box below with respect to each of the subdivisions (A) through (N) below for which the Principal wants to give the agent authority. If the blank space within a box for any particular subdivision is NOT initialed, NO AUTHORITY WILL BE GRANTED for matters that are included in that subdivision. Cross out each power withheld.)

<input checked="" type="checkbox"/> RP	(A)	Real estate transactions
<input type="checkbox"/>	(B)	Tangible personal property transactions
<input type="checkbox"/>	(C)	Bond, share and commodity transactions
<input type="checkbox"/>	(D)	Banking transactions
<input type="checkbox"/>	(E)	Business operating transactions
<input type="checkbox"/>	(F)	Insurance transactions
<input type="checkbox"/>	(G)	Gifts to charities and individuals other than Attorney-in-Fact/Agent (If trust distributions are involved or tax consequences are anticipated, consult an attorney.)
<input type="checkbox"/>	(H)	Claims and litigation
<input type="checkbox"/>	(I)	Personal relationships and affairs
<input type="checkbox"/>	(J)	Benefits from military service
<input type="checkbox"/>	(K)	Records, reports and statements
<input type="checkbox"/>	(L)	Full and unqualified authority to my attorney-in-fact/agent to delegate any or all of the foregoing powers to any person or persons whom my attorney-in-fact/agent shall select
<input type="checkbox"/>	(M)	Access to safe deposit box(es)
<input type="checkbox"/>	(N)	All other matters

Durable Provision:

[ ] (O) If the blank space in the block to the left is initialed by the Principal, this power of attorney shall not be affected by the subsequent disability or incompetence of the Grantor.

Other Terms: Agent to act on behalf of obtaining 30% of 1020 acres of undeveloped property.

My attorney-in-fact/agent hereby accepts this appointment subject to its terms and agrees to act and perform in said fiduciary capacity consistent with my best interests as he/she in his/her best discretion deems advisable, and I affirm and ratify all acts so undertaken.

TO INDUCE ANY THIRD PARTY TO ACT HEREUNDER, I HEREBY AGREE THAT ANY THIRD PARTY RECEIVING A DULY EXECUTED COPY OR FACSIMILE OF THIS INSTRUMENT MAY ACT HEREUNDER, AND THAT REVOCATION OR TERMINATION HEREOF SHALL BE INEFFECTIVE AS TO SUCH THIRD PARTY UNLESS AND UNTIL ACTUAL NOTICE OR KNOWLEDGE OF SUCH REVOCATION OR TERMINATION SHALL HAVE BEEN RECEIVED BY SUCH THIRD PARTY, AND I FOR MYSELF AND FOR MY HEIRS, EXECUTORS, LEGAL REPRESENTATIVES AND ASSIGNS, HEREBY AGREE TO INDEMNIFY AND HOLD HARMLESS ANY SUCH THIRD PARTY FROM AND AGAINST ANY AND ALL CLAIMS THAT MAY ARISE AGAINST SUCH THIRD PARTY BY REASON OF SUCH THIRD PARTY HAVING RELIED ON THE PROVISIONS OF THIS INSTRUMENT.

Signed under seal this 23rd day of August, 2005.

Signed in the presence of:

Witness \_\_\_\_\_

  
Grantor

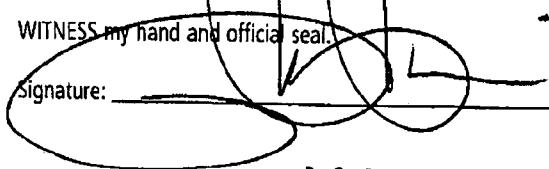
Witness \_\_\_\_\_

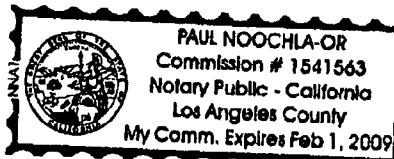
Attorney-in-Fact/Agent: \_\_\_\_\_

State of CALIFORNIA \_\_\_\_\_  
County of LOS ANGELES \_\_\_\_\_

On 08/23/05 before me, PAUL NOOCHLA-OR, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: 



Affiant \_\_\_\_\_ Known \_\_\_\_\_ Produced ID \_\_\_\_\_  
Type of ID \_\_\_\_\_  
(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:**

Instrument Number - 200600128

Recorded On 1/4/2006 At 11:02:54 AM

\* Instrument Type - POWER OF ATTORNEY

\* Total Pages - 3

Invoice Number - 141810

\* Grantor - COLLORD, KATHRYN

\* Grantee - NIXON, ELEANOR

\* Customer - NADDEO & ASSOCIATES

\* FEES

STATE WRIT TAX	\$0.50
RECORDING FEES -	\$13.00
RECORDER	
RECORDER IMPROVEMENT	\$3.00
FUND	
COUNTY IMPROVEMENT FUND	\$2.00
TOTAL	\$18.50

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

\* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

Ex. 21

# Limited Power of Attorney

(with Durable Provision)

NOTICE: THIS IS AN IMPORTANT DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS. THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE PERSON WHOM YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR PROPERTY, WHICH MAY INCLUDE POWERS TO PLEDGE, SELL OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU. YOU MAY SPECIFY THAT THESE POWERS WILL EXIST EVEN AFTER YOU BECOME DISABLED, INCAPACITATED OR INCOMPETENT. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL OR OTHER HEALTH CARE DECISIONS FOR YOU. IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

TO ALL PERSONS, be it known, that I, Kathryn Collard,  
of 124 William Street, Portland, Maine 04103,  
as Principal, do hereby make and grant a limited and specific power of attorney to Eleanor Nixon  
of 2759 Bennet Ridge Rd, Santa Rosa, CA 95404,  
and appoint and constitute said individual as my attorney-in-fact.

My named attorney-in-fact shall have full power and authority to undertake, commit and perform only the following acts on my behalf to the same extent as if I had done so personally; all with full power of substitution and revocation in the presence:

(Describe specific authority) to handle/sell my share of  
Family land in state of  
Pennsylvania

The authority granted shall include such incidental acts as are reasonably required or necessary to carry out and perform the specific authorities and duties stated or contemplated herein.

My attorney-in-fact agrees to accept this appointment subject to its terms, and agrees to act and perform in said fiduciary capacity consistent with my best interests as my attorney-in-fact deems advisable, and I thereupon ratify all acts so carried out.

I agree to reimburse my attorney-in-fact all reasonable costs and expenses incurred in the fulfillment of the duties and responsibilities enumerated herein.

## Special durable provisions:

This power of attorney shall not be affected by subsequent incapacity of the Principal. This power of attorney may be revoked by the Principal giving written notice of revocation to the attorney-in-fact, provided that any party relying in good faith upon this power of attorney shall be protected unless and until said party has either a) actual or constructive notice of revocation, or b) upon recording of said revocation in the public records where the Principal resides. Furthermore, upon a finding of incompetence by a court of appropriate jurisdiction, this Power of Attorney shall be irrevocable until such a time as said court determines that I am no longer incompetent.

Other terms: \_\_\_\_\_

Signed under seal this 26th day of August, 2005.  
Signed in the presence of:

Witness: Brenda Cook

Principal: Linda M. Cook

Witness: \_\_\_\_\_

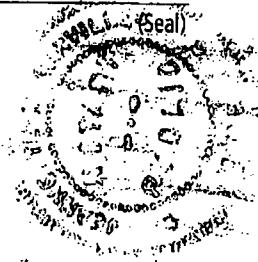
State of Maine  
County of Cumberland. }

On August 26th 2005 before me, Jeanette Garvilles,  
appeared Patricia Colored,  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed  
to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by  
his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.  
WITNESS my hand and official seal.

Signature: Patricia Colored

JEANNETTE M. GARVILLES  
Notary Public, Maine  
My Commission Expires March 2, 2007

Affiant Known  Produced ID  
Type of ID \_\_\_\_\_



VO 1927 PAGE 418

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

725 PASEO SANTA ISABEL, GREEN VALLEY, AZ 85614-1314  
1 BARBARA T. MCNAUL (your name and address) appoint ELEANOR NIXON (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

### INITIAL

B&M (A) Real property transactions. - only also.

       (B) Tangible personal property transactions.

       (C) Stock and bond transactions.

       (C) Commodity and option transactions.

       (E) Banking and other financial institution transactions.

       (F) Business operating transactions.

       (G) Insurance and annuity transactions.

       (H) Estate, trust, and other beneficiary transactions.

       (I) Claims and litigation.

       (J) Personal and family maintenance.

       (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

       (L) Retirement plan transactions.

       (M) Tax Matters.

       (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

County's Form No. 1055 - (Rev. No. 2002) - POWER OF ATTORNEY - Uniform Statutory Form - (CCC 340) (Rev. Mar.

Ex. 22  
CLEARFIELD COUNTY

SPECIAL INSTRUCTIONS:

VOL 1927 PAGE 419

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-N8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-N8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act None

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 23<sup>rd</sup> day of July, 19 97.

Barbara J. Mc Nease (Your signature)

544-14-1618 (Your social security number)

State of Arizona

County of Pima

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

VOL 1927 PAGE 420

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

Arizona  
State of

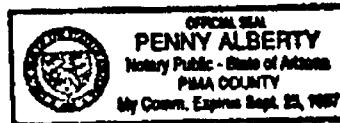
County of Pima

On 23rd before me, July 1997, personally appeared Boethra J Mc Dow, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that She/he/she/they executed the same in his/her/their authorized capacity(ies), and that by her/his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

Penny Alberty

(signature of notary public)



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



Karen L. Starck

Karen L. Starck  
Recorder of Deeds

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME: 2131A 4-29-98  
BY Debra L. Gorman  
FEES 15.00  
Karen L. Starck, Recorder

This document is only a general form which may be proper for use in simple transactions and in no way acts, or is intended to act, as a substitute for the advice of an attorney. The printer does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

Clearfield Form No. 1023 - (Rev. No. 2002) - POWER OF ATTORNEY - Uniform Statute Form FCC 3074 (Rev. 1-94)

Entered of Record 4-29-98 2:34p Karen L. Starck, Recorder

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

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*Marilyn J. Spaulding* *Clearance Wifey*  
 I particular one Spaulding (your name and address) appoint 2759 Remond Ridge Rd.  
address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to  
act for me in any lawful way with respect to the following initialed subjects: Santa Rosa, Ca. 95404

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

## INITIAL

A (A) Real property transactions. — only this.

B (B) Tangible personal property transactions.

C (C) Stock and bond transactions.

D (D) Commodity and option transactions.

E (E) Banking and other financial institution transactions.

F (F) Business operating transactions.

G (G) Insurance and annuity transactions.

H (H) Estate, trust, and other beneficiary transactions.

I (I) Claims and litigation.

J (J) Personal and family maintenance.

K (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

L (L) Retirement plan transactions.

M (M) Tax Matters.

N (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

Ex. 23

VOL 1927 PAGE 422

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 3rd day of October, 19 97.

X Matthew Good Sprinller (Your signature)

178-14-8160 (Your social security number)

State of \_\_\_\_\_

County of \_\_\_\_\_

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC VOL 1927 PAGE 423

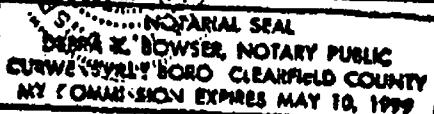
State of California ss.

County of Clearfield, PA

On 10-2-97 before me, Debra K. Bawser, personally appeared Martha Lee Spinelli personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) [is/are] subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized capacity(ies), and that by [his/her/their] signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

Debra K. Bawser (signature of notary public)



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

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 10:50 AM 10-29-97  
BY Karen L. Starck  
FEE 1.00  
Karen L. Starck, Recorder



Karen L. Starck  
Karen L. Starck  
Recorder of Deeds

This document is only a general form which may be proper for use in simple transactions and in no way acts, or is intended to act, as a substitute for the advice of an attorney. The parties do not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

Clearfield Form No. 1023 (Rev. No. 2002), POWER OF ATTORNEY - Uniform Statute Form (CC 2477) (Rev. 1-98)

Entered of Record 10-29-1997 10-29-1997 Karen L. Starck, Recorder

Vol 1927 PAGE 424

5nd & 2nd  
Pg

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4463). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

*2077 15th Street Hill City, SD 57744*  
I, Michael R. McHale (your name and address) appoint KELLY KAY R. McHale (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

I (A) Real property transactions. — C M D Y T h o s i o.

       (B) Tangible personal property transactions.

       (C) Stock and bond transactions.

       (C) Commodity and option transactions.

       (E) Banking and other financial institution transactions.

       (F) Business operating transactions.

       (G) Insurance and annuity transactions.

       (H) Estate, trust, and other beneficiary transactions.

       (I) Claims and litigation.

       (J) Personal and family maintenance.

       (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

       (L) Retirement plan transactions.

       (M) Tax Matters.

       (N) ALL OF THE POWERS LISTED ABOVE.

CLEARFIELD COUNTY  
ENTERED, OF RECORD  
TIME *1:36 4-29-99*  
BY *Karen L. Stark*  
FEES *\$10*  
Karen L. Stark, Recorder

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

County's Form No. 1055 - (Rev. No. 2002) - POWER OF ATTORNEY - Uniform Statutory Form - C.C.C. 2073 (Rev. 1-98)

Ex. 24

VOL 1927 PAGE 425

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:  
160 acres, Pike Township, # 126-H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_.

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 11<sup>th</sup> day of March, 19 97.  
Mary M. Starch  
184-44-4260

(Your signature)

(Your social security number)

State of Penna.

County of Montgomery

hereby CERTIFY that this document  
BY ACCEPTING OR ASSUMING DUTY HEREIN, THE AGENT ASSUMES THE FIDUCIARY AND  
OTHER LEGAL RESPONSIBILITIES OF OWNER IN PENNSYLVANIA.

Notary Seal  
Tom L. Towson, Notary Public  
Westown Bank, Montgomery County  
My Commission Expires Sept. 1, 1998



*Karen L. Starch*

Karen L. Starch  
Recorder of Deeds

Country's Form No. 3020 - (Rev. No. 20020) - POWER OF ATTORNEY - Uniform Statute Form - ICC.C 3420 (Rev. 1-93)

Entered of Record 4-29 1997 at 1:36 p.m. Karen L. Starch, Recorder

# 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:**

NADDEO & ASSOCIATES

P.O. BOX 552

CLEARFIELD, PA 16830

Instrument Number - 200600132

Recorded On 1/4/2006 At 11:02:58 AM

\* Instrument Type - POWER OF ATTORNEY

\* Total Pages - 2

Invoice Number - 141810

\* Grantor - NCNAUL, ROBERT GUTHRIE

\* Grantee - NIXON, ELEANOR

\* Customer - NADDEO & ASSOCIATES

**\* FEES**

STATE WRIT TAX \$0.50

RECORDING FEES - \$13.00

RECORDER

RECORDER IMPROVEMENT \$3.00

FUND

COUNTY IMPROVEMENT FUND \$2.00

TOTAL \$18.50

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



*Karen L. Starck*

Karen L. Starck  
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

## Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

\* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

**Ex. 25**

# UNLIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That I, (grantor's name) Robert Guthrie McNaul,  
the undersigned, of (complete address) 1909 Camino Mirada - N. Las Vegas NV 89031,  
do hereby grant an unlimited power of attorney to, (appointee's name) Eleanor Nixon,  
of (complete address) 2759 Bennett Ridge Road - Santa Rosa, CA 95404,  
as my attorney-in-fact.

My attorney-in-fact shall have full power and authority to do and undertake all acts on my behalf that I could do personally including but not limited to the right to sell, buy, lease, mortgage, assign, rent or dispose of any real or personal property; the right to execute, accept, undertake and perform all contracts in my name; the right to deposit, endorse, or withdraw funds to or from any of my bank accounts or safe deposit box; the right to initiate, defend, commence, or settle legal actions on my behalf; and the right to retain any accountant, attorney or other advise deemed necessary to protect my interests relative to any foregoing unlimited power.

My attorney-in-fact hereby accepts this appointment subject to its terms and agrees to act and perform in said fiduciary capacity consistent with my best interests as he in his best discretion deems advisable.

I hereby agree to accept the appointment as attorney-in-fact, pursuant to the foregoing Power of Attorney.

\_\_\_\_\_  
Attorney-in-fact

In Witness Whereof, I/We have hereunto set my hand/our hands this 10<sup>th</sup> day of August, 2005

Robert G. McNaul

Signature of Grantor

N/A

\_\_\_\_\_  
Signature of Grantor

Robert G. McNaul

Print or type name here

N/A

\_\_\_\_\_  
Print or type name here

STATE OF NEVADA )  
COUNTY OF CLARK )

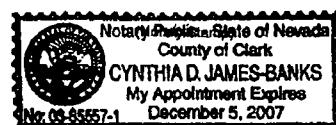
On this 10 day of August, 2005 personally appeared before me, a Notary Public, Robert G. McNaul, personally known to me to be the person(s) whose name(s) is subscribed to the above instrument who acknowledged that he executed the instrument.

Witness my hand and official seal

Cynthia D. James-Banks  
NOTARY PUBLIC

POA110

Nevada Legal Forms and Books, Inc. (702) 870-8977  
3901 West Charleston Boulevard  
Las Vegas, Nevada 89102  
[www.legalformanus.com](http://www.legalformanus.com)  
© 2000 Consult an attorney if you doubt this form's fitness for your purpose.



## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

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I Cleo S. Mc Neal (your name and address) appoint Elleanor Vining (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

C.S.M. (A) Real property transactions. — only. things.

       (B) Tangible personal property transactions.

       (C) Stock and bond transactions.

       (D) Commodity and option transactions.

       (E) Banking and other financial institution transactions.

       (F) Business operating transactions.

       (G) Insurance and annuity transactions.

       (H) Estate, trust, and other beneficiary transactions.

       (I) Claims and litigation.

       (J) Personal and family maintenance.

       (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

       (L) Retirement plan transactions.

       (M) Tax Matters.

       (N) ALL OF THE POWERS LISTED ABOVE.

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 3:02 pm 4-18-98  
BY Elleanor Vining  
FEE 15.50  
Karen L. Storch, Recorder

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

VOL 1927 PAGE 174

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 04th day of July, 19 97.

Clare S. McNeill (Your signature)

458-76-6598 (Your social security number)

State of Texas

County of Ector

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

Texas  
State of California

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

County of Ector

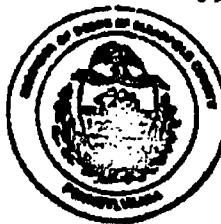
On July 24th 1997 before me, Chris S. McHaul, personally appeared Chris S. McHaul, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized capacity(ies), and that by [his/her/their] signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

Angeelia Rodriguez

(signature of notary public)

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



*Karen L. Stark*

Karen L. Stark  
Recorder of Deeds

Entered of Record 4-25-1998 : 3:03pm Karen L. Stark, Recor

This document is only a general form which may be proper for use in simple transactions and in no way acts, or is intended to act, as a substitute for the advice of an attorney. The power does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of this form to any specific transaction.  
Court's Form No. 1003 - (Rev No. 2005) - POWER OF ATTORNEY - (Uniform Statuary Form - EJC/C 3472) (Rev. 1-95)

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

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I, Janet M. Leathers (your name and address) appoint Elmer Nixon (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

JM (A) Real property transactions. — initial line.

JM (B) Tangible personal property transactions.

JM (C) Stock and bond transactions.

JM (C) Commodity and option transactions.

JM (E) Banking and other financial institution transactions.

JM (F) Business operating transactions.

JM (G) Insurance and annuity transactions.

JM (H) Estate, trust, and other beneficiary transactions.

JM (I) Claims and litigation.

JM (J) Personal and family maintenance.

JM (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.

JM (L) Retirement plan transactions.

JM (M) Tax matters.

JM (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

SPECIAL INSTRUCTIONS:

VOL 1927 PAGE 413

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126 H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126 H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 2nd day of October, 19 97

Janet M. Leathem (Your signature)

0199-366487 (Your social security number)

State of Pennsylvania

County of Allegheny

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

VOL 1927 PAGE 414

PA

State of California

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

County of ALLEGHENY

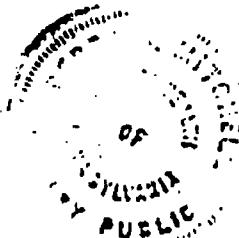
On 10/4/97 before me, Debra A. Mitchell, personally appeared JANET LEATHER personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (s) are subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacity(ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal. (Seal)

Debra A. Mitchell

(signature of notary public)

Notarial Seal  
Debra A. Mitchell, Notary Public  
Monroeville Boro, Allegheny County  
My Commission Expires July 13, 2000  
Member, Pennsylvania Association of Notaries



recorded in the Recorder's Office of  
Clearfield County, Pennsylvania.



Karen L. Stark  
Karen L. Stark  
Recorder of Deeds

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 10/3/97 4:28 PM  
BY Helen A. Lorenz  
FEE 15.00  
Karen L. Stark, Recorder

This document is only a general form which may be proper for use in simple transactions and in no way are, or is intended to be, as a substitute for the advice of an attorney. The printer does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

County's Form No. 1025 - (Rev. No. 2002) - POWER OF ATTORNEY - Uniform Summary Form - FCC0070 (Rev. 1-90)

Entered of Record 10/3/97 4:28 PM, Karen L. Stark, Recorder

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400-4465). IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I CHARLES A. RIVIN \* (your name and address) appoint ELEANOR M. NIKON \*\* (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:  
 \* 30 TRAPPERS LA. EAST GREENWICH, RI 02818 #42759 BENNETT RIDGE RD SANTA ROSA, CA 95401  
 TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

*Cal*

- (A) Real property transactions. — crossed out.
- (B) Tangible personal property transactions.
- (C) Stock and bond transactions.
- (D) Commodity and option transactions.
- (E) Banking and other financial institution transactions.
- (F) Business operating transactions.
- (G) Insurance and annuity transactions.
- (H) Estate, trust, and other beneficiary transactions.
- (I) Claims and litigation.
- (J) Personal and family maintenance.
- (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.
- (L) Retirement plan transactions.
- (M) Tax matters.
- (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

This document limited to the following named properties:

160 acres, Pike Township, # 126-H8-1, deed reference 46/115  
1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 21 day of July, 1997.

CRDO \_\_\_\_\_ (Your signature)

211-16-5868 \_\_\_\_\_ (Your social security number)

State of RIODE ISLAND

County of KENT

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

*Rhode Island* CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

**State of California, N.**

vol 1927 PAGE 431

County of Franklin

On July 8, 1997 before me, Charles A. Irwin, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are \_\_\_\_\_ subscribed to the within instrument and acknowledged to me that \_\_\_\_\_ [he/she/they] \_\_\_\_\_ executed the same in \_\_\_\_\_ [his/her/their] authorized capacity(ies), and that by \_\_\_\_\_ [his/her/their] \_\_\_\_\_ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

~~WITNESS my hand and official seal. (Seal)~~

DATE/EXPIRATION EXPIRED

19101

is recorded in the Recorder's Office of  
Dearfield County, Pennsylvania.

**CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 1394 4-29-18  
BY J. L. S.  
FEE \$150**



*Karen J. Stark*  
Karen L. Stark  
Recorder of Deeds

This document is only a general form which may be proper for use in simple transactions and is no way legal, or is intended to act, as a substitute for the advice of an attorney. The user does not make any warranty, either express or implied, as to the legal validity of any provision, or the suitability of these forms in any specific transaction.

Conway's Post No. 1425 - One No. 20002 - POWER OF ATTORNEY - 11-10-00, Effective Date: 10-01-00, E

Country's Press No. 1625 - (New No. 2225) - POWER OF ATTORNEY, Uniform Statute Form, (CCC 372) (Rev. 1-93)

Entered on Record 4-21-97 1:31

**Karen L. Starck, Recorder**

#3 or 3  
Ch. 14

## UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

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I Melissa C. Roos (your name and address) appoint Eleanor Nixon (name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

### INITIAL

- (A) Real property transactions. — and etc.
- (B) Tangible personal property transactions.
- (C) Stock and bond transactions.
- (D) Commodity and option transactions.
- (E) Banking and other financial institution transactions.
- (F) Business operating transactions.
- (G) Insurance and annuity transactions.
- (H) Estate, trust, and other beneficiary transactions.
- (I) Claims and litigation.
- (J) Personal and family maintenance.
- (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.
- (L) Retirement plan transactions.
- (M) Tax Matters.
- (N) ALL OF THE POWERS LISTED ABOVE.

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## SPECIAL INSTRUCTIONS:

VOL 1927 PAGE 433

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1020 acres, Bloom Township, #104-F7-4, deed reference 500/486 and 1509/431  
89 acres, Pike Township, 126-H8-17

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EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

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Signed this 26th day of July, 19 97.

(Your signature)

170-12-6143

(Your social security number)

State of Pennsylvania  
County of York*Laurie J. Stern*

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

Notarial Seal  
 Laurie J. Stern, Notary Public  
 Hanover Boro, York County  
 My Commission Expires Jan. 5, 1999

Vol 1927 PAGE 434

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

PA  
State of California.

County of York

On July 30, 1997 before me, Laurie J. Sternen personally appeared Melissa C. Root personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) [is/are] subscribed to the within instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] authorized capacity(ies), and that by [his/her/their] signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS his hand and official seal. (Seal)

Laurie J. Sternen  
OF

(signature of notary public)

Notarial Seal  
Laurie J. Sternen, Notary Public  
Hanover Boro, York County  
My Commission Expires Jan. 6, 1999

THIS DOCUMENT IS HEREBY CERTIFIED  
RECORDED IN THE RECORDER'S OFFICE OF  
CLEARFIELD COUNTY, PENNSYLVANIA.

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 2:39 PM 4-29-98  
BY Karen L. Starck  
FEE \$5.00  
Karen L. Starck, Recorder



Karen J. Starck  
Karen L. Starck  
Recorder of Deeds

This document is only a general form which may be proper for use in simple transactions and is not very safe, or is intended to act as a substitute for the advice of an attorney. The principal does not make any warranty, either express or implied, as to the legal validity of any provision or the suitability of these forms in any specific transaction.

County's Form No. 1023 - (Rev. No. 2002) - POWER OF ATTORNEY - Uniform Journey Form - N.C.C. (12/2002) Ver. 1-90

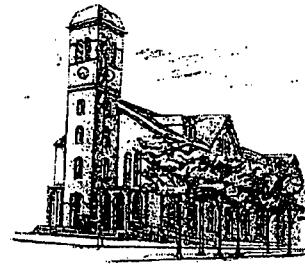
Entered of Record 4-29-98 2:39 PM Karen L. Starck, Recorder

## Clearfield County Tax Claim Bureau

230 East Market Street - Suite 121

Clearfield, Pennsylvania 16830

Phone: (814) 765-2641 Ext. 5998



\*-Customer Copy-\*

Receipt # 211588

Tuesday, September 11, 2007

Received Of:

MCNAUL, ROBERT W. HEIRS

Control # 126092625

Claim # 2005-007785

Map # G09-000-00005 MN

Property Desc 132 A MIN. RT.

In The Amount Of: \$217.64

	County	District	School
TAX	0.00	0.00	130.10
INTEREST	0.00	0.00	18.54
COST / PENALTY	69.00		
CURRENT YEAR	0.00	0.00	0.00
OVERBID	0.00		
<b>TOTAL</b>	<b><u>\$217.64</u></b>		

*MaryAnne Wedock*

Director of Tax Claim Bureau

RECEIPT VALID ONLY UPON PAYMENT OF LEGAL TENDER

ANY CHECK RETURN UNPAID BY YOUR BANK WILL BE SUBJECT TO A TWENTY DOLLAR (\$20.00) RETURNED CHECK FEE

Total Received On All Claims For 12609262 On 9/11/2007 \$217.64

Ex 30

## Clearfield County Tax Claim Bureau

\*-Customer Copy-\*

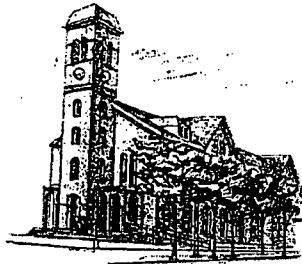
230 East Market Street - Suite 121

Clearfield, Pennsylvania 16830

Phone: (814) 765-2641 Ext. 5998

Receipt # 211587

Tuesday, September 11, 2007



Received Of:

MCNAUL, ROBERT W. HEIRS

Control # 126092624

Claim # 2005-007784

Map # H08-000-00007 MN

In The Amount Of: \$112.20

Property Desc 80% INT. IN 48 A MIN. RT.

EXCEPT CLAY

	County	District	School
TAX	0.00	0.00	37.81
INTEREST	0.00	0.00	5.39
COST / PENALTY	69.00		
CURRENT YEAR	0.00	0.00	0.00
OVERBID	0.00		
<b>TOTAL</b>	<b><u>\$112.20</u></b>		

*MaryAnne Heddock*

Director of Tax Claim Bureau

RECEIPT VALID ONLY UPON PAYMENT OF LEGAL TENDER

ANY CHECK RETURN UNPAID BY YOUR BANK WILL BE SUBJECT TO A TWENTY DOLLAR (\$20.00) RETURNED CHECK FEE

Total Received On All Claims For 12609262 On 9/11/2007 \$112.20

Ex. 31

## Clearfield County Tax Claim Bureau

\*-Customer Copy-\*

Receipt # 211590

Received Of:

MCNAUL, ROBERT W. HEIRS

In The Amount Of: \$81.58

230 East Market Street - Suite 121

Clearfield, Pennsylvania 16830

Phone: (814) 765-2641 Ext. 5998

Tuesday, September 11, 2007

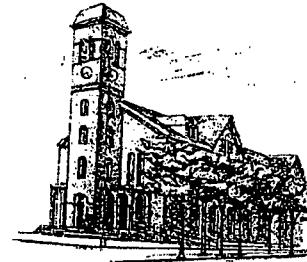
Control # 126092624

Claim # 2006-007713

Map # H08-000-00007 MN

Property Desc 80% INT. IN 48 A MIN. RT.  
EXCEPT CLAY

	County	District	School
TAX	12.41	3.54	37.81
INTEREST	0.65	0.19	1.98
COST / PENALTY	25.00		
CURRENT YEAR	0.00	0.00	0.00
OVERBID	0.00		
<b>TOTAL</b>	<b><u>\$81.58</u></b>		



*MaryAnne Kedock*

Director of Tax Claim Bureau

RECEIPT VALID ONLY UPON PAYMENT OF LEGAL TENDER

ANY CHECK RETURN UNPAID BY YOUR BANK WILL BE SUBJECT TO A TWENTY DOLLAR (\$20.00) RETURNED CHECK FEE

Total Received On All Claims For 12609262 On 9/11/2007 \$81.58

Ex. 32

## Clearfield County Tax Claim Bureau

230 East Market Street - Suite 121

Clearfield, Pennsylvania 16830

Phone: (814) 765-2641 Ext. 5998

\*Customer Copy\*

Receipt # 211589

Tuesday, September 11, 2007

Received Of:

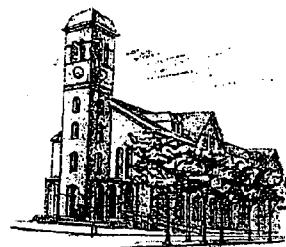
MCNAUL, ROBERT W. HEIRS

Control # 126092625

Claim # 2006-007714

Map # G09-000-00005 MN

Property Desc 132 A MIN. RT.



In The Amount Of: \$219.70

	County	District	School
TAX	42.69	12.20	130.10
INTEREST	2.24	0.64	6.83
COST / PENALTY	25.00		
CURRENT YEAR	0.00	0.00	0.00
OVERBID	0.00		
<b>TOTAL</b>	<b><u>\$219.70</u></b>		

*MaryAnne Heddock*

Director of Tax Claim Bureau

RECEIPT VALID ONLY UPON PAYMENT OF LEGAL TENDER

ANY CHECK RETURN UNPAID BY YOUR BANK WILL BE SUBJECT TO A TWENTY DOLLAR (\$20.00) RETURNED CHECK FEE

Total Received On All Claims For 12609262 On 9/11/2007 \$219.70

Ex. 33

County Parcel No. 126-H8-1

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 3:38p 6-3-98  
BY Ex-34  
FEES \$4.00  
Karen L Stark, Recorder

THIS DEED

MADE the 3rd day of December , in the year nineteen  
hundred and ninety-seven (1997)

BETWEEN ELEANOR NIXON, of 2759 Bennett Ridge Road, Santa Rosa,  
California, 95404, individually, and as Attorney-in-Fact for the  
following under Powers of Attorney, dated as indicated and all  
either recorded prior hereto or concurrently herewith,

(1) CLEO S. McNAUL dated July 24, 1997; (2) SELMA JOHNSON, dated  
July 28, 1997; (3) VIRGINIA H. MCNAUL, dated July 22, 1997;  
(4) DAVID W. MCNAUL, dated October 2, 1997; (5) PATRICIA M.  
BENDER and (5a) GEORGE E. BENDER, dated July 26, 1997; (6)  
MICHAEL D. MCNAUL, dated July 28, 1997; (7) ALLAN A. MCNAUL,  
dated July 22, 1997; (8) ANN ARGO, dated July 18, 1997;  
(9) RALPH MONACO, dated July 22, 1997; (10) ARDATH MORGAN, a/k/a  
ARDATH MCNAUL MORGAN, dated August 11, 1997; (11) SONYA LEA  
MCNAUL, a/k/a SONYA MCNAUL, dated August 24, 1997; (12) WILLIAM  
D. MCNAUL, dated August 27, 1997; (13) RICHARD GATTUSO, dated  
December 23, 1997; (14) FRANCIS A. GATTUSO, dated December 19,  
1997; (15) JOHN M. DERR, dated July 21, 1997; (16) ROBERT A.  
DERR, dated August 31, 1997; (17) JENINE MCNAUL CAMPBELL, dated  
October 1, 1997; (18) JANET M. LEATHEM, dated October 2, 1997;  
(19) CARL J. PETERSON, Senior Vice President and Senior Trust  
Officer of COUNTY NATIONAL BANK, Trustee for DAVID MCNAUL and  
JARED MCNAUL, dated November 4, 1997; (20) BARBARA J. MCNAUL,  
dated July 23, 1997; (21) CHARLES A. IRVIN, dated July 21, 1997;

Ex 34

(22) MICHAEL R. MCNAUL, dated September 11, 1997; (23) MARTHA JANE SPINELLI, dated October 2, 1997; and (24) MELISSA C. ROOS, dated July 30, 1997, individually and as Attorney-in-Fact for Leon Carter Carberry, under Power of Attorney dated February 12, 1993 and appearing of record in the Office of the Recorder of Deeds of York County in Land Record Book 1299, Page 3111; hereinafter referred to as GRANTOR

A

N

D

RONALD E. LYKENS, of R. D. #1, Box 345, Clearfield, Pennsylvania 16830; and MARTIN K. COLLINS, of 107 Bigler Road, Clearfield, Pennsylvania 16830, as tenants in common and not as joint tenants with the right of survivorship, hereinafter referred to as GRANTEEES.

WITNESSETH, That in consideration of the sum of ONE HUNDRED NINETY-SIX THOUSAND and 00/100 (\$196,000.00)----- DOLLARS, in hand paid, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant and convey to the said Grantees, as tenants in common and not as joint tenants with the right of survivorship, their heirs, personal representatives and assigns,

ALL that certain piece or tract of land situate in the Township of Pike, the County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows, to wit:

VOL 1938 PAGE 235

BEGINNING at a chest which is the southwest corner of land deeded to Thomas H. Norris in the eastern line of land belonging to Robert Neeper; thence along the line of said Neepers land south three and a half degrees west one hundred and ten perches more or less to a post corner of land belonging to Peter Best on the line of land belonging to Washington Harris Heirs; thence by land of the said Peter Best south forty one degrees east fifty seven perches to a post; thence by the same south forty four and a half degrees east forty two perches to a post; thence still by the same south three and a quarter degrees west eighty perches to a pitch pine on the line of other lands of the said Robert McNaul; thence along the line of his land south eighty seven and a half degrees east forty six perches more or less to a stone; thence by land of William T. Irvin and others north three and a half degrees east two hundred and seventy six perches to a post; thence by land of the said Thos. H. Norris north eighty seven and a half degrees west one hundred and twenty perches to the chestnut and the place of beginning. Containing one hundred and fifty (150) acres more or less.

BEING the same premises which Jesse Way and Etta Way, his wife, granted and conveyed to Robert W. McNaul by deed dated June 4, 1887 and recorded in Clearfield County Deed Book 46, Page 115 and being the same premises which by various and sundry estates has vested in the Grantors herein.

CURWENSVILLE AREA SCHOOL DISTRICT  
1% REALTY IN PROP. TAX  
AMOUNT \$ 1960.00  
PAID 6-3-78 KAREN L. STAKER  
Dana Ayers

## NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", 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. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

*Ronald E. Lyle*  
RONALD E. LYKENS  
*W. M. Nixon*

This \_\_\_\_\_ day of \_\_\_\_\_

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 STRUCTURE 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.)

AND the said Grantor, individually and as Attorney-in-Fact as aforesaid, will SPECIALLY WARRANT AND FOREVER DEFEND the property hereby conveyed.

IN WITNESS WHEREOF, said Grantor, individually and as Attorney-in-Fact, has hereunto set her hand and seal, the day and year first above written.

Sealed and delivered in the presence of:

*Ronald Lyle*

Eleanor Nixon  
Eleanor Nixon, individually

*Ronald Lyle*

Eleanor Nixon  
Eleanor Nixon, as Attorney-in-Fact

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the Grantee  
herein is as follows: Ronald E. Lykens, of R. d. #1 Box 345, Clearfield,  
Pa. 16830 and Martin K. Collins, of 107 Bigler Road, Clearfield, Pa. 16830

Attorney or Agent for Grantee

STATE OF CALIFORNIA

COUNTY OF

SS:

On this, the      day of      , 1997, before me,  
the undersigned officer, personally appeared ELEANOR NIXON,  
individually and as Attorney-in-Fact, known to me (or  
satisfactorily proven) to be the person whose name is subscribed  
to the within instrument, and acknowledged that she executed the  
same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.  
My Commission Expires:

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



*Karen L. Starck*  
Karen L. Starck  
Recorder of Deeds

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

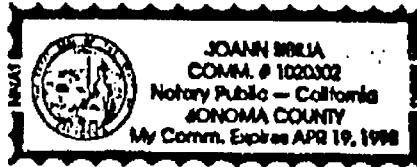
State of **\*\*\*\*\*CALIFORNIA\*\*\*\*\***County of **\*\*\*\*\*SONOMA\*\*\*\*\***On December 3, 1997 before me, **\*\*\*\*\*JOANN SIBILIA, NOTARY PUBLIC\*\*\*\*\***

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared **\*\*\*\*\*ELEANOR NIXON\*\*\*\*\***

Name(s) of Signer(s)

personally known to me - OR  proved to me on the basis of satisfactory evidence to be the **person(s)**, whose name(s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized **capacity(ies)**, and that by his/her/their **signature(s)** on the instrument the **person(s)**, or the entity upon behalf of which the **person(s)** acted, executed the instrument.



WITNESS my hand and official seal.

Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**Title or Type of Document: THIS DEEDDocument Date: December 3, 1997 Number of Pages: fourSigner(s) Other Than Named Above: N/A**Capacity(ies) Claimed by Signer(s)**Signer's Name: Eleanor Nixon Individual Corporate Officer

Title(s): \_\_\_\_\_

 Partner —  Limited  General Attorney-In-Fact Trustee Guardian or Conservator Other: \_\_\_\_\_

RIGHT THUMPRINT  
OF SIGNER  
Top of thumb here

Signer is Representing:

Herself

Signer's Name: \_\_\_\_\_

 Individual Corporate Officer

Title(s): \_\_\_\_\_

 Partner —  Limited  General Attorney-In-Fact Trustee Guardian or Conservator Other: \_\_\_\_\_

RIGHT THUMPRINT  
OF SIGNER  
Top of thumb here

Signer is Representing:

Entered of Record 6-3 1998 ; 3:58p, Karen L. Starck, Recorder

JAMES A. NADDEO  
LINDA C. LEWIS  
Trudy G. Lumadue

NADDEO & LEWIS, LLC  
ATTORNEYS AT LAW  
207 EAST MARKET STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

(814) 765-1601  
FAX: (814) 765-8142  
naddeolaw@atlanticbbn.net

April 10, 2008

Ms. Eleanor Nixon  
2759 Bennett Ridge Road  
Santa Rosa, CA 95404

RE: Real Estate Transfer  
McNaul Heirs, et al to Gilliland

Dear Ms. Nixon:

Our office represents James H. Gilliland who is the owner of real estate located in Pike Township, Clearfield County, Pennsylvania. I have been informed by Mr. Gilliland that he paid you for the interest that the McNaul Heirs own in the oil, gas, coal and other minerals underlying his property.

Enclosed is deed which I have prepared for your signature. Please sign where noted individually and as attorney-in-fact for the McNaul heirs. Your signature must be notarized. Once the deed is signed and properly acknowledged, it should be returned to my office for recording.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Linda C. Lewis

Enclosure

Cc: James H. Gilliland

Ex 35

D E E D

THIS INDENTURE made the \_\_\_\_\_ day of \_\_\_\_\_, 2008

BETWEEN ELEANOR M. NIXON, an individual, of 2759 Bennett Ridge Road, Santa Rosa, California, and ELEANOR M. NIXON, as attorney-in-fact for the following individuals: LEON C. CARBERRY, of Kent, England and HANNAH R. SLOCUM of Mountain View, CA; COUNTY NATIONAL BANK, TRUSTEE FOR DAVID & JARED McNAUL, Clearfield, Pennsylvania; SELMA A. JOHNSON, of 12639 Caminito Hercuba, San Diego, CA; ANNA M. MARTINEZ, of 1498 Marin Avenue, Albany, CA; SALLY M. GOSS, OF 1630 Scenic Mountain Ct., Kingwood, TX; MARTHA L. McNAUL, RICHARD GATTUSO, OF 202 Spring Garden Road, Ancora, NJ; VIRGINIA McNAUL, of State College, PA; DAVID W. McNAUL; PATRICIA M. BENDER, of State College, PA; GEORGE E. BENDER, of State College, PA; MICHAEL D. McNAUL; ALLAN A. McNAUL, OF Cincinnati, OH; ANN ARGO; RALPH R. MONACO, of Tuayhanna, PA; ARDATH MORGAN, OF 408 w Lloyd Street, Ebensburg, PA; SONYA LEA McNAUL, a/k/a SONYA LEA HART, of Sacramento, CA; WILLIAM D. McNAUL; FRANCES A. GATTUSO, of 1302 Gibson Road, Bensalem, PA; JOHN M. DERR, of Cape Canaveral, FL; ROBERT A. DERR, Duncansville, PA; JENINE McNAUL CAMPBELL, of Brookhaven, PA; RICHARD PELUSE, of 3656 Westwood Boulevard No. 114, Los Angeles, CA; KATHRYN COLLORD, of 124 William Street, Portland, Maine; BARBARA J. McNAUL, of Green Valley, AZ; MARTHA JANE SPINELLI; MICHAEL R. McNAUL, of Sawattica, PA; ROBERT G. McNAUL, of Amarillo, TX; Parties of the First Part, hereinafter referred to as "GRANTORS",

AND

JAMES H. GILLILAND, an individual, of 552 Buell Road, Curwensville, Pennsylvania, party of the Second Part, hereinafter referred to as "GRANTEE",

WITNESSETH, that the said parties of the first part, in consideration of the sum of Five Hundred (\$500.00) DOLLARS to them now paid by the party of the second part, do grant, bargain, sell and convey unto the party of the second part, his heirs, executors and assigns,

ALL of the Grantors' interest in and to the oil, gas, coal and other minerals underlying that certain piece or parcel of land situated in Pike Township, Clearfield County, Pennsylvania, bounded and described as follows:

THE FIRST THEREOF: BEGINNING at a post; thence extending South eighty-five (85) degrees East one hundred forty-seven (147) perches to a post; thence South one and one-half (1-1/2) degrees West one hundred sixty-two (162) perches to a post; thence North eighty-eight and one-half (88-1/2) degrees West one hundred sixteen (116) perches to a chestnut (down); thence North one (1) degree East fifty (50) perches to a post; thence North eighty-five (85) degrees West twenty-four (24) perches to a post; thence North one (1) degree West one hundred eighteen (118) perches to a post and place of beginning. Containing one hundred thirty-one (131) acres and one hundred fifty (150) perches.

THE SECOND THEREOF: BEGINNING at a post; thence South eighty-seven (87) degrees East one hundred forty-seven and one-half (147-1/2) perches to a post; thence by land now or formerly of Urban W. McNaul fifty-eight and eight-tenths (58.8) perches to a stump; thence North eighty-eight (88) degrees West one hundred forty-seven (147) perches to a rock oak; thence by the old line of Tract #5778 fifty-four (54) perches to the place of beginning. Containing forty-eight (48) acres and fifty (50) perches and allowances.

BEING the same premises a three-fourths interest in which was conveyed to R. Wilson McNaul by deed of Mary W. Gordon, et al dated March 20, 1906 and recorded in Clearfield County Deed Book 160, page 265 and being the same premises which by various and sundry estates has vested in the Grantors herein. An Affidavit of the Heirs of Robert Way McNaul is recorded in Clearfield County Deed and Record Book 1394, page 514 and an Affidavit of the Heirs of C. G. McNaul, a/k/a Caleb Gleni McNaul, who was a surviving sibling of R. Wils McNaul, a/k/a Robert W. McNaul is recorded in Clearfield County Deed and Record Book 1927, page 170. Melissa Roos died leaving as her sole heir at law Hannah R. Slocum. Vivian C. Carberry died leaving as her sole heir at law Leon C. Carberry. Cleo S. McNaul died on leaving as her sole heirs Anna M. Tate Martinez, Martha L. McNaul and Sallie M. McNaul Goss. A copy of her estate documents are filed in the Office of the Register and Recorder for Clearfield County to No. 99-400. Charles A. Irvin died testate on January 4, 2005 and Charles R. Irvin was appointed Executor of his Estate.

with the appurtenances: TO HAVE AND TO HOLD the same unto and for the use of the said party of the second part, his heirs, executors and assigns forever, And the said parties of the first part for themselves, their heirs, executors and administrators covenant with the said party of the second part his heirs, executors and assigns against all lawful claimants SPECIALLY WARRANT the same and every part thereof to Warrant and Defend.

NOTICE-THIS DOCUMENT MAY NOT/DOES 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/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 STRUCTURE 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.

WITNESS the hands and seals of the said parties of the first part.

WITNESS:

(SEAL)

Eleanor M. Nixon

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Leon C. Carberry

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Hannah R. Slocum

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for County National  
Bank, Trustee for David &  
Jared McNaul

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Selma Johnson

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Anna M. Martinez

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Sally M. Goss

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Martha L. McNaul

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Richard Gattuso

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Virginia McNaul

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for David W. McNaul

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Patricia M. Bender

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for George E. Bender

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Michael D. McNaul

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Allan A. McNaul

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Ann Argo

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Ralph R. Monaco

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Ardath Morgan

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Sonya Lea McNaul

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for William D. McNaul

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Frances A. Gattuso

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for John M. Derr

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Robert A. Derr

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Jenine McNaul  
Campbell

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Richard Peluse

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Kathryn Collord

(SEAL)

Eleanor M. Nixon, Attorney  
In Fact for Barbara J. McNaul

(SEAL)

STATE OF CALIFORNIA

\*

\* ss.

COUNTY OF \_\_\_\_\_

\*

On this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me, the undersigned officer, personally appeared ELEANOR M. NIXON, and acknowledged herself to be Attorney-In-Fact for LEON C. CARBERRY, COUNTY NATIONAL BANK, TRUSTEE FOR DAVID & JARED McNAUL; SELMA A. JOHNSON; ANNA M. MARTINEZ; SALLY M. GOSS; MARTHA L. McNAUL; RICHARD GATTUSO; HANNAH R. SLOCUM; VIRGINIA McNAUL; DAVID W. McNAUL; PATRICIA M. BENDER; GEORGE BENDER; MICHAEL D. McNAUL; ALLAN A. McNAUL; ANN ARGO; RALPH R. MONACO; ARDATH MORGAN; SONYA LEA McNAUL A/K/A SONYA LEA HART; WILLIAM D. McNAUL; FRANCES A. GATTUSO; JOHN M. DERR; ROBERT A. DERR; JENINE McNAUL CAMPBELL; KATE COLLORD; RICHARD PELUSE; BARBARA J. McNAUL; MARTHA JANE SPINELLI; ROBERT G. McNAUL and MICHAEL R. McNAUL, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

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

ELEANOR NIXON

 **COPY**

2759 Bennett Ridge Rd.  
Santa Rosa, Ca. 95404  
707 573-8641

[bobnixonotos@comcast.net](mailto:bobnixonotos@comcast.net)

May 6,2008

Naddeo & Lewis, LLC  
P.O. Box 552  
Clearfield, Pa. 16830

Dear Ms. Lewis:

This is to inform you that I have NOT received the sum of \$500 from Mr. Gillian.

I am, therefore, returning the deed, unsigned, as it is NOT applicable.

Sincerely,

*Eleanor Nixon*

Eleanor Nixon

Ex. 31

**JOHN SUGHRUE  
Attorney at Law**

Phone (814) 765-1704

23 North Second Street  
Clearfield, PA 16830

Fax (814) 765-6959

May 27, 2008

**VIA US MAIL, FIRST CLASS,  
CERTIFIED, RETURN RECEIPT  
REQUESTED AND REGULAR US MAIL**

Ms. Eleanor M. Nixon  
2759 Bennett Ridge Road  
Santa Rosa, CA 95404

**RE: James Gilliland v. Eleanor M. Nixon, et al.  
Clearfield County Common Pleas Court  
Civil Action No. 2008-00881-CD**

Dear Ms. Nixon,

Please be advised that I have been retained by James H. Gilliland of Clearfield County to represent him in connection with a Sales Agreement that he had with you individually and as agent for your co-owners. To protect and enforce his rights, a lawsuit has been filed in the Court of Common Pleas of Clearfield County, Pennsylvania, at the above referenced number.

For your information and records, I enclose a certified Writ of Summons issued by the Prothonotary/Clerk of Courts of Clearfield County directed to you and all other co-owners/co-defendants in the civil action together with a copy of the Praeclipe for Writ of Summons that was filed on May 12, 2008. Your receipt of these documents constitutes service in this case.

As you can see, the lawsuit involves real property interest located Pike Township, Clearfield County, Pennsylvania. Specifically, it involves the oil, gas, coal and other minerals in the two tracts described. My client owns the surface of said tracts.

According to my client, you agreed, on behalf of yourself and as agent for co-owners, to sell said property interests to Mr. Gilliland. As part of that agreement, he agreed to pay the real estate taxes due on your property interest and did pay them. As you know, he thereafter contacted you with the deed for signatures and was prepared, ready and able to close the transaction for the agreed upon compensation. You and your co-owners have refused to complete the transaction. Thus, this lawsuit was filed to seek specific performance of your obligation to sell.

Leonor M. Nixon  
Page 2  
5/27/08

I also enclose herewith your check dated April 8, 2008 payable to Mr. Gilliland in the amount of \$631.12 whereby you attempted to reimburse him for his September 11, 2007 expenditure. The check is being returned because it is not due Mr. Gilliland. He did not pay the taxes on your behalf but as part of his payment obligation under your agreement.

I suggest you review this matter with the attorney of your choice or, in the alternative, if you are prepared to complete your transaction with Mr. Gilliland, please don't hesitate to have you or your attorney contact me. Mr. Gilliland regrets that this action was necessary but under the circumstances he had no other choice.

Very truly yours,

John Sughrue

JS/aw  
Enclosures  
cc: Mr. James H. Gilliland

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

For delivery information visit our website at [www.usps.com](http://www.usps.com).

5000A 2510 0007 6101 9175

**OFFICIAL USE**

Postage	\$ 0.59
Certified Fee	\$ 2.70
Return Receipt Fee (Endorsement Required)	\$ 2.20
Restricted Delivery Fee (Endorsement Required)	\$ 1.30
Total Postage & Fees	\$ 7.79

S-100  
09  
CLEAR FILED PA 16830  
03/27/2008

**Sent To**  
**MS. Eleanor M. Nixon**  
 Street, Apt. No.;  
 or PO Box No. **2759 Bennett Ridge Road**  
 City, State, ZIP+4 **Santa Rosa, CA 95404**

PS Form 3800, June 2002      See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MS. Eleanor M. Nixon  
 2759 Bennett Ridge Road  
 Santa Rosa, CA 95404

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
 X *Eleanor Nixon*

B. Received by (Printed Name)  C. Date of Delivery  
*Eleanor Nixon* **6-10-08**

D. Is delivery address different from item 1?  Yes  
 If YES,  No

**RESTRICTED  
DELIVERY**

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**7004 2510 0007 6101 9175**

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Robert E. Nixon  
Eleanor M. Nixon  
2759 Bennett Ridge Rd.  
Santa Rosa, CA 95404

280

11-4288/1210 405t

4. 6. 08

Date. 6013144282

Pay to the  
Order of J. S. Silliman

\$ 631.12

Dollars



Security  
Features  
Details on  
Back.

WELLS  
FARGO

Wells Fargo Bank, N.A.  
California  
wellsfargo.com

For tax re-imbursement Eleanor M. Nixon  
11-210428821 60131442821 0280

Printed on M.A. Computer

Ex. 39

**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on October 14, 2008, I caused a true and correct copy of the COMPLAINT to be served on the following and in the manner indicated below:

**By United States Mail, First Class, Postage Prepaid**  
**Addressed as Follows:**

Laurance B. Seaman, Esquire  
Gates & Seaman  
2 North Front Street  
P.O. Box 846  
Clearfield, PA 16830

Date: October 14, 2008



John Sughrue, Esquire  
Attorney for James H. Gilliland, Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, Plaintiff :  
vs. :  
Eleanor M. Nixon, individually and as Agent for all Co-Defendants and Leon C. Carberry, Hannah R. Slocum, County National Bank, Trustee for David and Jared McNaul, Selma A. Johnson, Anna M. Martinez, Sally M. Goss, Martha L. McNaul, Richard Gattuso, Virginia McNaul, David W. McNaul, Patricia M. Bender, George E. Bender, Michael D. McNaul, Allan A. McNaul, Ann Argo, Ralph Monaco, Ardath Morgan, Sonya Lea McNaul, a/k/a Sonya Lea Hart, William D. McNaul, Frances A. Gattuso, John M. Derr, Robert A. Derr, Jenine McNaul Campbell, Richard Peluse, Kathryn Collord, Barbara J. McNaul, Martha Jane Spinelli, Michael R. McNaul, Robert G. McNaul, Defendants :  
: Type of Case: Civil  
: Type of Pleading: ANSWER TO COMPLAINT AND NEW MATTER  
: Filed on behalf of:  
: Defendant ELEANOR M. NIXON, individually  
: Counsel of Record for this Party:  
: Laurance B. Seaman, Esquire  
: Supreme Court No.: 19620  
: GATES & SEAMAN  
: Attorneys at law  
: Two North Front Street  
: P. O. Box 846  
: Clearfield, PA 16830  
: (814) 765-1766

FILED  
O 3:30 P.M. GL  
NOV 14 2008 NO CC  
S William A. Shaw (60)  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, Plaintiff :  
vs. : No. 2008-881-CD  
Eleanor M. Nixon, individually and as Agent :  
for all Co-Defendants and Leon C. Carberry, :  
Hannah R. Slocum, County National Bank, :  
Trustee for David and Jared McNaul, Selma A. :  
Johnson, Anna M. Martinez, Sally M. Goss, :  
Martha L. McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. Bender, :  
George E. Bender, Michael D. McNaul, Allan A. :  
McNaul, Ann Argo, Ralph Monaco, Ardash :  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea :  
Hart, William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine McNaul :  
Campbell, Richard Peluse, Kathryn Collord, :  
Barbara J. McNaul, Martha Jane Spinelli, :  
Michael R. McNaul and Robert G. McNaul, :  
Defendants :  
:

**NOTICE**

TO: JAMES H. GILLILAND  
c/o John Sughrue, Esquire  
225 East Market Street  
Clearfield, PA 16830

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE ENCLOSED NEW  
MATTER WITHIN TWENTY (20) DAYS FROM SERVICE HEREOF OR A JUDGMENT MAY  
BE ENTERED AGAINST YOU.

GATES & SEAMAN  
By:



Laurance B. Seaman, Esquire,  
Attorney for Defendant, Eleanor M. Nixon

Date: November 14, 2008

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, Plaintiff :  
vs. : No. 2008-881-CD  
Eleanor M. Nixon, individually and as Agent :  
for all Co-Defendants and Leon C. Carberry, :  
Hannah R. Slocum, County National Bank, :  
Trustee for David and Jared McNaul, Selma A. :  
Johnson, Anna M. Martinez, Sally M. Goss, :  
Martha L. McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. Bender, :  
George E. Bender, Michael D. McNaul, Allan A. :  
McNaul, Ann Argo, Ralph Monaco, Ardash :  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea :  
Hart, William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine McNaul :  
Campbell, Richard Peluse, Kathryn Collord, :  
Barbara J. McNaul, Martha Jane Spinelli, :  
Michael R. McNaul and Robert G. McNaul, :  
Defendants :  
:

ANSWER TO COMPLAINT

AND NOW, Defendant, Eleanor M. Nixon, individually (hereafter "Defendant Nixon") by and through her attorneys, Gates & Seaman, answers Plaintiff's Complaint as follows:

1. Denied. After reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments in Paragraph 1 and, if relevant, strict proof thereof is demanded at time of trial.
2. Paragraph 2 is admitted in part and denied in part. It is admitted that Defendant Nixon, is an adult individual who resides at 2759 Bennett Ridge Road,

Santa Rosa, California, 95404. It is denied Defendant Nixon was an agent for all Co-Defendants relative to the alleged interests in the two (2) parcels of real estate referred to by Plaintiff as the McNaul Premises. In further answer thereto, Paragraph 6 hereof is incorporated herein by reference.

3. Admitted.

4. Denied. After reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments in Paragraph 4 and, if relevant, strict proof thereof is demanded at time of trial.

5. The ownership allegations at the beginning of Paragraph 5 of the Complaint are denied as stated. In answer thereto, it is averred that, while the Defendants may have some undivided fractional ownership interests in the oil, gas, coal and other minerals in, under and upon the described parcels, they are not the only owners of said oil, gas, coal and other minerals therein, and they may not be the owners of the attendant rights as alleged therein. The allegation that the surface of the two described parcels is presently assessed on the tax map records of Clearfield County as 126-H8-7 and 126-G9-5 is denied. In answer thereto, it is averred that said assessment map numbers do not include all of the surface above the two described parcels. The allegations in the "BEING" paragraph of Paragraph 5 of the Complaint are denied. In answer thereto, it is averred that Deed Book 160, Page 265 conveys an undivided three-fourths interest in 1,020 acres in Bloom Township, Clearfield County, Pennsylvania. In further answer thereto, it is averred

that title to the two described parcels did not become vested in the Defendants as alleged. In further answer thereto, the averments at the beginning of this Paragraph are incorporated herein by reference.

6. Denied as stated. In answer thereto, it is averred that Defendant Nixon never represented to Plaintiff that she was a duly authorized agent for any or all Co-Defendants as alleged relative to the McNaul Premises. In further answer thereto, it is averred that Defendant Nixon is only authorized as an agent and only has the authority to transact such particular business on behalf of any of the Co-Defendants as may be provided for in those Powers of Attorney which are attached to the Complaint as Exhibits 1 through 29, the specific terms of which speak for themselves. The allegations of what Plaintiff believes are denied since after reasonable investigation Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the same, and, if relevant, strict proof thereof is demanded at time of trial. In further answer thereto, it is averred that Defendant Nixon only acted individually and was not acting as Attorney-in-Fact or Agent for any of the Co-Defendants as alleged relative to the McNaul Premises.

7. Denied. After reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments in Paragraph 7 and, if relevant, strict proof thereof is demanded at time of trial. If it is determined that an answer is required, Paragraph 5 hereof is incorporated herein by reference.

8. Denied. After reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments in Paragraph 8 and, if relevant, strict proof thereof is demanded at time of trial.

9. Denied. After reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments in Paragraph 9 and, if relevant, strict proof thereof is demanded at time of trial.

10. Admitted as to the 2005 and 2006 real estate taxes, if "timely manner" means prior to being returned to the Tax Claim Bureau. Denied as stated, as to the 2007 taxes, unless "timely manner" means prior to incurring a penalty thereon.

11. Denied. After reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments in Paragraph 11 and, if relevant, strict proof thereof is demanded at time of trial. In further answer thereto, Paragraph 10 hereof is incorporated herein by reference.

12. Denied. After reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments in Paragraph 12 and, if relevant, strict proof thereof is demanded at time of trial.

13. Denied. After reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the

averments in Paragraph 13 and, if relevant, strict proof thereof is demanded at time of trial.

14. Denied. After reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments in Paragraph 14 and, if relevant, strict proof thereof is demanded at time of trial.

15. Admitted in part and denied in part. It is admitted Plaintiff contacted Defendant Nixon by telephone on or about September 11, 2007. The remaining allegations of Paragraph 15 are denied. After reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the balance of the averments in Paragraph 15 and, if relevant, strict proof thereof is demanded at time of trial. In further answer thereto, Paragraph 6 hereof is incorporated herein by reference.

16. Admitted in part. It is admitted Plaintiff contacted Defendant Nixon by telephone on two (2) occasions, the first on or about September 11, 2007, and the last on or about April 1, 2008. The remaining averments of Paragraph 16 are denied. In answer thereto, it is averred that although Plaintiff did inform Defendant Nixon during their first conversation that there were delinquent taxes, Defendant Nixon did not tell nor make any representation to Plaintiff that she or any one else had determined to permit the McNaul Premises to be sold at tax sale, nor that they considered the McNaul Premises valueless and no longer desired to pay the taxes thereon. In further answer thereto, it is averred that Defendant Nixon intended to

maintain ownership of the McNaul Premises.

17. Denied. In answer thereto, it is averred that Defendant Nixon and Plaintiff had no discussion concerning whether or not Defendant Nixon had any authority to act on behalf of other owners of undivided fractional interests in the McNaul Premises. In further answer thereto, Paragraph 6 hereof is incorporated herein by reference.

18. Denied as stated. In answer thereto, it is averred that while Plaintiff, during his first telephone conversation with Defendant Nixon, expressed his interest in purchasing the McNaul Premises, there was no offer actually made and no discussion at all regarding a specific purchase price, any other terms of sale, nor the time for completing a purchase.

19. Denied. At no time during any telephone conversation between Plaintiff and Defendant Nixon, did Plaintiff offer any specific consideration to purchase the McNaul Premises, nor was there any discussion whatsoever that Plaintiff would be responsible for payment of any outstanding real estate taxes owed on the McNaul Premises. In further answer thereto, Paragraphs 6, 16, 17 and 18 hereof are incorporated herein by reference.

20. Denied. In answer thereto, Paragraph 19 hereof is incorporated herein by reference. In further answer thereto, it is averred that, since no such offer was made, Defendant Nixon could not have accepted the same. In further answer thereto, it is averred that Plaintiff never indicated to Defendant Nixon that he would cause a deed to be prepared and forwarded to her.

21. Denied. In answer thereto, it is averred that there was no agreement between Plaintiff and Defendant Nixon, and Paragraph 20 hereof is incorporated herein by reference. In further answer thereto, it is averred that Plaintiff's payment of the delinquent taxes due on the McNaul Premises was voluntarily made by him, and Defendant Nixon never requested, directed or agreed with him to pay said taxes. In further answer thereto, it is averred that Defendant Nixon did not become aware that Plaintiff had paid any delinquent real estate taxes on the McNaul Premises until he informed her he had done so during their second and last telephone conversation of on or about April 1, 2008.

22. Denied. After reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments in Paragraph 22 and, if relevant, strict proof thereof is demanded at time of trial.

23. Admitted that Defendant Nixon executed and delivered a deed, dated December 3, 1997 and recorded in Clearfield County in Deeds and Records Book 1938, Page 233, which was for the sale of approximately 150 acres in Pike Township, Clearfield County, Pennsylvania, in accordance with a written Agreement of Sale that she had negotiated and entered into. The remaining averments of Paragraph 23 are denied. In answer thereto, it is averred that while Defendant Nixon had authority to enter into said deed for the sale of said approximate 150 acre parcel, said authority was granted her by Powers of Attorney recorded prior thereto. In further answer thereto, Paragraphs 20 and 21 hereof are incorporated herein by

reference.

24. Denied. In answer thereto, it is averred that Plaintiff and Defendant Nixon never reached any agreement relative to the McNaul Premises, nor as to whether Plaintiff would pay any real estate taxes on the McNaul Premises, nor whether Defendant Nixon had any ability or authority to be able to sell the McNaul Premises. In further answer thereto, it is averred that Plaintiff never offered to pay \$500.00 to Defendant Nixon, before or after his attorney's receipt of any executed deed. In further answer thereto, Paragraph 23 hereof is incorporated herein by reference.

25. Denied. In answer thereto, it is averred that there was never any Agreement reached between Plaintiff and Defendant Nixon. Whether or not Plaintiff paid the taxes as alleged, is denied, since after reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments in Paragraph 25 and, if relevant, strict proof thereof is demanded at time of trial. In further answer thereto, it is averred that Defendant Nixon first became aware that Plaintiff claimed to have paid said taxes when he represented that to her during their last telephone conversation on or about April 1, 2008, which lead Defendant Nixon to tender a check to Plaintiff for the amount of the taxes Plaintiff claimed to have paid. In further answer thereto, Paragraph 24 hereof is incorporated herein by reference.

26. Admitted that Linda C. Lewis, Esquire, of the Law Offices of Naddeo & Lewis, LLC, wrote to Defendant Nixon by letter dated April 10, 2008 and enclosed a

deed therewith. It is denied that this was done in accordance with any Agreement and that it was prepared at Plaintiff's expense. In answer thereto, Paragraph 25 hereof is incorporated herein by reference.

27. It is admitted that Defendant Nixon refused to execute and return the deed. The remaining averments of Paragraph 27 are denied. In answer thereto, it is averred that there was no Agreement between Defendant Nixon and Plaintiff. In further answer thereto, it is averred that Defendant Nixon never had obligations to do anything, and there was no performance undertaken by Plaintiff, as there was no Agreement. In further answer thereto, Paragraph 26 hereof is incorporated herein by reference.

28. It is admitted that Defendant Nixon, by letter dated May 6, 2008, returned the deed unsigned because there was never any Agreement between her and Plaintiff relative to the McNaul Premises. The remaining averments of Paragraph 28 are denied. In answer thereto, it is averred that there was never any Agreement between Plaintiff and Defendant Nixon relative to the McNaul Premises. In further answer thereto, Paragraph 27 hereof is incorporated herein by reference. In further answer thereto, Paragraphs 40 through 61 of Defendant Nixon's New Matter as hereinafter set forth are incorporated herein by reference.

29. It is admitted that Defendant Nixon, by her check dated April 8, 2008 (not April 28, 2008 as alleged - See Exhibit 39 to the Complaint) in the amount of \$631.12, attempted to reimburse Plaintiff for his payment of real estate taxes on the McNaul Premises. It is admitted that said check was returned to Defendant

Nixon by Attorney Sughrue. It is denied that Plaintiff did anything in the performance of any obligation since there was never any Agreement between Plaintiff and Defendant Nixon. The remaining averments of Paragraph 29 are denied. In answer thereto, it is averred that there was never any Agreement between Plaintiff and Defendant Nixon relative to the McNaul Premises. In further answer thereto, it is averred that the contents of said letter from Attorney Sughrue are erroneous since no Agreement, written or oral, had ever been entered into between Defendant Nixon and Plaintiff. In further answer thereto, Paragraph 28 hereof is incorporated herein by reference.

30. Admitted.

31. Denied. In answer thereto, it is averred that there was never any Agreement between Plaintiff and Defendant Nixon relative to the McNaul Premises, and therefore Defendant Nixon could not have breached the same. The remaining averments of Paragraph 31 are denied since, after reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments in Paragraph 31 and, if relevant, strict proof thereof is demanded at time of trial. In further answer thereto, Paragraph 29 hereof is incorporated herein by reference.

32. Denied. In answer thereto, since there was no Agreement between Defendant Nixon and Plaintiff, her refusing to execute said deed could not have constituted any breach. In further answer thereto, Paragraph 31 hereof is incorporated herein by reference.

33. Denied. In answer thereto, it is averred that there was never any Agreement between Defendant Nixon and Plaintiff relative to the McNaul Premises. In further answer thereto, Paragraph 32 hereof is incorporated herein by reference. The remaining averments of Paragraph 33 as to any damages allegedly suffered by Plaintiff are denied since, after reasonable investigation, Defendant Nixon is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments of Paragraph 33, and if relevant, strict proof thereof is demanded at time of trial.

34. Denied. After reasonable investigation, the Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the averments in Paragraph 34, and, if relevant, strict proof thereof is demanded at time of trial.

35. Paragraph 35 sets forth a legal conclusion to which no response is required and since it is denied that Plaintiff sustained any damages. If it is determined that an answer is required, the averments of Paragraph 35 are denied. In answer thereto, Paragraph 33 hereof is incorporated herein by reference.

36. Denied. In answer thereto, it is averred that Plaintiff and Defendant Nixon never entered into any Agreement, written or oral, relative to the McNaul Premises. In further answer thereto, Paragraph 35 hereof is incorporated herein by reference.

37. Paragraph 37 sets forth legal conclusions to which no responsive pleading is required. If it is determined that an answer is required, the averments of

Paragraph 37 are denied. In answer thereto, it is averred that Defendant Nixon and Plaintiff never entered into any Agreement relative to the McNaul Premises. In further answer thereto, Paragraph 33 hereof is incorporated herein by reference.

38. Paragraph 38 sets forth legal conclusions to which no response is required. If it is determined that an answer is required, the averments of Paragraph 38 are denied. In answer thereto, it is averred that Plaintiff and Defendant Nixon never entered into any Agreement, oral or written, relative to the McNaul Premises. In further answer thereto, it is averred that Plaintiff failed to satisfy the requirements of the Pennsylvania Statute of Frauds (33. P. S. § 1) for the reasons set forth in Defendant Nixon's New Matter as hereinafter set forth, which New Matter is incorporated herein by reference. In further answer thereto, it is averred that Plaintiff has not pled nor is he able to prove he has partially performed an agreement since no such agreement existed. In further answer thereto, Paragraph 33 hereof is incorporated herein by reference.

39. Denied. In answer thereto, it is averred that Defendant Nixon's authority to act on behalf of any other co-owners of the McNaul Premises is only as set forth in any recorded Powers of Attorney. In further answer thereto, it is averred that Defendant Nixon never made any representation to Plaintiff that she had any authority for any other co-owners relative to the McNaul Premises. In further answer thereto, Paragraph 33 hereof is incorporated herein by reference. The remaining averments of Paragraph 39 set forth legal conclusions to which no response is required.

WHEREFORE, Defendant, Eleanor M. Nixon, requests your Honorable Court enter Judgment in her favor and against Plaintiff, with Plaintiff to be assessed for court costs and Defendant's costs, attorney's fees and expenses.

**NEW MATTER**

AND NOW comes, Defendant, Eleanor M. Nixon, individually, by her attorneys, Gates & Seaman, and avers that she has a full, just and complete affirmative defense against Plaintiff's claims set forth in his Complaint, and asserts the following:

**COUNT ONE**

40. Paragraphs 1 through 39 of Defendant Nixon's Answer are incorporated herein by reference.

41. On or about September 11, 2007, Defendant Nixon received a telephone call at her home from Plaintiff who indicated that he was interested in acquiring the mineral rights underlying the real estate he owned in Pike Township, Clearfield County, Pennsylvania.

42. During that telephone conversation, Plaintiff advised Defendant Nixon that there were delinquent real estate taxes owed on said mineral rights.

43. At no time during that telephone conversation did Defendant Nixon agree to sell said mineral rights to Plaintiff, nor did she state she had authority to do so on behalf of any other owners.

44. At no time during that telephone conversation did Plaintiff offer to pay Defendant Nixon any sum of money to purchase said mineral rights, nor did Plaintiff

inform Defendant Nixon the amount of the delinquent taxes.

45. During that telephone conversation, Plaintiff indicated to Defendant Nixon he was going to the Clearfield County Tax Claim Bureau to pay his own delinquent real estate taxes, but he did not say he would pay the delinquent real estate taxes on said mineral rights, nor did Defendant Nixon request, direct or agree with him to do so.

46. At no time during that telephone conversation was any agreement reached by Plaintiff and Defendant Nixon, nor was there a "meeting of the minds" as to whether Defendant Nixon was willing to sell said mineral rights to Plaintiff.

47. At no time during that telephone conversation did Plaintiff inform Defendant Nixon he would cause a deed to be prepared and forwarded to her for execution.

48. The telephone conversation on or about September 11, 2007 between Plaintiff and Defendant Nixon produced no oral or written agreement which evidenced any meeting of the minds between Plaintiff and Defendant Nixon that Defendant Nixon agreed to sell Plaintiff said mineral rights, nor was a definitive purchase price or any other consideration to be performed or undertaken by Plaintiff agreed to.

49. From on or about September 11, 2007 to on or about April 1, 2008, more than 6 1/2 months, Plaintiff made no contact whatsoever with Defendant Nixon by any medium.

50. On or about April 1, 2008, Defendant Nixon received a second telephone

call from Plaintiff wherein he informed her that he had paid the delinquent real estate taxes on said mineral rights and that he was now ready to purchase said mineral rights, at which time, Defendant Nixon expressed surprise that he had paid those taxes and she told Plaintiff she was not interested in selling said mineral rights.

51. At no time during that second telephone conversation did Defendant Nixon agree to sell said mineral rights to the Plaintiff, nor was any monetary offer made by Plaintiff to Defendant Nixon for said mineral rights.

52. During that second telephone conversation, after Defendant Nixon asked Plaintiff how much he had paid on said taxes and said she would reimburse him, Plaintiff informed her that he had paid the sum of \$631.12.

53. A few days later, Defendant Nixon made a check payable to Plaintiff in the sum of \$631.12, which she mailed to him by regular mail and which check was not negotiated, but was returned to her by his attorney, John Sughrue, Esquire, under cover of letter dated May 27, 2008. A copy of said letter and check appear as Exhibits 38 and 39, respectively, to Plaintiff's Complaint.

54. At no time during that second telephone conversation did Plaintiff inform Defendant Nixon he was having a deed prepared at his expense and that it would be sent to her for her execution, nor did he offer to pay her any monetary consideration for said mineral rights.

55. At no time did Plaintiff pay Defendant Nixon any monetary consideration, nor was any monetary consideration tendered by Plaintiff to Defendant Nixon.

56. The agreement sought to be established by Plaintiff in his Complaint has to do with the sale and purchase of real estate interests situate in the Commonwealth of Pennsylvania, and is therefore subject to the requirements of the Pennsylvania Statute of Frauds appearing at 33 P.S. § 1.

57. No written agreement for the purchase by Plaintiff of said mineral rights exists between Plaintiff and Defendant Nixon or any of the Co-Defendants.

58. No combination of memoranda exists, which were signed by Defendant Nixon or any of the Co-Defendants, which establishes a meeting of the minds existed between Plaintiff and Defendant Nixon or any of the Co-Defendants for the sale of said mineral rights.

59. No combination of memoranda exists, which were signed by Defendant Nixon or any of the Co-Defendants, which reveals an agreement on any specific monetary consideration or other consideration or undertaking to be performed by Plaintiff.

60. No combination of memoranda exists, which were signed by Defendant Nixon or any of the Co-Defendants, which establishes any time for settlement of the purported agreement.

61. No valid and enforceable written agreement, signed by Defendant Nixon or any of the Co-Defendants, exists under the Pennsylvania Statute of Frauds (33 P.S. § 1), relative to said mineral rights.

WHEREFORE, Defendant, Eleanor M. Nixon, requests that Plaintiff's Complaint be dismissed, with prejudice, and judgment entered in her favor against Plaintiff,

with Plaintiff to be assessed for court costs and Defendant's costs, attorney's fees and expenses.

**COUNT TWO**

Alternatively, Defendant Nixon sets forth the following affirmative defense and in support thereof asserts the following:

62. Paragraphs 1 through 39 of Defendant Nixon's Answer and Paragraphs 41 through 61 of Count One of her New Matter are incorporated herein by reference.

63. At no time between on or about September 11, 2008 to the present has Plaintiff been in or attempted to take possession of the said mineral rights.

64. The mere fact Plaintiff alleges he owns the surface estate, underlain by the said mineral rights, does not amount to possession so as to warrant a remedy of specific performance.

65. At no time relevant to these proceedings has Plaintiff made any improvements to the said mineral interests.

66. Payment of delinquent real estate taxes, as alleged by Plaintiff in his Complaint, does not constitute "part performance" of an alleged agreement, the existence of which is specifically denied, sufficient to remove said parol agreement, the existence of which is specifically denied, from the operation of the Statute of Frauds (33 P. S. § 1).

67. Any loss incurred by Plaintiff, in furtherance of said alleged parol agreement, the existence of which is specifically denied, or an exception to the Pennsylvania Statute of Frauds, is capable of being remedied by an award of

monetary damages.

68. Should it be established that Plaintiff and Defendant Nixon entered into a valid and enforceable oral contract for the sale of said mineral interests, the existence of which is specifically denied, equitable considerations and Pennsylvania Appellate Case Law hold that "specific performance" is not the appropriate remedy, but that Plaintiff's remedy is limited to monetary damages consisting of consideration actually paid by Plaintiff and any actual expense incurred by the injured party in reliance on the contract.

WHEREFORE, alternatively, Defendant, Eleanor M. Nixon, requests that Plaintiff's prayer for specific performance be denied, with prejudice, and, if the Court should determine that a valid parol agreement existed between Plaintiff and Defendant Nixon, the existence of which is specifically denied, that Plaintiff's damages be limited to the money actually paid the Tax Claim Bureau by Plaintiff on delinquent taxes, \$631.12, and the cost of having the proposed deed (Exhibit 36 to the Complaint) prepared.

Respectfully submitted:

GATES & SEAMAN

By:



Laurance B. Seaman, Esquire  
Attorney for Defendant,  
Eleanor M. Nixon, individually

Date: November 14, 2008.

**VERIFICATION**

The undersigned verifies that he is counsel for Defendant, Eleanor M. Nixon, that the Defendant, Eleanor M. Nixon, is outside the jurisdiction of the Court and her verification cannot be obtained within the time allowed for filing the within pleading, that the statements made in the foregoing document are true and correct to the best of his own knowledge, information and belief, and that Defendant, Eleanor M. Nixon, is the source of some of the undersigned's information. The undersigned understands that false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.



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Laurance B. Seaman, Esquire  
Attorney for Defendant, Eleanor M. Nixon

Date: November 14, 2008

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

James H. Gilliland, individually, Plaintiff :  
vs. : No. 2008-881-CD  
Eleanor M. Nixon, individually and as Agent :  
for all Co-Defendants and Leon C. Carberry, :  
Hannah R. Slocum, County National Bank, :  
Trustee for David and Jared McNaul, Selma A. :  
Johnson, Anna M. Martinez, Sally M. Goss, :  
Martha L. McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. Bender, :  
George E. Bender, Michael D. McNaul, Allan A. :  
McNaul, Ann Argo, Ralph Monaco, Ardash :  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea :  
Hart, William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine McNaul :  
Campbell, Richard Peluse, Kathryn Collord, :  
Barbara J. McNaul, Martha Jane Spinelli, :  
Michael R. McNaul and Robert G. McNaul, :  
Defendants :  
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of ANSWER TO COMPLAINT AND  
NEW MATTER was forwarded by U. S. Mail, postage prepaid, on the 14<sup>th</sup> day of  
November, 2008, to:

John Sughrue, Esquire  
225 E. Market Street  
Clearfield, PA 16830

GATES & SEAMAN

By: 

Laurance B. Seaman, Esq.  
Attorney for Defendant,  
Eleanor M. Nixon, Individually

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

Service # 1 of 29 Services

Sheriff Docket # **104851**

JAMES H. GILLILAND, ind

Case # 08-881-CD

vs.

ELEANOR M. NIXON ind. et al

**TYPE OF SERVICE SUMMONS**

**SHERIFF RETURNS**

NOW November 17, 2008 RETURNED THE WITHIN SUMMONS "NOT SERVED, TIME EXPIRED" AS TO , DEFENDANT.

SERVED BY: /

**Return Costs**

PURPOSE	VENDOR	CHECK #	AMOUNT
	NO COSTS		

FILED  
02:30 PM  
NOV 18 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

Sworn to Before me This

\_\_\_\_ Day of \_\_\_\_\_ 2008

So Answers,

*Chester A. Hawkins  
by Marlyn Harris*  
Chester A. Hawkins  
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

James H. Gilliland, individually,  
Plaintiff.

vs.

Eleanor M. Nixon, individually and as Agent for all Co-Defendants and Leon C. Carberry, Hannah R. Slocum, County National Bank, Trustee for David and Jared McNaul, Selma A. Johnson, Anna M. Martinez, Sally M. Goss, Martha L. McNaul, Richard Gattuso, Virginia McNaul, David W. McNaul, Patricia M. Bender, George E. Bender, Michael D. McNaul, Allan A. McNaul, Ann Argo, Ralph R. Monaco, Ardath Morgan, Sonya Lea McNaul a/k/a Sonya Lea Hart, William D. McNaul, Frances A. Gattuso, John M. Derr, Robert A. Derr, Jenine McNaul Campbell, Richard Peluse, Kathryn Collord, Barbara J. McNaul, Martha Jane Spinelli, Michael R. McNaul and Robert G. McNaul, Defendants.

### Defendants.

\*  
\* Filed on Behalf of: Plaintiff

\* **Counsel of Record for this Party:**

- \* John Sughrue, Esquire
- \* Supreme Ct. I.D. 01037
- \* 225 East Market Street
- \* Clearfield, PA 16830
- \* Phone: 814-765-1704
- \* Fax: 814-765-6959

- \* **Other Counsel of Record:**
- \* Laurance B. Seaman, Esquire
- \* Gates & Seaman
- \* 2 North Front Street
- \* P.O. Box 846
- \* Clearfield, PA 16830
- \* Phone: 814-765-1766
- \* Fax: 814-765-1488

FILED  
01/31/2008  
DEC 17 2008  
S  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

James H. Gilliland, individually,	*
Plaintiff,	*
	*
vs.	*
	No. 2008-881-C.D.
	*
Eleanor M. Nixon, individually and as Agent	*
for all Co-Defendants and Leon C. Carberry,	*
Hannah R. Slocum, County National Bank,	*
Trustee for David and Jared McNaul, Selma A.	*
Johnson, Anna M. Martinez, Sally M. Goss,	*
Martha L. McNaul, Richard Gattuso, Virginia	*
McNaul, David W. McNaul, Patricia M. Bender,	*
George E. Bender, Michael D. McNaul, Allan A.	*
McNaul, Ann Argo, Ralph R. Monaco, Ardath	*
Morgan, Sonya Lea McNaul a/k/a Sonya Lea Hart,	*
William D. McNaul, Frances A. Gattuso, John M.	*
Derr, Robert A. Derr, Jenine McNaul Campbell,	*
Richard Peluse, Kathryn Collord, Barbara J.	*
McNaul, Martha Jane Spinelli, Michael R.	*
McNaul and Robert G. McNaul,	*
Defendants.	*

**Type of case: Civil Action**

Equity cause of action  
for specific performance

**PLAINTIFF'S REPLY TO NEW MATTER**  
**FILED BY DEFENDANT, ELEANOR M. NIXON**

**AND NOW**, comes the James H. Gilliland, Plaintiff, by his attorney, John Sughrue, and responds to New Matter filed in the above captioned matter by the Defendant, Eleanor M. Nixon, as follows:

40. Denied. On the contrary, matters are as set forth in paragraphs 1 through 39 of the Complaint, all of which are incorporated herein by reference.

41. Admitted in part and denied in part. Plaintiff did phone Defendant Nixon prior to the Clearfield County Tax Claim Sale of 2007. Plaintiff advised Defendant Nixon that the McNaul

Premises was scheduled for tax sale in September 2007 and discussed the matter with her. At said time and in a subsequent phone conversation, Plaintiff indicated he was interested in acquiring all that Nixon and the other McNaul heirs owned in, under, beneath and upon the Gilliland Premises. Further, the facts are as set forth in the Complaint, particularly paragraphs 15 through 20, all of which are incorporated herein by reference.

42. Denied as stated. Plaintiff advised her not only that there were delinquent real estate taxes owed but that the McNaul Premises was scheduled for sale at the September 2007 tax sale.

43. Denied. This factual averment is nothing more than a denial of averments set forth in the Complaint to which no response is required. Further, the facts are as set forth in the Complaint, particularly paragraphs 19 and 20, all of which are incorporated herein by reference.

44. Denied. This factual averment is nothing more than a denial of averments set forth in the Complaint to which no response is required. Further, the facts are as set forth in the Complaint, particularly paragraphs 18 through 20, all of which are incorporated herein by reference.

45. Denied. Plaintiff specifically advised that pursuant to their agreement, he would pay McNaul real estate taxes to assure that the McNaul Premises were not sold and Defendant Nixon accepted that promise as part of her agreement with the Plaintiff. Further, the facts are as set forth in the Complaint, particularly paragraphs 19 through 21, all of which are incorporated herein by reference.

46. Denied. This factual averment is nothing more than a denial of averments set forth in the Complaint to which no response is required. Further, the phrase, "meeting of the minds" constitutes a legal conclusion to which no response is required. On the contrary, the facts are as

set forth in the Complaint, particularly paragraphs 18 through 20, all of which is incorporated herein by reference.

47. Denied. This factual averment is nothing more than a denial of averments set forth in the Complaint to which no response is required. Further, the facts are as set forth in the Complaint, particularly paragraph 22, all of which are incorporated herein by reference.

48. This factual averment is nothing more than a denial of averments set forth in the Complaint to which no response is required. Defendant Nixon specifically agreed to accept \$500.00 to convey such property interest as the McNaull heirs had under the Gilliland Premises, plus Plaintiff assuming and being responsible for all outstanding real estate taxes related thereto. Further, the agreed upon sum of \$500.00 is memorialized in the deed that was forwarded to Defendant Nixon and in her letter dated May 6, 2008, which are attached to the Complaint as Exhibits 36 and 37 and incorporated herein by reference.

49. Denied as stated. In September 2007, there was the initial phone conference between Plaintiff and Defendant Nixon to which Defendant Nixon admits and addresses in her Answer and New Matter. Further, there was a second phone call between Plaintiff and Defendant Nixon in September 2007. In said conversations, Plaintiff advised Defendant that he would have an attorney, at his expense, verify owners and prepare a deed for her review and signature. Defendant Nixon acquiesced in that arrangement. Plaintiff further advised Defendant Nixon that he intended to retain the Law Office of James Naddeo and Associates with whom Defendant indicated she was familiar. Thereafter, Plaintiff did retain James Naddeo and Associates to conduct the aforesaid work and they did so. Thereafter, said law office, by letter dated April 10, 2008, forwarded the proposed deed, as set forth in the Complaint, particularly paragraphs 22 through 26, all of which are incorporated herein by reference. Any delay was primarily attributed

to the work load and circumstances at said attorney's office and the fact that time was not of the essence.

50. Denied. There was a phone call in the Spring of 2008 which was Plaintiff's third phone conversation with Defendant Nixon. She had been previously advised in September 2007 that he had paid or was paying the real estate taxes necessary to assure that the McNaul Premises were not sold for delinquent taxes. It is denied that Defendant Nixon did not know that the taxes had been paid by Plaintiff. Defendant Nixon did not, in any phone conversation, express non-interest in selling the minerals or express surprise that Plaintiff had paid the McNaul taxes.

51. It is admitted that no agreement was made during the said April 2008 phone conversation for the reason that the agreement was, in fact, made in September 2007, as set forth in Plaintiff's Complaint, particularly paragraphs 19 through 24, all of which are incorporated herein by reference. The consideration of \$500.00 had been specifically stated and accepted by Defendant Nixon. Further, the facts are as set forth in the Complaint, all of which are incorporated herein by reference.

52. Plaintiff admits he advised Defendant Nixon in a phone conversation that he paid \$631.12 on account of the taxes due on the McNaul Premises, pursuant to his agreement. It is denied that she indicated at the time that she would reimburse him. Subsequently, Defendant Nixon attempted to reimburse Plaintiff as part of her attempt to avoid her prior agreement. Said reimbursement was declined. Further, the facts are as set forth in the Complaint, all of which are incorporated herein by reference.

53. Denied. The facts set forth in paragraph 52 above are incorporated herein by reference. It is admitted that such a check was mailed and returned.

54. Denied. This is simply a denial of averments set forth to the Complaint to which no response is required. Further, the facts are as set forth in the Complaint, particularly paragraphs 19 through 26, all of which are incorporated herein by reference.

55. Denied. On the contrary, the amount of \$500.00 was stated in the deed and due Nixon from Plaintiff. Implicit in the forwarding of the deed was the customary process that the \$500.00 was due and would be tendered upon receipt of the executed deed by the James Naddeo Law Office. Further, Defendant Nixon admits that \$500.00 was the agreed upon consideration; never suggested any alternative logistical schedule for closing the transaction; and breached her obligation to Plaintiff by specifically stating, in writing, that she had not received the agreed upon \$500.00. Plaintiff was, at all times relevant, ready, willing and able to perform his obligation under the agreement in a reasonable manner; had, in fact, partially performed his obligation and was in the process of completing his obligation when Defendant Nixon breached her obligation to the Plaintiff. Further, the facts are as set forth in the Complaint, all of which are incorporated herein by reference.

56. The averments set forth herein are a legal conclusion to which no response is required.

57. Denied. On the contrary, the agreement is memorialized in part by writings exchanged between the parties, including Plaintiff's cancelled checks expended in the performance of his obligation; Tax Claim Bureau receipts; public records; phone records; Defendant Nixon's letter dated May 6, 2008, attached to the Complaint as Exhibit No. 37; and the Power of Attorneys recorded on public record. It is admitted that no single integrated written agreement setting forth all the terms of the contract exists. On the contrary, the facts are as set forth in the Complaint and this Reply, all of which is incorporated herein by reference.

58. Denied. On the contrary, the facts set forth in paragraph 57 of this Reply above are incorporated herein by reference. The averment that a meeting of the minds was not established or existed is a legal conclusion to which no response is required. Further, the facts are as set forth in the Complaint, particularly paragraph 25, all of which are incorporated herein by reference.

59. Denied. The averments set forth in paragraph 57 of this Reply above are incorporated herein by reference. Further, the facts are as set forth in the Complaint, particularly paragraphs 25 through 28, all of which are incorporated herein by reference.

60. Admitted in part and denied in part. The averments of paragraph 57 of this Reply above are incorporated herein by reference. It is admitted that no time for settlement of the parties' agreement was established. However, the course and method of settlement had been discussed and agreed upon. It is admitted that time was not of the essence. The letter and deed which Plaintiff caused to be forwarded to Defendant Nixon by the James Naddeo Law Office was a reasonable attempt to establish a procedure for settlement and evidences that purpose. Defendant Nixon did not, at any time, establish a time or place a time requirement on consummation of performance under the agreement. Further, the facts are as set forth in the Complaint, all of which are incorporated herein by reference.

61. Denied. The averments of paragraph 61 are a legal conclusion to which no response is required. Further, the requirements of the Pennsylvania Statute of Frauds have been satisfied under the facts and circumstances of this case. Further, the facts are as set forth in the Complaint, all of which are incorporated herein by reference.

**WHEREFORE**, Plaintiff, James H. Gilliland, respectfully moves the Honorable Court to enter Judgment in his favor and against the Defendants in accordance with the Prayer of the original Complaint.

**COUNT II**

62. Denied. On the contrary, the facts are as set forth in paragraphs 1 through 39 of Plaintiff's original Complaint and paragraphs 40 through 61 of Plaintiff's Reply above, all of which are incorporated herein by reference as though the same were set forth herein at length verbatim.

63. Denied. On the contrary, Plaintiff and the co-owners of the Gilliland Premises have, at all times, been in possession and control of the Gilliland Premises and as such have a certain degree of possession of the McNaul Premises by virtue of their control over access to the McNaul Premises. Further, Plaintiff is the equitable owner of the McNaul Premises under the agreement set forth in the Complaint and as such has the right, title, interest, control and possession of the McNaul Premises to the extent to which he is entitled to the same, as said equitable owner. Further, the facts are as set forth in the Complaint, all of which are incorporated herein by reference.

64. Denied. On the contrary, Plaintiff is entitled to specific performance by virtue of his agreement with the Plaintiff as set forth in the Complaint and his Reply to New Matter, above, all of which is incorporated herein by reference. Further, to the extent the averments of paragraph 64 constitute a legal conclusion, no response is required.

65. After consideration, Plaintiff is without knowledge as to the meaning of the word, "improvements" as used with respect to mineral interest. Plaintiff did, by virtue of paying delinquent taxes and saving the McNaul Premises from tax sale, improve or secure the McNaul Premises and the Defendants' ownership therein. Plaintiff is not presently aware or has knowledge of any physical improvements that could or would have been made to the mineral

interest within the context of Defendant Nixon's allegation. Further, to the extent the averments of paragraph 64 constitute a legal conclusion, no response is required.

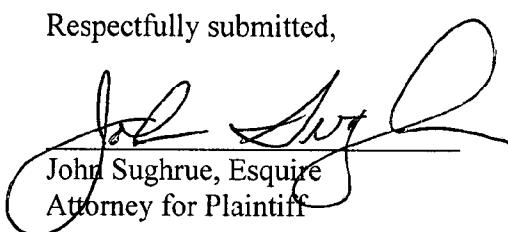
66. Denied. On the contrary, the facts as set forth in the Complaint and Plaintiff's Reply herein together as a whole does constitute partial performance of the agreement averred in the Complaint and is sufficient to satisfy the Statute of Frauds. To the extent Defendant's averments are a legal conclusion no response is required.

67. It is denied that Plaintiff can be made whole or compensated fully by the award of money damages. On the contrary, the identity, location and quality of Plaintiff's title in the Gilliland Premises is specific and unique, as is the right, title, interest and the ownership of the McNaul Premises. As such Plaintiff can only be made whole by an Order for specific performance. Such specific performance is reasonable and necessary to secure and maximize the value of agreement and the Gilliland Premises. No further response is required for the reason that any further allegations constitute a legal conclusion to which no response is required.

68. Plaintiff has been advised that the averments set forth in paragraph 68 constitute a legal conclusion to which no response is required.

**WHEREFORE**, Plaintiff, James H. Gilliland, respectfully moves the Honorable Court to dismiss Defendants' New Matter and to enter Judgment in his favor and against the Defendants in accordance with the request set forth in the original Complaint, all of which is incorporated herein by reference.

Respectfully submitted,

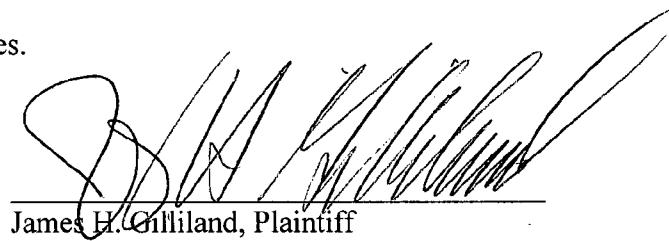


John Sughrue, Esquire  
Attorney for Plaintiff

**VERIFICATION**

I, JAMES H. GILLILAND, Defendant, verify that the statements made in this **REPLY TO NEW MATTER** are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: December 4, 2008



James H. Gilliland, Plaintiff

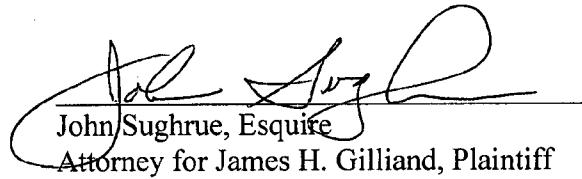
**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on December 17, 2008, I caused a true and correct copy of the PLAINTIFF'S REPLY TO NEW MATTER FILED BY DEFENDANT, ELEANOR M. NIXON to be served on the following and in the manner indicated below:

**By United States Mail, First Class, Postage Prepaid**  
**Addressed as Follows:**

Laurance B. Seaman, Esquire  
Gates & Seaman  
2 North Front Street  
P.O. Box 846  
Clearfield, PA 16830

Date: December 17, 2008



John Sughrue, Esquire  
Attorney for James H. Gilliland, Plaintiff

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, :  
Plaintiff :  
vs. :  
: No. 08- 881 -CD  
Eleanor M. Nixon, individually and as :  
Agent for all Co-Defendants and Leon :  
C. Carberry, Hannah R. Slocum, County :  
National Bank, Trustee for David and :  
Jared McNaul, Selma A. Johnson, Anna :  
M. Martinez, Sally M. Goss, Martha L. :  
McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. :  
Bender, George E. Bender, Michael D. :  
McNaul, Allan A. McNaul, Ann Argo, :  
Ralph Monaco, Arda Morgan, Sonya :  
Lea McNaul, a/k/a Sonya Lea Hart, :  
William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine :  
McNaul Campbell, Richard Peluse, :  
Kathryn Collord, Barbara J. McNaul, :  
Martha Jane Spinelli, Michael R. McNaul: Type of Case: Civil  
Robert G. McNaul, Defendants :  
: Type of Pleading: Motion for  
: Judgment on the Pleadings  
: Filed on behalf of:  
: Defendant ELEANOR M. NIXON,  
: individually  
: Counsel of Record for this  
: Party:  
: Laurance B. Seaman, Esquire  
: Supreme Court No.: 19620  
: GATES & SEAMAN  
: Attorneys at law  
: Two North Front Street  
: P. O. Box 846  
: Clearfield, PA 16830  
: (814) 765-1766

FILED

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Atty Seaman

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William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, Plaintiff :  
vs. : No. 08-881-CD  
Eleanor M. Nixon, individually and as Agent :  
for all Co-Defendants and Leon C. Carberry, :  
Hannah R. Slocum, County National Bank, :  
Trustee for David and Jared McNaul, Selma A. :  
Johnson, Anna M. Martinez, Sally M. Goss, :  
Martha L. McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. Bender, :  
George E. Bender, Michael D. McNaul, Allan A. :  
McNaul, Ann Argo, Ralph Monaco, Ardash :  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea :  
Hart, William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine McNaul :  
Campbell, Richard Peluse, Kathryn Collord, :  
Barbara J. McNaul, Martha Jane Spinelli, :  
Michael R. McNaul and Robert G. McNaul, :  
Defendants :  
:

**MOTION FOR JUDGMENT ON THE PLEADINGS**

NOW COMES Defendant, Eleanor M. Nixon, individually, by her attorneys,  
GATES & SEAMAN, and moves this Honorable Court for an Order on her behalf and  
against Plaintiff under the provisions of PA. R.C.P. 1034 and states in support hereof  
as follows:

1. The pleadings in this matter are closed as evidenced by a copy of the  
current docket entries which is attached hereto and made a part hereof as Exhibit  
"A".
2. As stated in his Complaint, Plaintiff seeks to have this Honorable Court  
compel Defendant, both individually and as the alleged agent for all other Co-  
Defendants, to execute and deliver an appropriate deed conveying to Plaintiff all of

the oil, gas, coal and other minerals in, under and upon two certain adjacent parcels of land situate in Pike Township, Clearfield County, Pennsylvania (of which Plaintiff purports to be the owner of the surface) which parcels are otherwise identified in the Complaint as having Clearfield County Tax Assessment Numbers 126-G9-5 and 126-H8-7.

3. In essence, Plaintiff purports he is entitled to specific performance of an alleged oral agreement which he outlined was formulated and otherwise consisted of actions specified in Paragraphs 15 through 26 of his Complaint.

4. Defendant, individually, filed an Answer and New Matter denying the existence of any such oral agreement alleged by Plaintiff and in her New Matter (Count One) she specifically raised the affirmative defense of the Pennsylvania Statute of Frauds (33 P.S. §1) since no valid enforceable written agreement, executed by Defendant Nixon or by any of the other Co-Defendants, existed between Plaintiff and Defendant or with any of the Co-Defendants.

5. In Count II of her New Matter, Plaintiff alternatively raised the affirmative defense that none of the actions undertaken by Plaintiff "as alleged partial performance" removes the case from the operation of the Pennsylvania Statute of Frauds and any loss allegedly incurred by Plaintiff, which is specifically denied, is capable of being remedied by an award of monetary damages.

6. Thereafter, Plaintiff filed a Reply to Defendant's New Matter and although Plaintiff denies Defendant's assertion that no written agreement for the purchase by Plaintiff from Defendant of the mineral and oil/gas rights in question existed between Plaintiff and Defendant, other than referring back to the allegations set

forth in Paragraphs 15 through 26 of the Complaint, Plaintiff fails to assert the existence of any Memorandum of any kind necessary to satisfy the Statute of Frauds, other than his assertion in Paragraph 57 of his Reply that the alleged agreement "... is memorialized in part by writings exchanged between the parties, including Plaintiff's cancelled checks expended in the performance of his obligation; Tax Claim Bureau receipts; public records; phone records; Defendant Nixon's letter dated May 6, 2008 . . . and Power of Attorneys recorded on public record.".

7. From the Plaintiff's allegations in his Complaint and Reply to New Matter and from the exhibits attached to and made a part of the pleadings in this matter, the only written document ever signed by Defendant, Eleanor M. Nixon, or in fact by any Co-Defendant, is a letter dated May 6, 2008 addressed to Naddeo and Lewis LLC which was in response to the transmittal letter of Attorney Lewis dated April 10, 2008 enclosing a deed said attorneys prepared for Plaintiff. The attorney's letter, including the proposed deed and Defendant's letter of response are attached to Plaintiff's Complaint as Exhibits 35 through 37, all of which are incorporated herein by reference.

8. Pennsylvania appellate case law requires under the Pennsylvania Statute of Frauds (33 P. S. § 1) that agreements for the sale of real estate shall not be enforced unless they are in writing and signed by the seller. The purpose of the statute is to prevent perjury and fraudulent claims.

9. The effect of the statute is to render oral contracts for the sale of real estate unenforceable, although not invalid, if such oral contract can be proven. Oral contracts cannot be specifically enforced, even though they may possibly form

the basis of an action to recover damages.

10. While part performance may be sufficient to remove a parole realty contract from the operation of the Statute of Frauds, the part performance must be such as would make rescission of the contract inequitable and not capable of being compensated in damages. Payment alone does not constitute part performance and since it is capable of direct compensation in damages, payment of part of an alleged purchase price under a parole contract is not such part performance as will take the contract out of the Statute of Frauds.

11. Delivery of possession is necessary to take a parole contract for the sale of real estate out of the Statute of Frauds and such possession must be actual, open, notorious, exclusive and continuous, in addition to being contemporaneous with or immediately consequent to the alleged parole contract.

12. Plaintiff alleges possession solely because he alleges he is the owner of the surface over the underlying oil, gas, coal and other minerals. The same is not sufficient to satisfy the requirements of possession to take a parole contract for sale of real estate out of the Statute of Frauds.

13. Plaintiff has not made any improvements to the interest of Defendant for which Plaintiff seeks specific performance, as admitted in his Reply to New Matter, Paragraph 65.

14. Pennsylvania appellate case law also makes it very clear that any alleged written agreement of sale, can only be made the basis for specific performance if the writing definitely and conclusively evidences a "meeting of the minds" of the parties on all requisite terms of the agreement and nothing is left to the future,

except actual performance.

15. The writings Plaintiff asserts in his Complaint and Reply to New Matter that memorialize an agreement between Plaintiff and Defendant even if believed, do not take the alleged oral agreement outside of the operation of the Statute of Frauds as the same do not show the requisite "meeting of the minds" or that Defendant agreed to sell the mineral and oil and gas rights in question for any definite purchase price.

16. Pennsylvania appellate case law also specifically provides that the effect of the Pennsylvania Statute of Frauds is not merely a rule of evidence "but is a limitation of judicial authority to afford a remedy", which remedy Plaintiff requests in this case is for the Court to order specific performance of the oral agreement alleged by Plaintiff.

17. The averments of Plaintiff's Complaint (including the Exhibits attached thereto) and those in his Reply to New Matter, fail to establish an alleged oral agreement entitled to be treated outside the Pennsylvania Statute of Frauds (33 P.S. §1).

18. The averments of Plaintiff's Complaint (including the Exhibits attached thereto) and those in his Reply to New Matter fail to set forth any circumstance traditionally recognized as an exception to take a case outside the application of the Pennsylvania Statute of frauds.

19. Alternatively, as this Court does have authority to enter partial judgment on the pleadings, it is asserted that even if Plaintiff has pled facts, if proven, sufficient to establish an oral agreement for sale of the aforementioned mineral, oil

and gas rights, said circumstances do not fit into any exception to the Pennsylvania Statute of Frauds which would allow this Court to consider ordering specific performance, and thus Plaintiff's remedy is limited to recovery of monetary damages which Pennsylvania appellate case law says are limited to: (i) money paid on account of the purchase (in this case allegedly \$631.12) and (ii) expenses incurred on faith of the contract (in this case the cost of having the proposed deed Exhibit 36 of Plaintiff's Complaint prepared).

20. The undersigned attorney for the moving party has read the Motion and to the best of his knowledge, information and belief, there are good grounds to support such Motion and it is not interposed merely for delay.

21. Concurrence in this Motion has been sought from opposing counsel, John Sughrue, Esquire, and such concurrence has been denied.

WHEREFORE, Defendant Eleanor M. Nixon, individually, moves this Honorable Court to enter an order granting her Motion for Judgment on the Pleadings and the dismissal of this case.

Respectfully submitted:

GATES & SEAMAN  
By:



Laurance B. Seaman, Esquire  
Attorney for Defendant,  
Eleanor M. Nixon, individually

Date: April 8, 2011

Date: 4/8/2011  
Time: 11:48 AM  
Page 1 of 1

**Clearfield County Court of Common Pleas**  
ROA Report  
Case: 2008-00881-CD  
Current Judge: No Judge  
James H. Gilliland vs. Eleanor M. Nixon, et al

User: GLKNISLEY

**CIVIL ACTION**

Date		Judge
5/12/2008	New Case Filed.  Filing: Writ of Summons Paid by: Sughrue, John (attorney for Gilliland, James H.) Receipt number: 1924024 Dated: 5/12/2008 Amount: \$95.00 (Check) 1 Cert. to Atty. plus 30 writs	No Judge No Judge
9/24/2008	Case Filed.  Entry of Appearance and Rule to File Complaint, filed by s/ Laurance B. Seaman, Esquire. Enter appearance of Laurance B. Seaman, Esquire, on behalf of Defendant, Eleanor M. Nixon. Please enter Rule upon Plaintiff, James H. Gilliland, to file a Complaint within 20 days of service thereof or suffer the entry of a Judgment of Non Pros. Filed by s/ Laurance B. Seaman, Esquire. 1CC & 1 Rule to Atty. Seaman	No Judge No Judge
10/14/2008	Filing: Praecept for Reissuance of Writ of Summons Paid by: Sughrue, John (attorney for Gilliland, James H.) Receipt number: 1926345 Dated: 10/14/2008 Amount: \$7.00 (Check) For: Gilliland, James H. (plaintiff) Filed by s/ John Sughrue, Esquire. 3CC Atty. Sughrue; 29 Reissued Writs to Sheriff  Complaint, filed by s/John Sughrue, Esq. Two CC Attorney Sughrue	No Judge No Judge
11/14/2008	Answer to Complaint and New Matter, filed by s/ Laurance B. Seaman, Esquire. No CC	No Judge
11/18/2008	Sheriff Return, November 17, 2008 Returned the within Summons "NOT SERVED, TIME EXPIRED" as to defendant. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs.	No Judge
12/17/2008	Plaintiff's Reply to New Matter filed by Defendant, Eleanor M. Nixon, filed by s/ John Sughrue, Esquire. 3CC Atty. Sughrue	No Judge

*EXHIBIT "A"*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

JAMES H. GILLILAND, individually, Plaintiff

: No. 2008 - 881 - CD

-vs-

ELEANOR M. NIXON, individually, and as Agent for all  
Co-Defendants, Defendants and Leon C. Carberry,  
Hannah R. Slocum, County National Bank, Trustee for  
David and Jared McNaul, Selma A. Johnson, Anna M.  
Martinez, Sally M. Goss, Martha L. McNaul, Richard  
Gattuso, Virginia McNaul, David W. McNaul, Patricia M.  
Bender, George E. Bender, Michael D. McNaul, Allan A.  
McNaul, Ann Argo, Ralph Monaco, Ardath Morgan, Sonya  
Lea McNaul, a/k/a Sonya Lea Hart, William D. McNaul,  
Frances A. Gattuso, John M. Derr, Robert A. Derr,  
Jenine McNaul Campbell, Richard Peluse, Kathryn Collord  
Barbara J. McNaul, Martha Jane Spinelli, Michael R.  
McNaul, Robert G. McNaul, Defendants

CERTIFICATE OF SERVICE

I hereby certify that a certified copy of Defendant's MOTION FOR SUMMARY  
JUDGMENT, and attached ORDER, was forwarded by U. S. Mail, postage prepaid, on  
the \_\_\_\_\_ day of \_\_\_\_\_, 2011, to:

John Sughrue, Esquire  
Attorney for Plaintiff  
225 East Market Street  
Clearfield, PA 16830

GATES & SEAMAN

By

*Laurance B. Seaman, Esq.*  
Attorney for Defendant,  
Eleanor M. Nixon, individually

*COPY*

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

JAMES H. GILLILAND, individually, Plaintiff

: No. 2008 - 881 - CD

-vs-

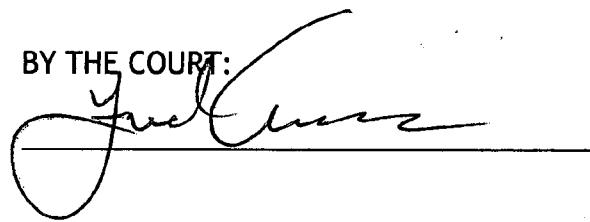
ELEANOR M. NIXON, individually, and as Agent for all  
Co-Defendants, Defendants and Leon C. Carberry,  
Hannah R. Slocum, County National Bank, Trustee for  
David and Jared McNaul, Selma A. Johnson, Anna M.  
Martinez, Sally M. Goss, Martha L. McNaul, Richard  
Gattuso, Virginia McNaul, David W. McNaul, Patricia M.  
Bender, George E. Bender, Michael D. McNaul, Allan A.  
McNaul, Ann Argo, Ralph Monaco, Ardath Morgan, Sonya  
Lea McNaul, a/k/a Sonya Lea Hart, William D. McNaul,  
Frances A. Gattuso, John M. Derr, Robert A. Derr,  
Jenine McNaul Campbell, Richard Peluse, Kathryn Collord  
Barbara J. McNaul, Martha Jane Spinelli, Michael R.  
McNaul, Robert G. McNaul, Defendants

ORDER

NOW, this 13 day of April, 2011, upon consideration of the  
foregoing Motion, it is hereby ordered that:

- (1) a rule is issued upon the respondent to show cause why the moving party is not entitled to the relief requested;
- (2) the respondent shall file an answer to the Motion within 10 days of this date;
- (3) the Motion shall be decided under Pa. R. C. P. No. 206.7;
- (4) argument shall be held on Wednesday, June 1, 2011 in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, PA 16830; and  
at 3:00 PM
- (5) notice of the entry of this Order shall be provided to all parties by the moving party.

BY THE COURT:



**FILED** 100  
APR 13 2011

Atty Seaman

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

APR 13 2011

William A. Shaw  
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

JAMES H. GILLILAND, individually,  
Plaintiff

\* No. 08-881-CD

vs.

ELEANOR M. NIXON, individually, and as Agent for all Co-Defendants, Defendants and Leon C. Carberry, Hannah R. Slocum, County National Bank, Trustee for David and Jared McNaul, Selma A. Johnson, Anna M. Martinez, Sally M. Goss, Martha L. McNaul, Richard Gattuso, Virginal McNaul, David W. McNaul, Patricia M. Bender, George E. Bender, Michael D. McNaul, Allan A. McNaul, Ann Argo, Ralph Monaco, Ardath Morgan, Sonya Lea McNaul, a/k/a Sonya Lea Hart, William D. McNaul, Frances A. Gattuso, John M. Derr, Robert A. Derr, Jenine McNaul Campbell, Richard Peluse, Kathryn Collord, Barbara J. McNaul, Martha Jane Spinelli, Michael R. McNaul, Robert G. McNaul,

## AMENDED ORDER

NOW, this 15<sup>th</sup> day of April, 2010, it is the ORDER of this Court that paragraph number two (2) of this Court's Order of April 13, 2011 be and is hereby AMENDED to read as follows:

## ORDER

2) the respondent shall file an answer to the Motion within twenty (20) days of this date:

All other provisions of the Order of April 13, 2011 remain unchanged.

BY THE COURT,  
  
\_\_\_\_\_  
FREDRIC J. AMMERMAN  
President Judge

5 **FILED** 1cc  
10/23/2011 Atty Seanan  
APR 18 2011  
SAC  
William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

APR 18 2011

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 4/18/11

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney

Defendant(s)  Defendant(s) Attorney

Other

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

JAMES H. GILLILAND, individually, Plaintiff

: No. 2008 - 881 - CD

-vs-

ELEANOR M. NIXON, individually, and as Agent for all  
Co-Defendants, Defendants and Leon C. Carberry,  
Hannah R. Slocum, County National Bank, Trustee for  
David and Jared McNaul, Selma A. Johnson, Anna M.  
Martinez, Sally M. Goss, Martha L. McNaul, Richard  
Gattuso, Virginia McNaul, David W. McNaul, Patricia M.  
Bender, George E. Bender, Michael D. McNaul, Allan A.  
McNaul, Ann Argo, Ralph Monaco, Arda Morgan, Sonya  
Lea McNaul, a/k/a Sonya Lea Hart, William D. McNaul,  
Frances A. Gattuso, John M. Derr, Robert A. Derr,  
Jenine McNaul Campbell, Richard Peluse, Kathryn Collord  
Barbara J. McNaul, Martha Jane Spinelli, Michael R.  
McNaul, Robert G. McNaul, Defendants

CERTIFICATE OF SERVICE

I hereby certify that a certified copy of Defendant's MOTION FCR SUMMARY  
JUDGMENT, and attached ORDER, dated April 13, 2011, and AMENDED ORDER, dated  
April 15, 2011, was forwarded by U. S. Mail, postage prepaid, on the 15th day of  
April, 2011, to:

John Sughrue, Esquire  
Attorney for Plaintiff  
225 East Market Street  
Clearfield, PA 16830

GATES & SEAMAN

By: 

Laurance B. Seaman, Esq.  
Attorney for Defendant,  
Eleanor M. Nixon, individually

FILED  
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APR 19 2011  
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William A. Shaw  
Prothonotary/Clerk of Courts

James H. Gilliland, individually,  
Plaintiff,

VS.

Eleanor M. Nixon, individually and as Agent for all Co-Defendants and Leon C. Carberry, Hannah R. Slocum, County National Bank, Trustee for David and Jared McNaul, Selma A. Johnson, Anna M. Martinez, Sally M. Goss, Martha L. McNaul, Richard Gattuso, Virginia McNaul, David W. McNaul, Patricia M. Bender, George E. Bender, Michael D. McNaul, Allan A. McNaul, Ann Argo, Ralph R. Monaco, Ardath Morgan, Sonya Lea McNaul a/k/a Sonya Lea Hart, William D. McNaul, Frances A. Gattuso, John M. Derr, Robert A. Derr, Jenine McNaul Campbell, Richard Peluse, Kathryn Collord, Barbara J. McNaul, Martha Jane Spinelli, Michael R. McNaul and Robert G. McNaul,

No. 2008-881-C.D.

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### Prothonotary/Clerk of Courts

**Type of case: Civil Action**

## Equity cause of action for specific performance

### **Type of Pleading:**

**PLAINTIFF'S ANSWER TO  
DEFENDANT'S MOTION FOR  
JUDGMENT ON THE  
PLEADINGS**

**Filed on Behalf of:** Plaintiff

**Counsel of Record for this Party:**

John Sughrue, Esquire  
Supreme Ct. I.D. 01037  
225 East Market Street  
Clearfield, Pa 16830  
Phone: 814-765-1704  
Fax: 814-765-6959

**Other Counsel of Record:**

Laurance B. Seaman, Esq.  
Gates & Seaman, Esqs.  
2 North Front Street  
P. O. ox 846  
Clearfield, PA 16830  
Phone: (814) 765-1766  
Fax: (814) 765-1488

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

James H. Gilliland, individually,  
Plaintiff,

22

No. 2008-881-C.D.

Eleanor M. Nixon, individually and as Agent for all Co-Defendants and Leon C. Carberry, Hannah R. Slocum, County National Bank, Trustee for David and Jared McNaul, Selma A. Johnson, Anna M. Martinez, Sally M. Goss, Martha L. McNaul, Richard Gattuso, Virginia McNaul, David W. McNaul, Patricia M. Bender, George E. Bender, Michael D. McNaul, Allan A. McNaul, Ann Argo, Ralph R. Monaco, Ardath Morgan, Sonya Lea McNaul a/k/a Sonya Lea Hart, William D. McNaul, Frances A. Gattuso, John M. Derr, Robert A. Derr, Jenine McNaul Campbell, Richard Peluse, Kathryn Collord, Barbara J. McNaul, Martha Jane Spinelli, Michael R. McNaul and Robert G. McNaul,

**Type of case: Civil Action**

**PLAINTIFF'S ANSWER TO DEFENDANT'S**  
**MOTION FOR JUDGMENT ON THE PLEADINGS**

**AND NOW**, comes the James H. Gilliland, Plaintiff, by his attorney, John Sughrue, and  
Answers Defendant's Motion for Judgment on the pleadings as follows:

1. Admitted.
2. To the extent Plaintiff properly represents and construes the Complaint, it is admitted.

To the extent he does not, the Complaint speaks for itself.

3. It is admitted that the Plaintiff seeks specific performance of an agreement made with Defendant Nixon to acquire all that the Defendants own beneath his farm located in Pike

Township, Clearfield County, Pennsylvania, as indicated in the Complaint. Specific performance is required because there is no other adequate remedy. The subject of the lawsuit is unique and specific to Plaintiff's farm which he has owned for many years.

4. Defendant's Answer and New Matter speaks for itself, and to the extent that it is misconstrued in the statements of Defendant's Motion, the same are denied.

5. Defendant has raised the affirmative defense of the Statute of Frauds as more fully set forth in her New Matter. Any allegations that the Statute of Frauds constitutes a defense have been specifically denied by Plaintiff. Further, the facts in the Complaint, as alleged, as a matter of law sets forth a *prima facia* presumption that the Statute of Frauds is not a defense.

6. To satisfy the Statute of Frauds one is not required to have a single written Memorandum. There are various exceptions to the Statute of Frauds defense and different means by which the exceptions may be satisfied. In particular, the purpose of the Statute of Frauds is to guard against fraud and deceit by requiring more definitive proof. A writing is nothing more than proof of an oral agreement. The Memorandum may be multiple writings as in this case (see Complaint). See Strausser v. Pramco, III 944 A.2d 761, (PA Super 2008). The Statute of Frauds can also be satisfied by partial or full performance. In this case, the Plaintiff partially performed in that he paid Defendant's past-due real estate taxes pursuant to his agreement and was ready, willing and able to tender the Five Hundred (\$500.00) Dollar balance due upon receiving a Deed. If Plaintiff had not paid the past-due taxes, the subject matter of this litigation would have been lost by Defendants at a Tax Sale. Defendants, in context of time, had no intentions of paying the taxes prior to the Tax Sale. The allegations set forth in the Complaint are meaningful because the Court must accept those allegations as true for purposes of determining this Motion. If the allegations are adequate, the Court must deny the Motion.

7. The letter signed by Defendant Nixon constitutes a written admission that she had an agreement with Mr. Gilliland and an admission that she was relying solely on his failure to pay the balance of the Five Hundred (\$500.00) Dollars due on the transaction. (Complaint Exhibit 37) Also, Defendant Nixon signed her check payable to Mr. Gilliland, Complaint Exhibit 39, by which she attempted to reimburse him for the taxes paid. This check corroborates Mr. Gilliland's Complaint and admits that a transaction had occurred between them.

8. The Pennsylvania Statute of Frauds speaks for itself. As set forth above and incorporated herein, there are exceptions to the requirement of a writing including performance in full or in part and the existence of a written Memorandum consisting of different writings. The purpose of the Statute is to prevent fraudulent claims and that purpose is satisfied by Defendant's letter and check attached to the Complaint.

9. The Complaint does not allege an oral contract alone. It alleges: 1) a sufficient written Memorandum, 2) admissions by Defendant Nixon and, 3) part performance by a Plaintiff. As a result, the Complaint clearly establishes a transaction between the parties and the material terms of the agreement upon which the parties were acting. Money damages are not an adequate remedy in this case as a matter of law.

10. Plaintiff agrees that part performance, which is the case here, is sufficient to remove a parole realty contract from the operation of Statute of Frauds. In particular, the writings, as aforesaid, combined with Plaintiff's partial performance, in the form of payments made, removes all doubt as to the existence of an agreement and satisfies the purpose of the Statute by eliminating any serious possibility of fraud. It would inequitable to allow a Defendant to rescind the contract or not perform specifically for the reason that money damages are not adequate compensation.

11. Plaintiff, as the person in possession of the surface, is clearly presumptively in possession and control of the sub-surface, including minerals, oil and gas. In addition, Plaintiff has equitable title to the sub-surface as a result of his agreement with Defendant. Defendant's refusal to sign the Deed for recording and to convey legal title to the property was, in essence, a breach by Defendant of her contract and cannot be a basis for relief.

12. There is no other manner by which mineral, oil and gas can be possessed than by equitable and/or legal ownership or control of the surface. In this case, the allegation of the Complaint clearly set forth the facts, if proven, to establish that the Plaintiff was the equitable owner of the oil, gas, coal and other minerals. Plaintiff was, in fact, in his discretion, in a position to dig coal and other minerals; and to engage in transactions with respect to oil and gas. Most importantly, he had the right and power to exclude other claimants, including Defendants, from access to the same. Accordingly, any requirements for possession are satisfied under the circumstances of this case.

13. No response is required. Obviously, it is impossible to make "improvements" to property interest buried in or under the earth and its substrata.

14. Plaintiff contends that the documentary evidence in this case clearly shows a meeting of minds. It also clearly shows that Defendant Nixon, for whatever reason, changed her mind as evidenced by her attempt to justify her breach by contending that the final payment of Five Hundred (\$500.00) Dollars had not been made in advance of Defendant tendering a Deed or arranging to tender the Deed in exchange for her final payment. Defendant made no attempt to offer performance in any manner and gave no prior notice of a time limitation to complete performance. Defendant did not attempt to refund the taxes, a benefit that she had already

received, and which, coincidentally, kept her property from being sold at the Tax Sale until Plaintiff asked for his Deed.

15. For purposes of determining this Motion, Plaintiff understands that the Court must accept as true all of the averments made by Plaintiff in this case. The sole issue for the Court is whether or not the allegations as contained in the Complaint and Reply are sufficient to satisfy the purpose and requirements of the Statute of Fraud. There was a meeting of the minds and an agreement on the price as set forth in the Complaint and referenced above, i. e. Five Hundred (\$500.00) Dollars, plus the past due taxes.

16. The averments of Paragraph 16 are a repeat of statements and allegations made above. Plaintiff's response in Paragraphs 1 through 15 above are incorporated herein by reference.

17. Denied. The allegations of Plaintiff's Complaint, deemed authentic and true for purposes of this Motion, do establish a factual situation which entitles it to be treated outside the Pennsylvania Statute of Frauds for the reasons set forth in Paragraph 1 through 15 above, all of which are incorporated herein by reference.

18. Denied, for reasons set forth in Paragraphs 1 through 16 and the averments of the Complaint, all of which are incorporated herein by reference.

19. Plaintiff accepts the alternative assertion that Plaintiff has pled facts which must be accepted by the Court for purposes of this Motion. Further, Plaintiff asserts that the performance and writings referenced above do require the Court to accept, at least for purposes of this Motion, that a case has been pled, which, if proven, will form as a proper basis for specific performance. Accordingly, this is not a proper time for the Court to conclude that Plaintiff is entitled to partial judgment only. In the alternative, if the Court should determine that partial judgment is justified

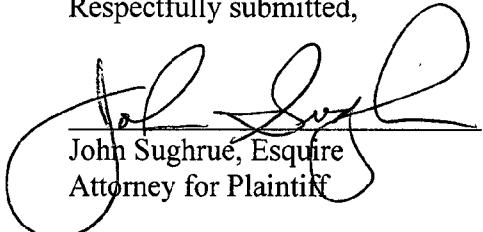
and Plaintiff awarded monetary damages, Plaintiff denies that the monetary damages specified by Defendant are all to which he is entitled. In the alternative remedy suggested by Defendant, the Court would be finding that Defendant Nixon breached her contract; and that Plaintiff is entitled to be made whole by an award of all damages reasonably flowing from such breach, including Deed costs, title search fees and attorneys' fees associated with Plaintiff's attempt to conclude this transaction with Defendant, the breaching party.

20. Defendant accepts the representation that Defendant counsel read the Motion and that he did not file this Motion merely for delay. Plaintiff denies that there are good grounds to support such motion.

21. Admitted.

WHEREFORE, Plaintiff, James H. Gilliland, respectfully moves Your Honorable Court to dismiss Defendant's Motion for Judgment on the Pleadings and to allow the parties to proceed to the Discovery phase of this litigation.

Respectfully submitted,



John Sughrue, Esquire  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

James H. Gilliland, individually,  
Plaintiff,

米

VS.

No. 2008-881-C.D.

Eleanor M. Nixon, individually and as Agent for all Co-Defendants and Leon C. Carberry, Hannah R. Slocum, County National Bank, Trustee for David and Jared McNaul, Selma A. Johnson, Anna M. Martinez, Sally M. Goss, Martha L. McNaul, Richard Gattuso, Virginia McNaul, David W. McNaul, Patricia M. Bender, George E. Bender, Michael D. McNaul, Allan A. McNaul, Ann Argo, Ralph R. Monaco, Ardash Morgan, Sonya Lea McNaul a/k/a Sonya Lea Hart, William D. McNaul, Frances A. Gattuso, John M. Derr, Robert A. Derr, Jenine McNaul Campbell, Richard Peluse, Kathryn Collord, Barbara J. McNaul, Martha Jane Spinelli, Michael R. McNaul and Robert G. McNaul,

**Type of case: Civil Action**

**CERTIFICATE OF SERVICE**

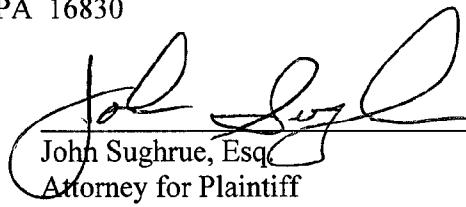
AND NOW, I, JOHN SUGHRUE, Esq., Attorney for the Plaintiff, do hereby certify that the Amended Order in this case dated April 15, 2011, (mistakenly typed as 2010), required the foregoing Answer to be filed on or before May 5, 2011; that defense counsel upon Plaintiff's request agreed to extend the time for filing to May 16, 2011, as confirmed by Plaintiff counsel's letter dated April 25, 2011, to Defense counsel confirming such extension, a copy of which is attached hereto; and further I do hereby certify that the foregoing Answer was filed with the Court on May 13, 2011, and that I caused a true and correct copy of PLAINTIFF'S ANSWER

**TO DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS** to be served on  
the following and in the manner indicated below:

HAND DELIVERED TO:

Laurance B. Seaman, Esq.  
GATES & SEAMAN  
Two North Front Street  
P. O. Box 846  
Clearfield, PA 16830

DATED: May 13, 2011



John Sughrue, Esq.  
Attorney for Plaintiff

**JOHN SUGHRUE  
Attorney at Law**

---

Phone: (814) 765-1704  
Fax: (814) 765-6959

225 East Market Street  
Clearfield, PA 16830

Email:  
jsughrue@sughruelaw.com

April 25, 2011

**VIA FACSIMILE 765-1488  
AND FIRST CLASS MAIL**

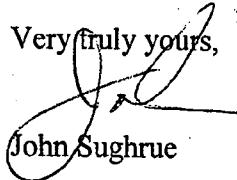
Laurance B. Seaman, Esquire  
Gates & Seaman  
Two North Front Street  
PO Box 846  
Clearfield, PA 16830

**RE: James H. Gilliland v. Eleanor M. Nixon, et al.  
No. 08-881-CD**

Dear Larry,

This will confirm your phone call to me today wherein you granted my request for an extension of time to Monday, May 16, 2011 within which to answer the Motion for Judgment on the Pleading. I thank you for your courtesy. I will certainly have a more enjoyable vacation without that looming deadline.

Very truly yours,

  
John Sughrue

JS/aw

cc: Mr. James H. Gilliland

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

JAMES H. GILLILAND )  
VS. ) NO. 2008-881-CD  
ELEANOR M. NIXON, ET AL )

O R D E R

NOW this 1st day of June, 2011, following argument on the Defendant's Motion for Judgment on the Pleadings, it is the ORDER of this Court that Defense counsel have no more than twenty (20) days from this date in which to supply the Court with appropriate letter brief. Plaintiff's counsel shall have no more than twenty (20) days thereafter to respond. Defense counsel shall have no more than an additional ten (10) days following the same in which to submit a reply to Plaintiff's brief, if he should wish to do so.

BY THE COURT,

  
President Judge

FILED 1cc  
19/05/2011 Attn: Sughrue  
JUN 07 2011 Seaman  
William A. Shaw  
Prothonotary/Clerk of Courts  
601

**FILED**

JUN 07 2011

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 6/7/11

       You are responsible for serving all appropriate parties.

✓ The Prothonotary's office has provided service to the following parties:

       Plaintiff(s) ✓ Plaintiff(s) Attorney        Other

       Defendant(s) ✓ Defendant(s) Attorney

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

JAMES H. GILLILAND, individually,  
Plaintiff

v.

NO. 2008-881-CD

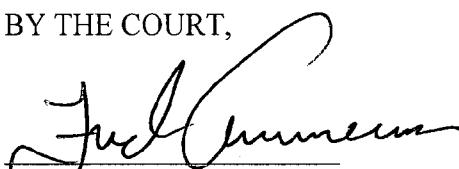
ELEANOR M. NIXON, individually and as  
Agent for all Co-Defendants and LEON C.  
CARBERRY, HANNAH R. SLOCUM, COUNTY  
NATIONAL BANK, Trustee for DAVID and  
JARED MCNAUL, SELMA A. JOHNSON,  
ANNA M. MARTINEZ, SALLY M. GOSS,  
MARTHA L. MCNAUL, RICHARD GATTUSO,  
VIRGINIA MCNAUL, DAVID W. MCNAUL,  
PATRICIA M. BENDER, GEORGE E. BENDER,  
MICHAEL D. MCNAUL, ALLAN A. MCNAUL,  
ANN ARGO, RALPH R. MONACO, ARDATH  
MORGAN, SONYA LEA MCNAUL a/k/a  
SONYA LEA HART, WILLIAM D. MCNAUL.  
FRANCES A. GATTUSO, JOHN M. DERR,  
ROBERT A. DERR, JENINE MCNAUL  
CAMPBELL, RICHARD PELUSE, KATHRYN  
COLLORD, BARBARA J. MCNAUL, MARTHA  
JANE SPINELLI, MICHAEL R. MCNAUL and  
ROBERT G. MCNAUL.

Defendants

**ORDER**

AND NOW, this 1st day of September, 2011, following argument on Defendant's  
Motion for Judgment on the Pleadings, the Court's review of the Pleadings, and upon  
consideration of the parties' briefs, it is the ORDER of this Court that said Motion be and is  
hereby DENIED.

BY THE COURT,

  
FREDRIC J. AMMERMAN  
President Judge

FILED  
01/06/2011  
SEP 01 2011

William A. Shaw  
Prothonotary/Clerk of Courts

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, :  
Plaintiff :  
:

vs.

... : No. 08- 00881 -CD

... : Type of Case: Civil

Eleanor M. Nixon, individually and as :  
Agent for all Co-Defendants and Leon :  
C. Carberry, Hannah R. Slocum, County :  
National Bank, Trustee for David and :  
Jared McNaul, Selma A. Johnson, Anna :  
M. Martinez, Sally M. Goss, Martha L. :  
McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. :  
Bender, George E. Bender, Michael D. :  
McNaul, Allan A. McNaul, Ann Argo, :  
Ralph Monaco, Arda Morgan, Sonya :  
Lea McNaul, a/k/a Sonya Lea Hart, :  
William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine :  
McNaul Campbell, Richard Peluse, :  
Kathryn Collord, Barbara J. McNaul, :  
Martha Jane Spinelli, Michael R. McNaul: :  
Robert G. McNaul, Defendants :  
:

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William A. Shaw  
Prothonotary/Clerk of Court  
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Type of Pleading:  
MOTION TO ALLOW DEPOSITION BY  
TELEPHONE

Filed on behalf of:  
Defendant ELEANOR M. NIXON,  
individually

Counsel of Record for this  
Party:  
Laurance B. Seaman, Esquire

Supreme Court No.: 19620

GATES & SEAMAN  
Attorneys at law  
Two North Front Street  
P. O. Box 846  
Clearfield, PA 16830  
(814) 765-1766

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, Plaintiff

VS.

Eleanor M. Nixon, individually and as Agent  
for all Co-Defendants and Leon C. Carberry,  
Hannah R. Slocum, County National Bank,  
Trustee for David and Jared McNaul, Selma A.  
Johnson, Anna M. Martinez, Sally M. Goss,  
Martha L. McNaul, Richard Gattuso, Virginia  
McNaul, David W. McNaul, Patricia M. Bender,  
George E. Bender, Michael D. McNaul, Allan A.  
McNaul, Ann Argo, Ralph Monaco, Ardath  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea  
Hart, William D. McNaul, Frances A. Gattuso,  
John M. Derr, Robert A. Derr, Jenine McNaul  
Campbell, Richard Peluse, Kathryn Collord,  
Barbara J. McNaul, Martha Jane Spinelli,  
Michael R. McNaul and Robert G. McNaul,  
Defendants

No. 08-881-CD

MOTION TO ALLOW DEPOSITION BY TELEPHONE

TO THE HONORABLE FREDRIC J. AMMERMAN, PRESIDENT JUDGE:

Laurance B. Seaman, Esquire, Gates & Seaman, Attorney for Eleanor M. Nixon, individually, in the above-captioned matter, respectfully sets forth as follows:

1. Plaintiff initiated this action for specific performance against Defendant, Eleanor M. Nixon, and several other Co-Defendants, basically alleging the existence of an oral agreement supported by some written documentation for the purchase by Plaintiff and sale by Defendant, Eleanor M. Nixon, as Agent for all other Co-Defendants, of the oil, gas, coal and other minerals in two (2) parcels of property in Pike Township, Clearfield County, Pennsylvania.
2. A Motion for Judgment on the Pleadings filed on behalf of Defendant, Eleanor M. Nixon, individually, was denied by this Court following argument and filing of briefs.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, Plaintiff :  
vs. : No. 08-881-CD  
:  
Eleanor M. Nixon, individually and as Agent :  
for all Co-Defendants and Leon C. Carberry, :  
Hannah R. Slocum, County National Bank, :  
Trustee for David and Jared McNaul, Selma A. :  
Johnson, Anna M. Martinez, Sally M. Goss, :  
Martha L. McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. Bender, :  
George E. Bender, Michael D. McNaul, Allan A. :  
McNaul, Ann Argo, Ralph Monaco, Ardath :  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea :  
Hart, William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine McNaul :  
Campbell, Richard Peluse, Kathryn Collord, :  
Barbara J. McNaul, Martha Jane Spinelli, :  
Michael R. McNaul and Robert G. McNaul, :  
Defendants :  
:

MOTION TO ALLOW DEPOSITION BY TELEPHONE

TO THE HONORABLE FREDRIC J. AMMERMAN, PRESIDENT JUDGE:

Laurance B. Seaman, Esquire, Gates & Seaman, Attorney for Eleanor M. Nixon, individually, in the above-captioned matter, respectfully sets forth as follows:

1. Plaintiff initiated this action for specific performance against Defendant, Eleanor M. Nixon, and several other Co-Defendants, basically alleging the existence of an oral agreement supported by some written documentation for the purchase by Plaintiff and sale by Defendant, Eleanor M. Nixon, as Agent for all other Co-Defendants, of the oil, gas, coal and other minerals in two (2) parcels of property in Pike Township, Clearfield County, Pennsylvania.
2. A Motion for Judgment on the Pleadings filed on behalf of Defendant, Eleanor M. Nixon, individually, was denied by this Court following argument and filing of briefs.

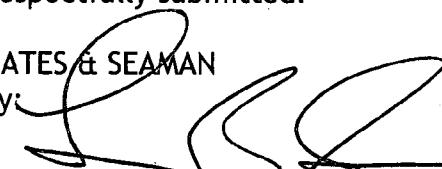
3. Defendant, Eleanor M. Nixon, resides at 2759 Bennett Ridge Road, Santa Rosa, California 95404 and her testimony in defense of Plaintiff's claims is critical since she is the party with whom Plaintiff alleges he made the oral agreement.

4. Defendant, Eleanor M. Nixon, is 91 years of age and is unable to travel to Pennsylvania for the taking of her Deposition to preserve her testimony for use at trial, as evidenced by the report from her physician, Bruce N. Tucker, M. D., dated January 12, 2012, a photocopy of which is attached hereto and made a part hereof as Exhibit "A".

5. Counsel for Defendant, Eleanor M. Nixon, has requested that Counsel for Plaintiff agree to the taking by telephone of the testimony of Defendant, Eleanor M. Nixon, for use at trial by oral deposition and Counsel for Plaintiff will not agree to the same.

WHEREFORE, Movant respectfully requests that this Court allow the taking by telephone of the oral deposition of Defendant, Eleanor M. Nixon, in order to preserve her testimony for use at trial. Counsel for Eleanor M. Nixon has provided a copy of this Motion and the proposed Order to Counsel for Plaintiff and made him aware of the date and time of the intended presentation of this Motion to your Honorable Court.

Respectfully submitted:

GATES & SEAMAN  
By: 

Laurence B. Seaman, Esquire  
Attorney for Defendant, Eleanor M. Nixon

Date: 4/12/2012



**Office Note on 1/12/2012**  
**Patient: NIXON, ELEANOR**  
**Chart: 265507**  
**DOB: 8-31-1920**

---

**NORTHERN  
CALIFORNIA  
MEDICAL  
ASSOCIATES**

To Whom It May Concern,

Mrs. Nixon has compromised mobility because of failed hip surgery and severe arthritis. She has limited use of her arms and hands. She uses a walker and is unable to drive. These conditions make traveling to Pennsylvania inappropriate for her.

Please excuse her from any activities that might seem to require her presence. Her condition is not expected to improve.

Respectfully,

Bruce N. Tucker, M.D.

**William D. Carroll, M.D., FACP**  
**Wrence R. Cooper, M.D.**  
**J.A. Levin, M.D.**  
**Kneth A. Murachanian, M.D.**  
**Quedine R. Skvaril, M.D.**  
**Bert J. Stewart, M.D.**  
**Bruce N. Tucker, M.D.**

Santa Rosa Internal Medicine

36 Mendocino Ave., Suite 300  
Santa Rosa, CA 95403

Phone

7-544-3411 \* 707-546-2180

Fax

7-544-0834 \* 707-546-2188

EXHIBIT "A"

Page 1

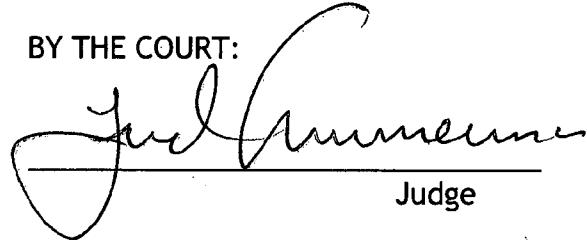
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, Plaintiff :  
vs. : No. 08-881-CD  
Eleanor M. Nixon, individually and as Agent :  
for all Co-Defendants and Leon C. Carberry, :  
Hannah R. Slocum, County National Bank, :  
Trustee for David and Jared McNaul, Selma A. :  
Johnson, Anna M. Martinez, Sally M. Goss, :  
Martha L. McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. Bender, :  
George E. Bender, Michael D. McNaul, Allan A. :  
McNaul, Ann Argo, Ralph Monaco, Ardash :  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea :  
Hart, William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine McNaul :  
Campbell, Richard Peluse, Kathryn Collord, :  
Barbara J. McNaul, Martha Jane Spinelli, :  
Michael R. McNaul and Robert G. McNaul, :  
Defendants :

O R D E R

AND NOW, this 13 day of April, 2012, upon consideration of the foregoing Motion, Counsel for Plaintiff being present at the time of presentation of the Motion and not objecting to the prayer for relief contained in said Motion, IT IS ORDERED that the oral deposition of Defendant, Eleanor M. Nixon, for use at trial be taken by telephone for the preservation of her testimony at such date and time as may be agreed upon by Counsel for both parties, with the direction that any objections not made during the taking of said deposition shall be deemed waived since said testimony is to be preserved for use at a subsequent trial. Counsel for Defendant, Eleanor M. Nixon, will forward to her all documents provided him by Counsel for Plaintiff at least two (2) weeks prior to the scheduled Deposition and she will be subject to full cross-examination by Counsel for Plaintiff on those documents as well as on all other relevant matters.

BY THE COURT:



Jud

Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, Plaintiff :  
vs. : No. 08-881-CD  
:  
Eleanor M. Nixon, individually and as Agent :  
for all Co-Defendants and Leon C. Carberry, :  
Hannah R. Slocum, County National Bank, :  
Trustee for David and Jared McNaul, Selma A. :  
Johnson, Anna M. Martinez, Sally M. Goss, :  
Martha L. McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. Bender, :  
George E. Bender, Michael D. McNaul, Allan A. :  
McNaul, Ann Argo, Ralph Monaco, Ardath :  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea :  
Hart, William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine McNaul :  
Campbell, Richard Peluse, Kathryn Collord, :  
Barbara J. McNaul, Martha Jane Spinelli, :  
Michael R. McNaul and Robert G. McNaul, :  
Defendants :  
:

S **FILED**  
01/30/2013  
FEB 25 2013

William A. Shaw  
Prothonotary/Clerk of Courts  
No CC

CERTIFICATE OF SERVICE

I, Laurance B. Seaman, Esquire, Attorney for Eleanor M. Nixon, individually, certify that a true and correct copy of the attached Notice of Taking Deposition was forwarded by regular first-class mail, postage prepaid, on the 25th day of February, 2013, to:

John Sughrue, Esquire  
225 East Market Street  
Clearfield, PA 16830

ASAP Court Reporting  
By Email Only

GATES & SEAMAN

By:

*Laurance B. Seaman*

Laurance B. Seaman, Esquire 3/5  
Attorney for Defendant,  
Eleanor M. Nixon, individually

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, Plaintiff :  
vs. : No. 08-881-CD  
Eleanor M. Nixon, individually and as Agent :  
for all Co-Defendants and Leon C. Carberry, :  
Hannah R. Slocum, County National Bank, :  
Trustee for David and Jared McNaul, Selma A. :  
Johnson, Anna M. Martinez, Sally M. Goss, :  
Martha L. McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. Bender, :  
George E. Bender, Michael D. McNaul, Allan A. :  
McNaul, Ann Argo, Ralph Monaco, Ardash :  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea :  
Hart, William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine McNaul :  
Campbell, Richard Peluse, Kathryn Collord, :  
Barbara J. McNaul, Martha Jane Spinelli, :  
Michael R. McNaul and Robert G. McNaul, :  
Defendants :  
:

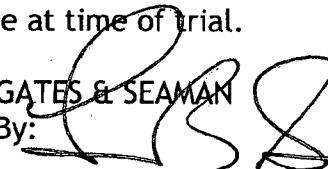
NOTICE OF TAKING DEPOSITION

TO: John Sughrue, Esquire  
Attorney for James H. Gilliland, Plaintiff  
225 East Market Street  
Clearfield, PA 16830

NOTICE is given herewith that the deposition of JAMES H. GILLILAND will be taken on oral examination at the Law Offices of Gates & Seaman, 2 North Front Street, Clearfield PA 16830, on Monday, March 25, 2013, commencing at 1:30 o'clock p. m., at which time you are invited to attend and participate. The deposition shall continue from day to day until completed, and will be taken before a notary public or some other officer authorized by law to administer oaths.

The scope of said deposition will include inquiry into all facts concerning all matters relevant to the issues raised in the case and is for use in discovery and/or at trial, as this witness may not be available at time of trial.

Date: Feb. 25, 2013

GATES & SEAMAN  
By: 

Laurence B. Seaman, Esquire  
Attorney for Defendant,  
Eleanor M. Nixon, individually

CA

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**  
**CIVIL DIVISION**

JAMES H. GILLILAND, individually, \* NO. 2008-881-CD  
Plaintiff \*  
\*  
\* vs.  
\*  
ELEANOR M. NIXON, individually and as Agent for all \*  
Co-Defendants and Leon C. Carberry, Hannah R. Slocum, \*  
County National Bank, Trustee for David and Jared \*  
McNaul, Selma A. Johnson, Anna M. Martinez, Sally M. \*  
Goss, Martha L. McNaul, Richard Gattuso, Virginia \*  
McNaul, David W. McNaul, Patricia M. Bender, George E. \*  
Bender, Michael D. McNaul, Allan A. McNaul, Ann Argo, \*  
Ralph Monaco, Arda Morgan, Sonya Lea McNaul, a/k/a\*  
Sonya Lea Hart, William D. McNaul, Frances A. Gattuso, \*  
John M. Derr, Robert A. Derr, Jenine McNaul Campbell, \*  
Richard Peluse, Kathryn Collord, Barbara J. McNaul, \*  
Martha Jane Spinelli, Michael R. McNaul and Robert G. \*  
McNaul, \*  
\* Defendants \*

**FILED** 011.06cm 2cc ATT/s:  
MAY 17 2013 Signature  
William A. Shaw  
Prothonotary/Clerk of Courts 6k  
Seam an

**ORDER**

NOW, this 16<sup>th</sup> day of May, 2013, it is the ORDER of this Court that a **status conference** be and is hereby scheduled for the **27th day of June, 2013 at 1:30 p.m.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

If this case has been concluded, the moving party is directed to file the appropriate Praeclipe with the Prothonotary of Clearfield County to finalize that status of the case.

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

## ORDER

NOW this 27th day of June, 2013, this being the date set for call of List of Inactive Cases; counsel being present; it is the ORDER of this Court that the Defense have no more than sixty (60) days to file a Motion for Summary Judgment in the event they should wish to do so, and that this matter be scheduled for Pretrial Conference at 10:00 a.m. on Thursday, September 5, 2013, in chambers, with thirty (30) minutest being allotted for said conference. The Court notes that the matter is nonjury in nature.

BY THE COURT,

Judie Koeneman  
President Judge

President Judge

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Seaman  
William A. Shaw  
Notary/Clerk of Courts  
Sughrue

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DATE: 7-2-13

You are responsible for serving all appropriate parties.  
 The Prothonotary's office has provided service to the following parties:  
 Plaintiff(s)  Plaintiff(s) Attorney  Other  
 Defendant(s)  Defendant(s) Attorney  
 Special Instructions:

**FILED**

**JUL 02 2013**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, :  
Plaintiff :

: No. 08- 881 -CD

vs. :

Type of Case: Civil

Eleanor M. Nixon, individually and as :  
Agent for all Co-Defendants and Leon :  
C. Carberry, Hannah R. Slocum, County :  
National Bank, Trustee for David and :  
Jared McNaul, Selma A. Johnson, Anna :  
M. Martinez, Sally M. Goss, Martha L. :  
McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. :  
Bender, George E. Bender, Michael D. :  
McNaul, Allan A. McNaul, Ann Argo, :  
Ralph Monaco, Ardash Morgan, Sonya :  
Lea McNaul, a/k/a Sonya Lea Hart, :  
William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine :  
McNaul Campbell, Richard Peluse, :  
Kathryn Collord, Barbara J. McNaul, :  
Martha Jane Spinelli, Michael R. McNaul: :  
Robert G. McNaul, Defendants :

FILED 2CC A/H  
01/10/2013 Seaman  
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William A. Shaw  
Prothonotary/Clerk of Courts 6K

Type of Pleading: Defendant,  
Eleanor M. Nixon's Motion for  
Summary Judgment

Filed on behalf of:  
Defendant ELEANOR M. NIXON,  
individually

Counsel of Record for this  
Party:  
Laurance B. Seaman, Esquire

Supreme Court No.: 19620

GATES & SEAMAN  
Attorneys at law  
Two North Front Street  
P. O. Box 846  
Clearfield, PA 16830  
(814) 765-1766

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually, Plaintiff :  
vs. : No. 08-881-CD  
Eleanor M. Nixon, individually and as Agent :  
for all Co-Defendants and Leon C. Carberry, :  
Hannah R. Slocum, County National Bank, :  
Trustee for David and Jared McNaul, Selma A. :  
Johnson, Anna M. Martinez, Sally M. Goss, :  
Martha L. McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. Bender, :  
George E. Bender, Michael D. McNaul, Allan A. :  
McNaul, Ann Argo, Ralph Monaco, Ardath :  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea :  
Hart, William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine McNaul :  
Campbell, Richard Peluse, Kathryn Collord, :  
Barbara J. McNaul, Martha Jane Spinelli, :  
Michael R. McNaul and Robert G. McNaul, :  
Defendants :

DEFENDANT, ELEANOR M. NIXON'S MOTION FOR SUMMARY JUDGMENT

NOW COMES Defendant, Eleanor M. Nixon, individually, by her attorneys,  
GATES & SEAMAN, and moves this Honorable Court for an Order on her behalf and  
against Plaintiff under the provisions of PA. R.C.P. No. 1035.2 and states in support  
hereof as follows:

1. The pleadings in this matter are closed as evidenced by a copy of the  
current docket entries which is attached hereto and made a part hereof as Exhibit  
"A".
2. Counsel for the parties have also taken the depositions of the two (2)  
parties who possess the only knowledge regarding the alleged "oral agreement"

which is the basis for Plaintiff's requested relief of "specific performance". Said depositions are being filed of record concurrently herewith.

3. As stated in his Complaint, Plaintiff seeks to have this Honorable Court compel Defendant, both individually and as the alleged agent for all other Co-Defendants, to execute and deliver an appropriate deed conveying to Plaintiff all of the oil, gas, coal and other minerals in, under and upon two certain adjacent parcels of land situate in Pike Township, Clearfield County, Pennsylvania (of which Plaintiff purports to be the owner of the surface) which parcels are otherwise identified in the Complaint as having Clearfield County Tax Assessment Numbers 126-G9-5 and 126-H8-7.

4. In essence, Plaintiff purports he is entitled to specific performance of an alleged oral agreement which he outlined was formulated and otherwise consisted of actions specified in Paragraphs 15 through 26 of his Complaint.

5. Defendant, individually, filed an Answer and New Matter denying the existence of any such oral agreement alleged by Plaintiff and in her New Matter (Count One) she specifically raised the affirmative defense of the Pennsylvania Statute of Frauds (33 P.S. §1) since no valid enforceable written agreement, existed between Plaintiff and Defendant Nixon.

6. In Count II of her New Matter, Plaintiff alternatively raised the affirmative defense that none of the actions undertaken by Plaintiff "as alleged partial performance" removes the case from the operation of the Pennsylvania Statute of Frauds and any loss allegedly incurred by Plaintiff, which is specifically denied, is

capable of being remedied by an award of monetary damages.

7. Thereafter, Plaintiff filed a Reply to Defendant's New Matter and although Plaintiff denies Defendant Nixon's assertion that no written agreement for the purchase by Plaintiff from Defendant of the mineral and oil/gas rights in question existed between Plaintiff and Defendant, other than referring back to the allegations set forth in Paragraphs 15 through 26 of the Complaint, Plaintiff fails to assert the existence of any Memorandum of any kind necessary to satisfy the Statute of Frauds, other than his assertion in Paragraph 57 of his Reply that the alleged agreement ". . . is memorialized in part by writings exchanged between the parties, including Plaintiff's cancelled checks expended in the performance of his obligation; Tax Claim Bureau receipts; public records; phone records; Defendant Nixon's letter dated May 6, 2008 . . . and Power of Attorneys recorded on public record.".

8. From the Plaintiff's allegations in his Complaint and Reply to New Matter and from the exhibits attached to and made a part of the pleadings in this matter, the only written document ever signed by Defendant, Eleanor M. Nixon, or in fact by any Co-Defendant, is a letter dated May 6, 2008 addressed to Naddeo and Lewis LLC which was in response to the transmittal letter of Attorney Lewis dated April 10, 2008 enclosing a deed said attorneys prepared for Plaintiff. The attorney's letter, including the proposed deed and Defendant's letter of response are attached to Plaintiff's Complaint as Exhibits 35 through 37, all of which are incorporated herein by reference.

9. Pennsylvania appellate case law requires under the Pennsylvania Statute of Frauds (33 P. S. § 1) that agreements for the sale of real estate shall not be enforced unless they are in writing and signed by the seller. The purpose of the statute is to prevent perjury and fraudulent claims.

10. The effect of the statute is to render oral contracts for the sale of real estate unenforceable, although not invalid, if such oral contract can be proven. Such oral contracts cannot be specifically enforced, even though they may possibly form the basis of an action to recover damages.

11. While part performance may be sufficient to remove a parole realty contract from the operation of the Statute of Frauds, the part performance must be such as would make rescission of the contract inequitable and not capable of being compensated in damages. Payment alone does not constitute part performance and since it is capable of direct compensation in damages, payment of part of an alleged purchase price under a parole contract is not such part performance as will take the contract out of the Statute of Frauds.

12. Delivery of possession is necessary to take a parole contract for the sale of real estate out of the Statute of Frauds and such possession must be actual, open, notorious, exclusive and continuous, in addition to being contemporaneous with or immediately consequent to the alleged parole contract.

13. Plaintiff alleges possession solely because he alleges he is the owner of the surface over the underlying oil, gas, coal and other minerals. The same is not sufficient to satisfy the requirements of possession to take a parole contract for sale

of real estate out of the Statute of Frauds.

14. Plaintiff has not plead and nor does the record show, he took or attempted to take possession of the underlying oil, gas, coal and/or other mineral rights by such means as mining, drilling for, removing or even commencing operations to so mine, drill for and/or remove.

15. Plaintiff has not plead and nor does the record show, he leased and/or attempted to lease, the aforementioned oil, gas, coal and/or other mineral rights underlying the subject premises at any time germane to the issues framed in his Complaint.

16. Plaintiff has not made any improvements to the oil, gas, coal and other minerals for which Plaintiff seeks specific performance, as admitted in his Reply to New Matter, Paragraph 65.

17. Pennsylvania appellate case law also makes it very clear that any alleged written agreement of sale, can only be made the basis for specific performance if the writing definitely and conclusively evidences a "meeting of the minds" of the parties on all requisite terms of the agreement and nothing is left to the future, except actual performance.

18. The writings Plaintiff asserts in his Complaint and Reply to New Matter that memorialize an agreement between Plaintiff and Defendant, even if believed, do not take the alleged oral agreement outside of the operation of the Statute of Frauds as the same do not show the requisite "meeting of the minds" or that Defendant Nixon agreed to sell the mineral and oil and gas rights in question for any

definite purchase price.

19. Pennsylvania appellate case law also specifically provides that the effect of the Pennsylvania Statute of Frauds is not merely a rule of evidence "but is a limitation of judicial authority to afford a remedy", which remedy Plaintiff requests in this case is for the Court to order specific performance of the oral agreement alleged by Plaintiff.

20. The averments of Plaintiff's Complaint (including the Exhibits attached thereto) and those in his Reply to New Matter, fail to establish an alleged oral agreement entitled to be treated outside the Pennsylvania Statute of Frauds (33 P.S. §1).

21. The averments of Plaintiff's Complaint (including the Exhibits attached thereto) and those set forth in his Reply to New Matter fail to set forth any circumstance traditionally recognized as an exception to take a case outside the application of the Pennsylvania Statute of Frauds.

22. The averments of Plaintiff's Complaint (including the Exhibits attached thereto) and those in his Reply to New Matter fail to set forth any circumstance, even if believed, which would entitle him to the requested judicial relief of "specific performance".

23. Alternatively, as this Court does have authority to enter partial summary judgment, it is asserted that even if Plaintiff has pled facts, if proven, sufficient to establish an oral agreement for sale of the aforementioned mineral, oil and gas rights, said circumstances do not fit into any exception to the Pennsylvania Statute

of Frauds which would allow this Court to consider ordering specific performance, and thus Plaintiff's remedy is limited to recovery of monetary damages which Pennsylvania appellate case law says are limited to: (i) money paid on account of the purchase (in this case allegedly \$631.12) and (ii) expenses incurred on faith of the contract (in this case the cost of having the proposed deed Exhibit 36 of Plaintiff's Complaint prepared).

24. Plaintiff can point to no specific facts set forth in either Defendant Nixon's Answer and New Matter, or in Defendant Nixon's deposition or in Plaintiff's own deposition which, even if believed, would take his pled cause of action outside the application of the Pennsylvania Statute of Frauds, or which would otherwise entitle him to the requested judicial relief of "specific performance".

25. The undersigned attorney for the moving party has read the Motion and to the best of his knowledge, information and belief, there are good grounds to support such Motion and it is not interposed merely for delay.

26. Based on the pleadings, Plaintiff's admissions and the facts adduced from the depositions of both Plaintiff and Defendant Nixon, pursuant to Pa. R.C.P. No. 1035.2, Defendant, Nixon is entitled to Summary Judgment, as a matter of law, and is entitled to an Order dismissing Plaintiff's Complaint and his prayer for relief of specific performance of the alleged oral contract for the sale and purchase of the oil, gas, coal and other mineral rights identified in Plaintiff's Complaint.

WHEREFORE, Defendant, Eleanor M. Nixon, moves this Honorable Court to enter an order granting her Motion for Summary Judgment which dismisses Plaintiff's

Complaint and his prayer for relief of specific performances of the alleged oral agreement.

Respectfully submitted:

GATES & SEAMAN

By:



Laurance B. Seaman, Esquire  
Attorney for Defendant,  
Eleanor M. Nixon, individually

Date: August 23, 2013

Date: 8/23/2013

Time: 09:27 AM

Page 1 of 2

**Clearfield County Court of Common Pleas**

User: GLKNISLEY

**ROA Report**

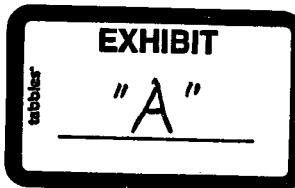
Case: 2008-00881-CD

Current Judge: Fredric Joseph Ammerman

James H. Gilliland vs. Eleanor M. Nixon, et al

**CIVIL ACTION**

Date		Judge
5/12/2008	New Case Filed.  Filing: Writ of Summons Paid by: Sughrue, John (attorney for Gilliland, James H.) Receipt number: 1924024 Dated: 5/12/2008 Amount: \$95.00 (Check) 1 Cert. to Atty. plus 30 writs	No Judge
	Case Filed.	No Judge
9/24/2008	Entry of Appearance and Rule to File Complaint, filed by s/ Laurance B. Seaman, Esquire. Enter appearance of laurance B. Seaman, Esquire, on behalf of Defendant, Eleanor M. Nixon. Please enter Rule upon Plaintiff, James H. Gilliland, to file a Complaint within 20 days of service thereof or suffer the entry of a Judgment of Non Pros. Filed by s/ Laurance B. Seaman, Esquire. 1CC & 1 Rule to Atty. Seaman	No Judge
10/14/2008	Filing: Praecipe for Reissuance of Writ of Summons Paid by: Sughrue, John (attorney for Gilliland, James H.) Receipt number: 1926345 Dated: 10/14/2008 Amount: \$7.00 (Check) For: Gilliland, James H. (plaintiff) Filed by s/ John Sughrue, Esquire. 3CC Atty. Sughrue; 29 Reissued Writs to Sheriff  Complaint, filed by s/John Sughrue, Esq. Two CC Attorney Sughrue	No Judge
11/14/2008	Answer to Complaint and New Matter, filed by s/ Laurance B. Seaman, Esquire. No CC	No Judge
11/18/2008	Sheriff Return, November 17, 2008 Returned the within Summons "NOT SERVED, TIME EXPIRED" as to defendant. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm No Costs.	No Judge
12/17/2008	Plaintiff's Reply to New Matter filed by Defendant, Eleanor M. Nixon, filed by s/ John Sughrue, Esquire. 3CC Atty. Sughrue	No Judge
4/8/2011	Motion for Judgment on the Pleadings, filed by s/ Laurance B. Seaman, Esq. 1CC Atty. Seaman	No Judge
4/13/2011	Order, NOW, this 13 day of April, upon consideration of the Motion, ordered that: Rule issued. Argument shall be held June 1, 2011. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attorney Seaman	Fredric Joseph Ammerman
4/18/2011	Amended Order, NOW, this 15th day of April, 2011, Order that paragraph number 2 of this Court's Order of April 13, 2011, is Amended to read as follows: 2) respondent shall file an answer to the Motion within 20 days of this date. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attorney Seaman	Fredric Joseph Ammerman
4/19/2011	Certificate of Service, a certified copy of Defendant's Motion For Summary Judgment and attached Order dated April 13, 2011, and Amended Order, dated April 15, 2011, was forwarded by U.S. Mail, postage prepaid, on the 15th of April, 2011 to John Sughrue, Esq. Filed by s/ Laurance B. Seaman, Esq. No CC	Fredric Joseph Ammerman
5/13/2011	Plaintiff's Answer to Defendant's Motion for Judgment on the Pleadings, filed by s/ John Sughrue Esq. 3CC Atty Sughrue.	Fredric Joseph Ammerman



Date: 8/23/2013

**Clearfield County Court of Common Pleas**

User: GLKNISLEY

Time: 09:27 AM

Page 2 of 2

**ROA Report**

Case: 2008-00881-CD

Current Judge: Fredric Joseph Ammerman

James H. Gilliland vs. Eleanor M. Nixon, et al

**CIVIL ACTION**

Date	Judge	
6/7/2011	Order, this 1st day of June, 2011, following argument on Def.'s Motion for Judgment on the Pleadings, it is Ordered that Defense counsel shall have no more than 20 days from this date in which to supply the Court with appropriate letter brief. Plff's counsel shall have no more than 20 days thereafter to respond. Defense counsel shall have no more than an additional 10 days following the same in which to submit a reply to Plaintiff's brief, if he should wish to do so. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty: Sughrue, Seaman	Fredric Joseph Ammerman
9/1/2011	Order, this 1st day of Sept., 2011, Motion for Judgment on the Pleadings is DENIED. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty: Sughrue, Seaman	Fredric Joseph Ammerman
4/12/2012	Motion to Allow Deposition by Telephone, with Order, filed by Atty. Seaman 2 Cert. to Atty. Order, NOW, this 12 day of April, 2012, RE: Oral deposition of Defendant Eleanor M. Nixon.	Fredric Joseph Ammerman
2/25/2013	Certificate of Service, filed. That a true and correct copy of the attached Notice of Taking Deposition was forwarded by first class mail on February 25, 2013 to John Sughrue Esq and by email to ASAP Court Reporting, filed by s/Laurance B. Seaman Esq. No CC.	Fredric Joseph Ammerman
5/17/2013	Order, this 16th of May, 2013, a status conference is scheduled for the 27th of June, 2013 at 1:30 p.m. in Courtroom 1. If this case has been concluded, the moving party is directed to file the appropriate Praecept with the Prothonotary of Clearfield County to finalize that status of the case. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Sughrue, Seaman	Fredric Joseph Ammerman
7/2/2013	Order, this 27th of June, 2013, it is Ordered that the Defense have no more than 60 days to file a Motion for Summary Judgment in the event they should wish to do so, and that this matter be scheduled for Pretrial Conference at 10:00 a.m. on Sept. 5, 2013, in chambers. The matter is nonjury in nature. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty: Seaman, Sughrue	Fredric Joseph Ammerman

FILED

AUG 23 2013

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

James H. Gilliland, individually,  
Plaintiff  
vs.  
Eleanor M. Nixon, individually and as  
Agent for all Co-Defendants and Leon  
C. Carberry, Hannah R. Slocum, County  
National Bank, Trustee for David and  
Jared McNaul, Selma A. Johnson, Anna  
M. Martinez, Sally M. Goss, Martha L.  
McNaul, Richard Gattuso, Virginia  
McNaul, David W. McNaul, Patricia M.  
Bender, George E. Bender, Michael D.  
McNaul, Allan A. McNaul, Ann Argo,  
Ralph Monaco, Ardath Morgan, Sonya  
Lea McNaul, a/k/a Sonya Lea Hart,  
William D. McNaul, Frances A. Gattuso,  
John M. Derr, Robert A. Derr, Jenine  
McNaul Campbell, Richard Peluse,  
Kathryn Collord, Barbara J. McNaul,  
Martha Jane Spinelli, Michael R. McNaul  
Robert G. McNaul, Defendants

No. 08- 00881 -CD

Type of Case: Civil

FILED  
01005000  
AUG 23 2013

William A. Shaw  
Prothonotary/Clerk of Courts

Type of Pleading: PRAECIPE

Filed on behalf of:  
Defendant ELEANOR M. NIXON,  
individually

Counsel of Record for this  
Party:  
Laurence B. Seaman, Esquire

Supreme Court No.: 19620

GATES & SEAMAN, LLP  
Attorneys at law  
Two North Front Street  
P. O. Box 846  
Clearfield, PA 16830  
(814) 765-1766

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

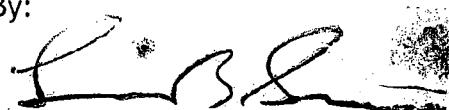
James H. Gilliland, individually, Plaintiff :  
vs. : No. 08-00881-CD  
:  
Eleanor M. Nixon, individually and as Agent :  
for all Co-Defendants and Leon C. Carberry, :  
Hannah R. Slocum, County National Bank, :  
Trustee for David and Jared McNaul, Selma A. :  
Johnson, Anna M. Martinez, Sally M. Goss, :  
Martha L. McNaul, Richard Gattuso, Virginia :  
McNaul, David W. McNaul, Patricia M. Bender, :  
George E. Bender, Michael D. McNaul, Allan A. :  
McNaul, Ann Argo, Ralph Monaco, Ardash :  
Morgan, Sonya Lea McNaul, a/k/a Sonya Lea :  
Hart, William D. McNaul, Frances A. Gattuso, :  
John M. Derr, Robert A. Derr, Jenine McNaul :  
Campbell, Richard Peluse, Kathryn Collord, :  
Barbara J. McNaul, Martha Jane Spinelli, :  
Michael R. McNaul and Robert G. McNaul, :  
Defendants :

PRAECIPE

TO WILLIAM A. SHAW, PROTHONOTARY:

Please file original Depositions of Plaintiff, James H. Gilliland, and  
Defendant, Eleanor M. Nixon.

GATES & SEAMAN, LLP  
By:



Laurance B. Seaman, Esquire

Date: August 23, 2013

cA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

JAMES H. GILLILAND, individually, Plaintiff

: No. 2008 - 881 - CD

-vs-

ELEANOR M. NIXON, individually, and as Agent for all  
Co-Defendants, Defendants and Leon C. Carberry,  
Hannah R. Slocum, County National Bank, Trustee for  
David and Jared McNaul, Selma A. Johnson, Anna M.  
Martinez, Sally M. Goss, Martha L. McNaul, Richard  
Gattuso, Virginia McNaul, David W. McNaul, Patricia M.  
Bender, George E. Bender, Michael D. McNaul, Allan A.  
McNaul, Ann Argo, Ralph Monaco, Ardath Morgan, Sonya  
Lea McNaul, a/k/a Sonya Lea Hart, William D. McNaul,  
Frances A. Gattuso, John M. Derr, Robert A. Derr,  
Jenine McNaul Campbell, Richard Peluse, Kathryn Collord  
Barbara J. McNaul, Martha Jane Spinelli, Michael R.  
McNaul, Robert G. McNaul, Defendants

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01 31 2013 AMY  
5 AUG 27 2013 Seaman

William A. Shaw  
Prothonotary/Clerk of Courts

68

O R D E R

NOW, this 23 day of August, 2013, upon consideration of the  
foregoing Motion for Summary Judgment, it is hereby ordered that:

(1) a rule is issued upon the Respondent/Plaintiff to show cause  
why the moving party is not entitled to the relief requested;

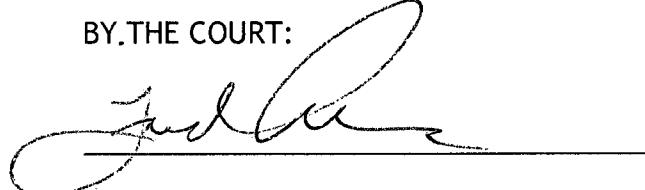
(2) the Respondent/Plaintiff shall file an answer to the Motion  
within twenty (20) days of this date;

(3) the Motion shall be decided under Pa. R. C. P. No. 206.7;

(4) argument shall be held on September 25, 2013  
at 2:30 pm o'clock in Courtroom No. 1 of the Clearfield County  
Courthouse, Clearfield, PA 16830;

(5) notice of the entry of this Order and the underlying Motion  
shall be provided to all parties by the moving party.

BY THE COURT:



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

JAMES H. GILLILAND, individually, Plaintiff : No. 2008 - 881 - CD  
:  
-vs-  
:  
ELEANOR M. NIXON, individually, and as Agent for all  
Co-Defendants, Defendants and Leon C. Carberry,  
Hannah R. Slocum, County National Bank, Trustee for  
David and Jared McNaul, Selma A. Johnson, Anna M.  
Martinez, Sally M. Goss, Martha L. McNaul, Richard  
Gattuso, Virginia McNaul, David W. McNaul, Patricia M.  
Bender, George E. Bender, Michael D. McNaul, Allan A.  
McNaul, Ann Argo, Ralph Monaco, Ardath Morgan, Sonya  
Lea McNaul, a/k/a Sonya Lea Hart, William D. McNaul,  
Frances A. Gattuso, John M. Derr, Robert A. Derr,  
Jenine McNaul Campbell, Richard Peluse, Kathryn Collord  
Barbara J. McNaul, Martha Jane Spinelli, Michael R.  
McNaul, Robert G. McNaul, Defendants :  
:

CERTIFICATE OF SERVICE

I hereby certify that a certified copy of Defendant's MOTION FOR SUMMARY  
JUDGMENT, and attached SCHEDULING ORDER, dated August 23, 2013, was  
forwarded by U. S. Mail, postage prepaid, on the 28<sup>th</sup> day of August, 2013, to:

John Sughrue, Esquire  
Attorney for Plaintiff  
225 East Market Street  
Clearfield, PA 16830

GATES & SEAMAN, LLP

By: 

Laurance B. Seaman, Esq.

(LG) FILED No cc  
S 0/10/2013  
AUG 29 2013

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

James H. Gilliland, individually,  
Plaintiff,

VS.

Eleanor M. Nixon, et. al. Defendants

No. 2008-881-C.D.

**Type of case: Civil Action**

## Equity cause of action for specific performance

### **Type of Pleading:**

**Plaintiff's Answer to Motion for  
Summary Judgment Filed by  
Defendant Nixon on August 23,  
2013**

**Filed on Behalf of:** Plaintiff

**Counsel of Record for this Party:**

John Sughrue, Esquire  
Supreme Ct. I.D. 01037  
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**Other Counsel of Record:**

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3cc Atty  
William A. Shaw  
Prothonotary/Clerk of Courts  
Sughrue

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

James H. Gilliland, individually, \*  
Plaintiff, \*  
\*  
vs. \* No. 2008-881-C.D.  
\*  
Eleanor M. Nixon, individually and as Agent \*  
for all Co-Defendants, et. al. \*  
Defendants \*

**PLAINTIFF'S ANSWER TO MOTION FOR SUMMARY JUDGMENT**  
**FILED BY DEFENDANT NIXON ON AUGUST 23, 2013**

AND NOW, comes Plaintiff, James H. Gilliland, by his attorney, John Sughrue, and responds to Motion for Summary Judgment filed by Defendant Nixon as follows:

1. Admitted.
2. Admitted in part and denied in part as stated. The two parties were directly involved in the oral agreement. Whether or not any other person has any knowledge regarding the oral agreement is unknown. As of this time, no other individual has been identified.
3. Admitted.
4. Admitted.
5. Admitted in part and denied in part. It is admitted that no valid enforceable written agreement exists as a single document. However, it is alleged and proven that various writings exist which speak of the agreement or are the basis for an inference that such agreement was made. A written agreement does not have to be a single integrated document as a matter of law.
6. Denied. On the contrary, facts are as set forth in the Complaint. Specifically, the acts that Plaintiff undertook in performance of his obligation are such that it does constitute an

exception to the Pennsylvania Statute of Frauds, and because of the unique subject matter, cannot be remedied by an award of monetary damages. The uniqueness is characterized by the fact that the subject property in dispute is the only mineral estate that underlies Plaintiff's residential farm property.

7. Admitted in part. It is denied that the allegations and writings referenced in the Complaint and in subsequent depositions do not satisfy the Statute of Frauds. On the contrary, the exception to the Statute of Frauds is satisfied.

8. Admitted in part. It is denied that said letter is the only document. In addition, Nixon signed a check reimbursing Plaintiff for her taxes that he paid. Such check supports the inference that Plaintiff paid Nixon's taxes and Nixon knew it.

9. No response is required. This Statute speaks for itself. **It is admitted that the purpose of the Statute is to prevent perjury and fraudulent claims.** Further, when there is sufficient evidence to allow a fact finder to conclude that there is no evidence of perjury or fraudulent claim and that the evidence does, in fact, support the conclusion that a transaction was contemplated, made and performed at least in part, the purpose of the Statute is satisfied. **The fraud in this case is actually perpetrated by Nixon, who made the deal and induced Gilliland to pay her taxes and now seeks to renege on that deal. Nixon has no explanation for her failure to pay her taxes in order to avoid a Tax Sale.** All of the evidence supports, with at least a preponderance of the evidence, and, in fact, with clear convincing evidence, that she did not pay the taxes because she planned to have the property go for taxes, and she knew that Gilliland was paying the taxes on her property in accordance with their agreement.

10. It is a statement of law to which no response is required. On the contrary, specific enforcement can be granted in instances where the buyer has partially performed to his detriment and the benefit of seller.

11. Denied as stated. It is admitted that part performance is sufficient where rescission of the contract would be inequitable and not capable of being compensated in damages. That is the case here. The damage is not the money that Gilliland paid. The damage is his failure to receive his bargain, specifically, acquire the minerals, oil and gas underlying his farm in Pike Township. It is inequitable and wrong to allow Nixon to have her property saved from Tax Sale by Gilliland's payment and now breach their agreement in order to continue to own the property.

**But for Gilliland's payment of taxes, the property would have been lost at Tax Sale.** Nixon has no explanation and admits that, based on the evidence as a whole, she knew of her unpaid taxes and did not intend to pay them herself. Thus, the deal that Gilliland gave her was "found money". Further, Nixon, by her letter to Attorney Naddeo referenced above, acknowledges that a transaction for \$500.00 was made, and her complaint in the letter is that she has not received the \$500.00. At that point, Gilliland hadn't received the Deed either. It was simply a matter of logistics. Give the Deed and pay the \$500.00.

12. It is denied that actual possession is required in this case. Pennsylvania law clearly provides for three separate estates in real property: Surface, minerals and right of sub-lateral support. In this case, we are dealing with an interest solely in the sub-surface minerals. It is clear you cannot take actual possession of coal, minerals, oil and gas in the ground. But possession is also defined by the concept of "control". How do you possess a large tract of unimproved surface land? You fence it, post it, mark it and patrol it. As owner of the surface, Gilliland is in actual control and possesses the sub-surface minerals to a greater extent than any

other person. His control of the minerals by surface possession is tantamount to possession and should satisfy the requirements of the law.

13. Admitted. Further, the response of Paragraph 12 is incorporated herein. On the contrary, Plaintiff believes that his control of the subject property was sufficient to constitute possession within the concept of the Statute of Frauds.

14. Again, Plaintiff tries to reduce the concept of possession to actual possession of the oil, coal or other minerals in one's hand. Plaintiff relies upon the response to Paragraph 12 and 13 above, which is incorporated herein by reference. Further, Defendant by referencing "drilling for" or "commencing operations to so mine, drill for and/or remove" acknowledges that activity in exercise of control is tantamount to possession.

15. Admitted. Further, Plaintiff did not have record title to do so, and the entire purpose of this lawsuit is to acquire record title to the mineral estate. It would have been imprudent for Plaintiff to do so prior to this civil action being adjudicated.

16. Plaintiff incorporates his response to Paragraph 12, 13, 14 and 15 above herein by reference.

17. There was a meeting of the mind on this transaction. Gilliland's testimony, if believed, plus the objective evidence proves by a preponderance of the evidence that an agreement was made. Nixon now seeks to avoid the consequences by dishonestly denying the existence of the transaction. Denying that there was an agreement, if false, does not vitiate the meeting of the minds that occurred at the time the transaction was struck. **The definitive, unrebutted facts in this case are that Nixon, the party responsible for payment of taxes, knew that she was delinquent, knew that the property was being placed for Tax Sale within a week and, notwithstanding this knowledge, consciously and intentionally did not pay the**

**taxes as she had in prior years.** As a result, one might conclude that Nixon expected the property to be sold at Tax Sale. One may also infer that she did not need to pay the taxes because she knew that Gilliland was. Nixon denies this fact, but the evidence is overwhelming. Nixon admits a phone conversation with Gilliland prior to the Tax Sale, did not pay the taxes, Gilliland did pay the taxes, and Gilliland sent a deed. By responding letter, Nixon states that she was returning the Deed because "she did not receive the \$500.00". In light of the other evidence, this letter from Nixon constitutes an admission that the transaction had been made.

18. Denied. On the contrary, all of the evidence and exhibits favorable to Plaintiff support a conclusion that the Statute of Frauds has been satisfied. It also is sufficient for the Court to conclude that indeed an agreement was made and there was a meeting of the minds. Now, Nixon simply denies that there was an agreement. However, her declaration has no credibility when the objective evidence is considered and given proper weight. The averments of Paragraph 17 above are incorporated herein by reference.

19. When all of the argument is done, the issue remains the same:

1. Do the writings referenced by Plaintiff and Plaintiff's conduct in performance of his obligation under the alleged agreement constitute partial performance of his obligation to the extent that it satisfies the Statute of Frauds?

2. If the Court is convinced that the alleged agreement occurred and Plaintiff was induced to pay Nixon's taxes because of the agreement, and the purpose of the Statute of Frauds, i.e. to prevent perjury and fraudulent claims is satisfied. To deny Plaintiff's remedy and allow Nixon to avoid her obligation would reward her intentional breach of this agreement in order to continue ownership of the property when it would have otherwise been lost at tax sale.

3. Is the Statute of Frauds satisfied? That is the issue.

4. Is the property in question so unique that Plaintiff cannot be compensated for his loss or damages by money? Contrary to what Plaintiff's counsel is trying to sell, the damages are not Plaintiff's out-of-pocket expenses. The damage is Plaintiff's permanent loss of the only minerals and sub-surface rights that exist under his one and only farm.

20. Denied. On the contrary, the Exhibits attached in detail to the Complaint, Plaintiff's unrebuted testimony, and importantly, Defendant's admission in her deposition that she was the individual to whom the taxes were sent, that she was the individual who had paid the taxes for years, and that she was the individual who did not pay the taxes at the time in question, and her failure to have any explanation for her failure to pay her taxes, except to make a bald statement that Gilliland was a volunteer, more than establishes the inference that an agreement had been made. Further, Gilliland placed the agreed upon compensation, \$500.00, in the Deed, **and in her response, Nixon did not complain of the \$500.00, but complained only of the fact that she had not received the \$500.00. She did not deny that was the amount.**

21. Denied. On the contrary, the admitted facts and exhibits of the pleadings, together with Plaintiff's proposed testimony, are more than sufficient to support the exception. Further, the averments set forth above are incorporated herein by reference.

22. Denied. On the contrary, in purposes of determining a summary judgment, the Court must accept as true all of Plaintiff's allegations, his proposed exhibits and Defendant's admissions of record against interest as true. If accepted as true, specific performance is a valid remedy under the facts of this case.

23. Denied as stated. On the contrary, the paragraph frames the issues:

1. If all of the evidence favorable to Plaintiff is believed, is there a probability of Plaintiff prevailing at Trial on the issue of satisfying the Statute of Frauds. If the answer is yes, then the summary judgment must be denied.

2. Likewise, in determining the sub-issue of whether or not the Plaintiff is entitled to specific performance, the same test applies. If all of the evidence favorable to Plaintiff is believed, is there a probability of Plaintiff being entitled to specific performance

under the facts and law of this case? If the answer is yes, then the motion for partial summary judgment must be denied and all issues allowed to go to trial.

Those issues need to be briefed and addressed by the Court. Further, if there is a finding that the contract existed but Plaintiff is not entitled to specific performance, then the Court should recognize that this law suit was necessary in order to secure that judgment and the attorney fees and expenses should be added to Plaintiff's out-of-pocket expenses.

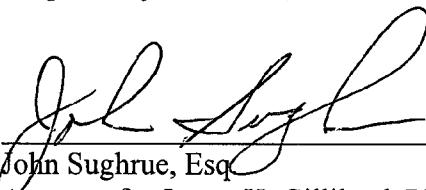
24. This allegation has been made and answered above. The responses of the foregoing paragraphs are incorporated by reference.

25. Accepted.

26. Denied. Based on all of the pleadings, exhibits and testimony of the parties, including Nixon's admissions and omissions, which the Court for purposes of determining summary judgment must accept as true, the Court should conclude that Defendant is not entitled to summary judgment as a matter of law. In particular, Nixon offers no evidence in this case except to deny that she made an agreement and cannot explain her failure to pay her taxes before the scheduled Tax Sale. Further, it is reasonable to conclude that Plaintiff's sole reason for offering to purchase the Defendant's property is the fact that it is the only mineral estate underlying his farm. That fact was the primary inducement in the making of the contract. No amount of money can compensate Gilliland for the loss of mineral rights under his farm.

WHEREFORE, Plaintiff, James H. Gilliland, moves this Honorable Court to enter an Order denying the Motion for Summary Judgment and to schedule this case for trial forthwith.

Respectfully submitted,



John Sughrue, Esq.  
Attorney for James H. Gilliland, Plaintiff

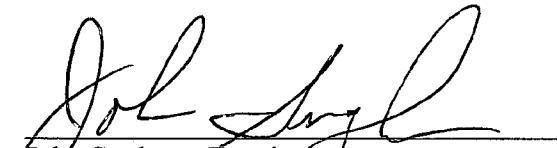
**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on September 17, 2013, I caused a true and correct copy of Plaintiff's Answer to Motion for Summary Judgment filed by Defendant Nixon on **August 23, 2013**, to be served on the following and in the manner indicated below:

**By U. S. FIRST CLASS MAIL, POSTAGE PREPAID**  
**Addressed as Follows:**

Laurance B. Seaman, Esquire  
Gates & Seaman, LLP  
Two North Front Street  
P.O. Box 846  
Clearfield, PA 16830

Date: September 17, 2013



John Sughrue, Esquire  
Attorney for James H. Gilliland, Plaintiff

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

JAMES H. GILLILAND

-vs-

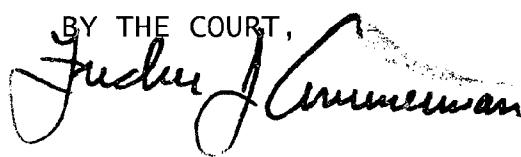
: No. 08-881-CD

ELEANOR M. NIXON, et al. :

O R D E R

AND NOW, this 25th day of September, 2013,  
following argument on Defendant Eleanor M. Nixon's Motion for  
Full and/or Partial Summary Judgment, it is the ORDER of this  
Court that counsel for the parties supply the Court with  
appropriate brief by no later than November 8, 2013. If  
desired, counsel shall file responsive brief within no more  
than seven (7) days thereafter.

BY THE COURT,



President Judge

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

JAMES H. GILLILAND, individually,  
Plaintiff

vs.

Case No.: 2008-881-CD

ELEANOR M. NIXON, individually and as  
agent for all Co-Defendants and LEON C.  
CARBERRY, HANNAH R. SLOCUM,  
COUNTY NATIONAL BANK, Trustee for  
DAVID and JARED MCNAUL, SELMA A.  
JOHNSON, ANNA M. MARTINEZ, SALLY:  
M. GOSS, MARTHA L. MCNAUL,  
RICHARD GATTUSO, VIRGINIA  
MCNAUL, DAVID W. MCNAUL,  
PATRICIA M. BENDER, MICHAEL D.  
MCNAUL, ALLAN A. MCNAUL, ANN  
ARGO, RALPH MONACO, ARDATH  
MORGAN, SONYA LEA MCNAUL, a/k/a  
SONYA LEA HART, WILLIAM D.  
MCNAUL, FRANCES A. GATTUSO,  
JOHN M. DERR, ROBERT A. DERR,  
JENINE MCNAUL CAMPBELL,  
RICHARD PELUSE, KATHRYN  
COLLORD, BARBARA J. MCNAUL,  
MARTHA JANE SPINELLI, MICHAEL R.  
MCNAUL, ROBERT G. MCNAUL,  
Defendants

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**OPINION AND ORDER**

***Procedural History***

On May 12, 2008, James H. Gilliland (hereinafter "Plaintiff") commenced this action by filing a Writ of Summons. Counsel for Eleanor M. Nixon (hereinafter "Defendant") filed on behalf of Defendant, individually, a Praecept for Entry of Appearance and Rule to File Complaint on September 24, 2008. On October 14, 2008, Plaintiff filed a Praecept to Reissue the Writ of Summons and also filed a Complaint in this action. With the exception of

Defendant, the other co-defendants were never served with the Writ of Summons, Re-Issued Writ of Summons, or the Complaint.

As eluded to above, Defendant, individually, filed an Answer to the Complaint and New Matter. In Defendant's New Matter, Defendant raised the defense of the Statute of Frauds, as well as the lack of authority of Defendant to act on behalf of the other co-defendants to sell their interests in the Subject Minerals. Plaintiff filed a response to the New Matter on December 17, 2008. Defendant filed a Motion for Judgment on the Pleadings on April 8, 2011. Following oral argument, said Motion was denied by the Court on September 1, 2011.

A Motion for Summary Judgment was filed by Defendant on August 23, 2013, which also included an alternative request for partial summary judgment asking that Plaintiff be precluded from seeking specific performance. The Court heard oral argument on the Motion on September 25, 2013, and upon conclusion ordered the parties to submit briefs on the issues in contention. Upon review of the briefs, this matter is now ripe for decision. For the ensuing reasons, the Court grants Defendant's request for partial summary judgment.

#### ***Factual Background***

The Complaint seeks specific performance of an alleged oral contract for the purchase of the oil, gas, coal, and other minerals (hereinafter "Subject Minerals") in and under approximately one hundred eighty (180) acres of land in Pike Township, Clearfield County, Pennsylvania. The Subject Minerals are owned by Defendant and the other co-defendants, as heirs of Robert W. McNaul,<sup>1</sup> and are located under the surface of the lands which are owned

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<sup>1</sup> The Clearfield County Tax Assessor assesses the McNaul Premises, found at Tax Map No. 126-G9-5-MN and Tax Map No. 126-H8-7-MN, in the name of "Robert W. McNaul Heirs." The first parcel contains the mineral rights to one hundred thirty-two (132) acres. In the second parcel the Heirs own an eighty (80%) percent interest in the mineral rights to 48 (forty-eight) acres, with the exception of the clay rights.

by Plaintiff. Plaintiff averred that Defendant, as agent for all of the above named co-defendants, orally agreed to sale all of the defendants' interests in the Subject Minerals to Plaintiff.

The avouched offer to purchase the Subject Minerals came when Plaintiff observed that the Subject Minerals were subject to a tax sale for unpaid real estate taxes. Upon seeing the notice of the impending tax sale, Plaintiff telephoned Defendant to inquire about purchasing the Subject Minerals. Plaintiff declared he offered to pay five hundred dollars (\$500.00) and pay the back taxes on the heir's property interest in exchange for the Subject Minerals. Said offer was ostensibly agreed to by Defendant.

In supposed reliance upon the agreement Plaintiff paid the 2005 and 2006 real estate taxes, which was sufficient to take the premises out of the September 2007 Tax Sale. Said payment amounted to six hundred thirty-one dollars and twelve cents (\$631.12). Subsequently, Plaintiff retained the Clearfield County law firm of Naddeo & Lewis to prepare a Deed that would convey the Subject Minerals to Plaintiff. Attorney Linda Lewis drafted a Deed to this affect and sent it to Defendant for execution. However, Defendant returned the Deed, with a letter stating, in full, "This is to inform you that I have NOT received the sum of \$500 from Mr. Gillian [SIC]. I am, therefore, returning the deed, unsigned, as it is NOT applicable. Sincerely, Eleanor Nixon" (Emphasis in original).

On April 8, 2008, Defendant sent a check in the amount of six hundred thirty-one dollars and twelve cents (\$631.12) to Plaintiff, seeking to reimburse Plaintiff for the taxes that he had paid on the premises. Accompanying the check was a memo, where it was inscribed "Enclosed please find check in the amount of [\$]631.12 for reimbursement and thank you. It is unfortunate that our communication was incomplete. My best wishes, Eleanor Nixon".

Thereafter, Defendant has paid all applicable real estate taxes on the Subject Minerals since 2007.

### *Analysis*

Defendant has filed a Motion for Summary Judgment against Plaintiff pursuant to Pennsylvania Rule of Civil Procedure 1035.2. This Rule provides as follows:

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law

(1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or

(2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Pa.R.C.P. 1035.2. A court may grant summary judgment only where the right to such a judgment is clear and free from doubt. *Toy v. Metropolitan Life Ins. Co.*, 928 A.2d 186 (Pa. 2007). In considering the merits of a motion for summary judgment, a court must view the record in the light most favorable to the non-moving party, and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party. *Id.* A "material fact" on a motion for summary judgment, is one that directly affects the outcome of the case.

*Fortney v. Callenberger*, 801 A.2d 594 (Pa. Super. Ct. 2002). A court may grant summary judgment whenever there is no genuine issue of any material fact as to the necessary elements of the cause of action or defense that could be established by additional discovery. *Swords v. Harleysville Inc. Companies*, 883 A.2d 562 (Pa. 2005).

Under Rule 1035.3 the adverse party may not rest upon the mere allegations or denials of the pleadings, but must file a response identifying (1) one or more issues of fact arising from evidence in the record controverting the evidence cited in support of the motion or from a challenge to the credibility of one or more witnesses testifying in support of the motion, or (2) evidence in the record establishing the facts essential to the cause of action or defense which the motion cites as not having been produced. Pa.R.C.P. 1035.3. The "record" on a motion for summary judgment includes any (1) pleadings, (2) depositions, answers to interrogatories, admissions and affidavits, and (3) reports signed by an expert witness.

Pa.R.C.P. 1035.1.

In this case, the record for the Court's review consists of the various pleadings noted in the history section of this Opinion, the Docket Entries, items written by Defendant, the Depositions of Defendant and Plaintiff, which have been filed with the Court, and a letter from Plaintiff's Attorney that supplements Plaintiff's testimony in his Deposition to clarify that Plaintiff never made a payment to Defendant at any time. A review of this record demonstrates that there is no genuine issue as to any material fact which would allow Plaintiff to be entitled to specific performance of the oral contract he alleges he entered into with Defendant, because of the application of the Statute of Frauds.

In addressing the matter at hand, to grant summary judgment on the issue of specific performance the Court accepts all of Plaintiff's allegations, including the oral agreement for the purchase of real estate. The basis of the oral contract as alleged by Plaintiff in the Complaint, and as testified to by him during his Deposition and described prior in this Opinion, is that on September 11, 2007 he offered to pay the delinquent real estate taxes for the years 2005, 2006, and 2007 to stop an impending tax sale, plus an additional five hundred

dollars (\$500.00) to Defendant for the Subject Minerals. Plaintiff also affirmed that he called Defendant on September 12, 2007 and told her he had paid said real estate taxes and he would get the paperwork drawn up to memorialize the deal that they had made. He stated, at the Deposition, that the paperwork would include a Bill of Sale, which would "cement the deal."<sup>2</sup> At this point, no writing at all had been signed by Defendant and most of the necessary terms of a sale had not been discussed. There was also never any discussion or anything in writing between Defendant and Plaintiff, about the fact that Defendant and the other owners of the Subject Minerals only owned an eighty (80%) percent interest in the Subject Minerals under part of the property. Moreover, there was nothing in writing to indicate that the defendants did not own any of the clay rights under a portion of a parcel.

While, Plaintiff is correct in stating that there can be an oral agreement between the parties for the sale of real estate, said oral pact must cross the hurdle of the Statute of Frauds. It is well-settled in Pennsylvania jurisprudence that a contract for the sale of real property is *unenforceable*, unless it is in writing and signed by all the parties to the transaction.<sup>3</sup> *See e.g.*, *Trowbridge v. McCaigue*, 992 A.2d 199, 201 (Pa. Super. Ct. 2010); *Hostetter v. Hoover*, 547 A.2d 1247, 1250 (Pa. Super. Ct. 1988); *Rosen v. Rittenhouse Towers*, 482 A.2d 1113, 1116 (Pa. Super. Ct. 1984). The Statute of Frauds generally renders an oral agreement for the sale of land unenforceable and bars the remedy of specific performance. *Empire Properties, Inc. v. Equireal, Inc.*, 674 A.2d 297, 302 (Pa. Super. Ct. 1996). The rule operates as a limitation

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<sup>2</sup> This statement would highlight the fact that even Plaintiff did not believe that there was a binding contract in existence, since the paperwork drafted by his attorney would "cement the deal."

<sup>3</sup> The pertinent provision of the Statute of Frauds is found in the Act of March 21, 1772, and codified at 33 P.S. § 1, which provides, *inter alia*: "... all . . . estates . . . of, in or out of any . . . lands, tenements or hereditaments, made . . . by parole, and not put in writing, and signed by the parties so making or creating the same, or their agents, thereunto lawfully authorized by writing, shall have the force and effect of leases or estates at will only, . . . ; except, nevertheless, all leases not exceeding the term of three years from the making thereof . . . "

upon judicial authority to afford a remedy unless renounced or waived by the party entitled to claim its protection. *Haskell v. Heathcote*, 69 A.2d 71 (Pa. 1949); *Schuster v. Pa. Turnpike Comm'n*, 149 A.2d 447 (Pa. 1959).

Specifically, in order for the Statute of Frauds to be satisfied the contract must be signed by the party against whom it is being asserted. *In re Estate of Pentrack*, 405 A.2d 879, 880 (Pa. 1979). For the purpose of satisfying the Statute of Frauds, any number of documents can be taken together to make up the necessary written terms of the bargain, provided that there is sufficient connection made out between the papers. *Strausser v. PRAMCO, III*, 944 A.2d 761, 765 (Pa. Super. Ct. 2008).

Plaintiff proffers three documents that were signed by Defendant to establish the terms of the contract for the sale of the Subject Minerals: (1) a check to reimburse Plaintiff for the taxes; (2) a letter to Attorney Lewis; and (3) a memo written to Plaintiff. Plaintiff expounds that this combination of papers placates the written memorandum requirement. The Court will therefore examine each document, being described earlier, in turn to see if they satiate the burden the Plaintiff faces.

The first item was the check by which Defendant attempted to reimburse Plaintiff for the 2005 and 2006 delinquent taxes. The Court believes that repaying said money to Plaintiff shows no intent to be bound to the terms of the alleged contract. If anything, it would confirm the contrary. If Defendant was acknowledging the provisions of the apparent agreement she would not have given the partial consideration back to the Plaintiff. While the check may shed light on the amount of consideration due under the alleged arrangement, this refund also refutes that there was an oral contract or that Defendant was assenting to be bound by its terms.

The second writing is a two (2) sentence letter from Defendant to Attorney Lewis that accompanied the returned, unsigned Deed Attorney Lewis prepared to convey the Subject Minerals to Plaintiff. As stated prior, Defendant enunciated in her letter that she did not receive the sum of five hundred dollars (\$500.00) from Plaintiff. While Plaintiff enounces that this letter confirms the sale for five hundred dollars (\$500.00), because Defendant mentioned that sum of money in the letter, it could also be the case that this was a response to Attorney Lewis's statement in her letter to Defendant, which stated "I have been informed by Mr. Gilliland that he paid you for the interest that the McNaul Heirs own in the oil, gas, coal and other minerals underlying his property." It is undisputed that Plaintiff never paid Defendant said amount. The letter from Defendant did not confirm that she agreed to any terms of the bargain or explicitly set forth any specifics of the contract. Importantly, Defendant sent the Deed back and never demanded the monies. This fact would indicate that Defendant rejected the offer that was being thrust upon her.

The third item signed by Defendant is a message she wrote to Plaintiff on April 8, 2008. This memo resulted from Plaintiff calling Defendant on April 1, 2008, when he told her how much he paid on September 11, 2007 for the back taxes. The letter, which accompanied the check that reimbursed Plaintiff, made it clear that there was never an acceptance of the terms of the purported contract. Nixon stated, in the writing, that it was "unfortunate that our communication was incomplete." There could not be a more apropos sentence than this to demonstrate that there was never proper acceptance of Plaintiff's offer.

Looking at all of these documents, the Court believes that they actually indicate that there was no agreement between the parties. It would appear that Defendant was rejecting the proposed offer in each of the documents proffered by Plaintiff. In addition, these papers, even

though signed by Defendant, clearly do not fully prove the terms of the alleged contract. The items, at best, indicate that Defendant rejected any offer made by Plaintiff.

The documents do not concretely set forth the amount of consideration to be paid. There is a possibility that Plaintiff was meant to pay more for the property. While Plaintiff said he offered to pay the delinquent taxes, he did not know which taxes were delinquent, or what the amount of the taxes would be. Furthermore, the documents do not define what was to be bought, or what Plaintiff was getting for his payments. Plaintiff admitted in his Deposition that he was unsure what he was attempting to purchase from Defendant. He stated he was trying to buy the "mineral rights," but was not certain what "mineral rights" actually constituted. He also had no indication that there was an exception for clay for one of the parcels. This demonstrates again the need for something in writing signed by Defendant to set forth exactly what Plaintiff was going to be purchasing and what Defendant was selling, if there was in fact an oral contract in existence.

There is also a woriment concerning the identification of what was to be purchased by Plaintiff. Plaintiff contends that the description of the property is adequately identified by the Tax Claim Bureau Notices and the Tax Claim Bureau Receipts for Plaintiff's payments. While the Court agrees that a precise metes and bounds description is not necessary and the use of tax parcel numbers may be adequate to prove the terms of a contract, none of the notices or receipts proffered by Plaintiff were signed by Defendant, and accordingly, cannot be employed to prove such terms. Hence, the Court believes that these three documents, taken in tandem, are not enough to demonstrate that there was an agreement between the parties.

However, in *rare* instances, a plaintiff can enforce an agreement to convey real property on the strength only of an oral agreement. *Firetree, Ltd. v. Dep't of Gen. Servs.*, 978

A.2d 1067, 1074 (Pa. Commw. Ct. 2009). These include, for example, cases where the seller admits that there was an oral agreement for the sale of the property or has waived the Statute of Frauds defense. *See e.g., Zlotziver v. Zlotziver*, 49 A.2d 779, 781 (1946) (holding that where the seller admits, either in pleadings or testimony, the existence of the contract, the purpose of the Statute of Frauds is served and the oral agreement will be enforced). As these two exceptions are not applicable in this case, “[l]and may also change hands where there is proof that the buyer paid consideration for the land; that the buyer took possession of the land; that the buyer's harm could not be compensated in damages; and that a rescission would be manifestly unfair.” *Firetree, Ltd. v. Dep't of Gen. Servs.*, 978 A.2d at 1074. Said exception is commonly referred to as “part performance.”

The justices of the Supreme Court explained that the burden of proof, where a plaintiff asserts the existence of an oral agreement to convey land, is *very high*. *Kurland v. Stolker*, 533 A.2d 1370, 1373 (Pa. 1987). In order to take an oral contract for the sale of land out of the operation of the Statute of Frauds, its terms must be demonstrated “*by full, complete, satisfactory and indubitable proof*.” *Richardson v. Savage*, 195 A. 629, 630 (Pa. Super. Ct. 1937) (emphasis added). Accordingly, where a plaintiff seeks “to take an oral contract for real estate out of the statute,” the plaintiff’s evidence must be “complete” and satisfy numerous elements. *Kurland v. Stolker*, 533 A.2d at 1373. The evidence must fix the amount of the consideration and must establish the fact that possession was taken in pursuance of the contract, and at or immediately after the time it was made, the fact that the change of possession was notorious, and the fact that it has been exclusive, continuous and maintained. *See Richardson v. Savage*, 195 A. at 630; *Estate of Lena Hartzell*, 173 A. 842, 844 (Pa. 1934). As stated over 150 years ago, to take a case outside of the Statute, there must be “[a]n

unequivocal and substantial change of the occupancy must be a part of the evidence of the contract . . ." *Hill v. Myers*, 43 Pa. 170, 172 (Pa. 1862). Even examining the record in the light most favorable to Plaintiff and resolving all doubts regarding the existence of a genuine issue of material fact in favor of Plaintiff, Plaintiff is still not entitled to specific performance of the alleged oral contract, because it is clear from the record that he cannot meet all of these requirements.

Again, taking of possession is a necessary fact which, with other circumstances, may give rise to equities sufficient to take the case out of the Statute of Frauds. *Redditt v. Horn*, 64 A.2d 809, 810 (Pa. 1949). Part performance is only obtained by an *unequivocal and substantial change* of occupancy. The evidence, in the case at bar, does not indicate that any possession of the property was taken in reliance on the contract. Plaintiff performed no acts on the premises that would indicate that he was the sole and true owner of the Subject Minerals. Examples of improvements which could have taken this oral contract out of the application of the Statute of Frauds and allowed Plaintiff to be awarded specific performance include, but are not limited to: exploration for gas and oil, construction on the surface of a well pad for drilling for oil and gas, actual drilling for oil and gas, the drilling of test holes to determine the location and quantity of coal and other minerals. Plaintiff did not perform any of these actions and he does not even allege he did any of these activities. Moreover, Plaintiff did not admit to ever entering into any leases for the development of any of the Subject Minerals.

Plaintiff further articulates he owned the surface and therefore he possessed the Subject Minerals. The Court believes that a surface owner's mere possession and occupation of the surface does not satisfy the element of an *unequivocal and substantial change* of

occupancy. Plaintiff fails to recognize that he and his brother and sister-in-law owned the surface for many years prior to the alleged oral contract being entered into in September of 2007 and made no changes in their “possession” of the Subject Minerals, before or after entering into the contract. In other words, Plaintiff did nothing differently after the oral contract was supposedly entered into than what he did before. This fact is similar to a case where a mother and her two sons continued to live and work on three farms as they had done before the mother’s alleged oral contract to execute a deed to her sons, as tenants in common, for one of the farms and to devise the two other farms, one to each son. The Supreme Court found that there was no exclusive possession, such as is required to take the case out of the Statute of Frauds. *Sorber v. Masters*, 107 A. 892 (Pa. 1919). Thus, as has been found many times before by the courts, continuance of a prior possession *will not suffice* as part performance to take the contract out of the Statute. *See Myers v. Byerly*, 45 Pa. 368 (1863); *Mahon v. Baker*, 26 Pa. 519 (Pa. 1856).

The Court also considers this case to be akin to an instance where the vendee was already in possession as a tenant in common, and it was held that there can be no such delivery of possession as will take the case out of the Statute of Frauds. *Lincoln v. Africa*, 77 A. 918, 919 (Pa. 1910). Moreover, where a supposed buyer is already in possession and remains in possession, there can be no such unequivocal and substantial change of occupancy as to publicize the alleged creation of an easement on the property he is in possession. *Overbrook Farms Club v. MacCoy*, 32 Pa. D. & C.2d 603 (Pa. Com. Pl. Montgomery 1963).

In addition, the cases granting specific performance are limited and deal with a party moving onto a property and making *substantial* improvements to the property over time. *See Hobstetter v. Hoover*, 537 A.2d at 1247. Moreover, as stated above, Plaintiff must show

partial performance of the contract, which cannot be compensated in damages. The partial performance advanced here by Plaintiff is the tax payment paid on behalf of the McNaul Heirs. This amount is easily compensable in damages. *See Strausser v. PRAMCO, III*, 944 A.2d at 766 (holding that monthly payments on an alleged oral mortgage did not constitute part performance and could be repaid to the payor without difficulty). Plaintiff also made no improvements to the land that would warrant enforcing the alleged oral contract; in fact, he made no improvements at all. Since Plaintiff made no substantial improvements on the land and can be paid recompense with ease, Plaintiff will not be able to find shelter under the doctrine of part performance.

In conclusion, Plaintiff has failed to satisfy the elements necessary to remove the alleged oral contract from the Statute of Frauds. Looking at all of the evidence in a light most favorable to Plaintiff, it is certain that said evidence does not fully, completely, satisfactorily, and indubitably prove the terms of the alleged oral contract.<sup>4</sup> In addition, Buyer-Plaintiff did not take possession of the Subject Mineral and has not paid the full amount of the purported consideration. Recession of this contract would not be manifestly unfair in this instance. However, the question of damages still looms.

The Court notes that Plaintiff may seek damages in instances such as these, but the measure of those damages is limited to “the money that was paid on account of the purchase and the expenses incurred on the faith of the contract.” *Polka v. May*, 118 A.2d 154, 156 (Pa. 1955). Phrased differently, compensations are restricted to expenses incurred in *reliance* on the oral contract. *Rineer v. Collins*, 27 A. 28, 30 (Pa. 1893). Accordingly, partial summary judgment should be granted to preclude Plaintiff from pursuing his cause of action to have the

---

<sup>4</sup> This topic, in reference to the terms of the agreement, was thoroughly discussed earlier in the Opinion in determining if the documents satisfied the Statute of Frauds.

Court order specific performance of the alleged oral contract. However, Plaintiff is entitled to pursue his cause of action for monetary damages only.

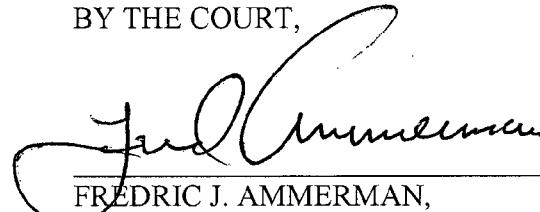
Based on the above Opinion, the Court enters the following:

**ORDER**

AND NOW, this 6<sup>th</sup> day of December, 2013, following the Court's consideration of the Motion for Summary Judgment filed by Defendant, Eleanor M. Nixon, and upon hearing oral argument and the submission of briefs, it is hereby ordered as follows:

1. Partial Summary Judgment is hereby GRANTED, in that Plaintiff is hereby precluded from pursuing his cause of action to have the Court order specific performance of the alleged oral agreement; and
2. Plaintiff is entitled to pursue his cause of action for monetary damages only.

BY THE COURT,



---

FREDRIC J. AMMERMAN,  
PRESIDENT JUDGE

**FILED**

**DEC 09 2013**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 12-9-13

You are responsible for serving all appropriate parties.  
 The Prothonotary's office has provided service to the following parties:  
 Plaintiff(s)  Plaintiff(s) Attorney  Other  
 Defendant(s)  Defendant(s) Attorney  
 Special instructions:

CA

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**  
**CIVIL DIVISION**

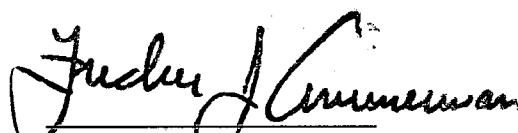
JAMES H. GILLILAND, individually, :  
Plaintiff :  
  
vs. : Case No.: 2008-881-CD  
  
ELEANOR M. NIXON, individually and as :  
agent for all Co-Defendants and LEON C. :  
CARBERRY, HANNAH R. SLOCUM, :  
COUNTY NATIONAL BANK, Trustee for :  
DAVID and JARED MCNAUL, SELMA A. :  
JOHNSON, ANNA M. MARTINEZ, SALLY :  
M. GOSS, MARTHA L. MCNAUL, :  
RICHARD GATTUSO, VIRGINIA :  
MCNAUL, DAVID W. MCNAUL, :  
PATRICIA M. BENDER, MICHAEL D. :  
MCNAUL, ALLAN A. MCNAUL, ANN :  
ARGO, RALPH MONACO, ARDATH :  
MORGAN, SONYA LEA MCNAUL, a/k/a :  
SONYA LEA HART, WILLIAM D. :  
MCNAUL, FRANCES A. GATTUSO, :  
JOHN M. DERR, ROBERT A. DERR, :  
JENINE MCNAUL CAMPBELL, :  
RICHARD PELUSE, KATHRYN :  
COLLORD, BARBARA J. MCNAUL, :  
MARTHA JANE SPINELLI, MICHAEL R. :  
MCNAUL, ROBERT G. MCNAUL, :  
Defendants :  
  
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**FILED** *cc Atts.*  
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**JAN 21 2014** *Seaman*

BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

**ORDER**

NOW, this 14<sup>th</sup> day of January, 2014, it is the ORDER of this Court that a pre-trial conference be and is hereby scheduled for the **18<sup>th</sup> day of February, 2014 at 9:00 a.m. in Chambers, Clearfield County Courthouse, Clearfield, Pennsylvania.**

BY THE COURT,

  
FREDRIC J. AMMERMAN  
President Judge

FILED

JAN 21 2014

BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

DATE: 1-21-14

You are responsible for serving all appropriate parties.  
 The Prothonotary's office has provided service to the following parties:  
 Plaintiff(s)  Plaintiff(s) Attorney  Other  
 Defendant(s)  Defendant(s) Attorney  
 Special Instructions:

CA

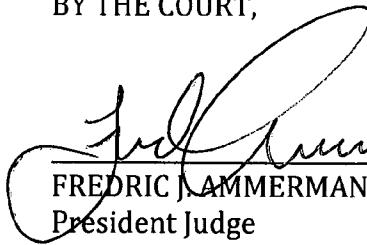
**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

JAMES H. GILLILAND, individually, \* No. 2008-881-CD  
Plaintiff \*  
vs. \*  
ELEANOR M. NIXON, et al, \*  
Defendants \*  
\*  
\*  
\*  
\*

**ORDER**

NOW, this 18th day of February, 2014, following pre-trial conference among the Court and counsel for the parties; it is the ORDER of this Court that the Deputy Court Administrator list this case for a one-half day Arbitration proceeding.

BY THE COURT,

  
FREDRIC J. HAMMERMAN  
President Judge

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BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

DATE 2-21-2014

You are responsible for serving all appropriate parties.  
 The Prothonotary's office has provided service to the following parties:  
 Plaintiff(s)  Plaintiff(s) Attorney  Other  
 Defendant(s)  Defendant(s) Attorney  
 Special Instructions:

FILED

FEB 21 2014

BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

JAMES H. GILLILAND

Plaintiff,  
vs.

ELEANOR M. NIXONJ, et al

Defendant,

NO. 2008-0881-CD

**ORDER**

NOW, this 17th day of March, 2014, it is the ORDER of this Court that the above-captioned matter is scheduled for Arbitration on Thursday, April 24, 2014, at 1:00 P.M. in Hearing Room No. 3, 2<sup>nd</sup> Floor, Clearfield County Courthouse, Clearfield, PA. The following have been appointed as Arbitrators:

David P. King, Esquire

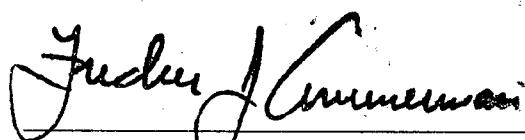
Blaise J. Ferraraccio, Esquire

Courtney L. Kubista, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven (7) days prior to the scheduled Arbitration. The original should be forwarded to the Court Administrator's Office and copies to opposing counsel and each member of the Board of Arbitrators. For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form is enclosed as well as a copy of said Local Rule of Court.

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BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

BY THE COURT:

  
FREDRIC J. AMMERMAN  
PRESIDENT JUDGE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

JAMES H. GILLILAND, individually,  
Plaintiff,

vs.

ELEANOR M. NIXON, et. al.,  
Defendants

\* No. 2008-881-C.D.

**Type of case: Civil Action**

\* Equity cause of action  
\* for specific performance

**Type of Pleading:**  
**Praecipe to Mark Settled,  
Discontinued & Ended**

**Filed on Behalf of:** Plaintiff

**Counsel of Record for this Party:**  
\* John Sughrue, Esquire  
\* Supreme Ct. I.D. 01037  
\* 225 East Market Street  
\* Clearfield, Pa 16830  
\* Phone: 814-765-1704  
\* Fax: 814-765-6959

**Other Counsel of Record:**  
\* Laurance B. Seaman, Esq.  
\* Gates & Seaman, LLP  
\* Two North Front Street  
\* P. O. Box 846  
\* Clearfield, PA 16830  
\* Phone: (814) 765-1766  
\* Fax: (814) 765-1488

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01/11/2014 to Atty  
MAR 24 2014 Sughrue  
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BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

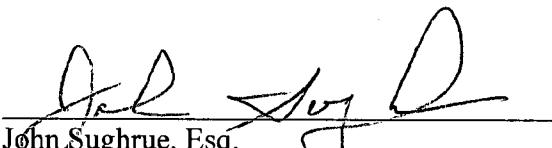
JAMES H. GILLILAND, individually, \*  
Plaintiff, \*  
\*  
vs. \* No. 2008-881-C.D.  
\*  
ELEANOR M. NIXON, et. al. \*  
Defendants \*  
\*

**PRAECIPE TO MARK SETTLED, DISCONTINUED & ENDED**

TO THE PROTHONOTARY OF SAID COURT:

Please mark the above captioned case Settled, Discontinued and Ended, with prejudice,  
each party to pay their own costs.

Kindly provide a Certificate of Discontinuance to the undersigned.

  
John Sughrue, Esq.  
Attorney for James H. Gilliland, Plaintiff

DATE: March 24, 2014

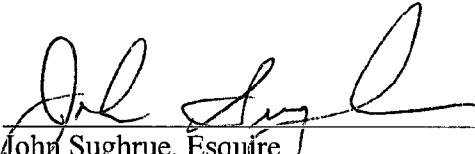
**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on March 24, 2014, I caused a true and correct copy of the **Praecipe to Mark Settled, Discontinued & Ended** to be served on the following and in the manner indicated below:

**By U. S. FIRST CLASS MAIL, POSTAGE PREPAID**  
**Addressed as Follows:**

Laurance B. Seaman, Esquire  
Gates & Seaman, LLP  
Two North Front Street  
P.O. Box 846  
Clearfield, PA 16830

Date: March 24, 2014



John Sughrue, Esquire  
Attorney for James H. Gilliland, Plaintiff

COPY

**IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA**

**CIVIL DIVISION**

**James H. Gilliland**

**Vs.**

**No. 2008-00881-CD**

**Eleanor M. Nixon  
Leon C Carberry  
Hannah R. Slocum  
County National Bank  
David McNaul  
Jared McNaul  
Selma A. Johnson  
Anna M. Martinez  
Sally M. Goss  
Martha L. McNaul  
Richard Gattuso  
Virginia McNaul  
David W. McNaul  
Patricia M. Bender  
George E. Bender  
Michael D. McNaul  
Allan A. McNaul  
Ann Argo  
Ralph Monaco  
Ardath Morgan  
Sonya Lea McNaul  
Sonya Lea Hart  
William D. McNaul  
Frances A. Gattuso  
John M. Derr  
Robert A. Derr  
Jenine McNaul Campbell  
Richard Peluse  
Kathryn Collord  
Barbara J. McNaul  
Martha Jane Spinelli  
Michael R. McNaul  
Robert G. McNaul**

**CERTIFICATE OF DISCONTINUATION**

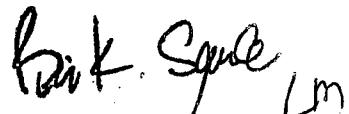
Commonwealth of PA  
County of Clearfield

I, Brian K Spencer, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on March 24, 2014, marked:

Settled, discontinued and ended

Record costs in the sum of \$102.00 have been paid in full by John Sughrue Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 24th day of March A.D. 2014.



Brian K Spencer, Prothonotary