

Public Notice and Order Concerning Ownership Rights Identified in the Allegheny County Court House:

Tax Parcel ID# 128-E-00-100-00000

Deed Book/Page, No known deed

Owners: Identified by the Allegheny County

Assessment Office as:

William Esposito (deceased)

and Joseph Esposito (deceased)

TO ANY AND ALL OWNERS OR CLAIMANTS of the aforesaid

surface rights and to all others:

1. An area in the vicinity of the City of Pittsburgh, Allegheny County, Pennsylvania, as shown on the map and outlined in red (which can be viewed at the Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Cambria District Office by contacting Roger Rummel, P.E. at 814.472.1827 or Patrick Webb, P.E. at 814.472.1830), contains evidence of a mine water hazard affecting the public safety of those that use the cul-de-sac off Mount Royal Road. Correcting this problem will reduce any potential for a landslide which could cause wooded vegetation to be uprooted and become a safety concern to people and properties in the immediate area.

2. The Commonwealth of Pennsylvania, Department of Environmental Protection intends to conduct exploratory excavation to establish and reconnect an existing mine drain, if present and in working order, or to construct and place a proposed six-inch (6") pipe to extend the broken mine drain to an existing inlet for the purpose of reducing the potential for a landslide and protecting the public health, safety and welfare. The project is identified as BD 3864 / Mount Royal Discharge.

3. The Commonwealth intends to conduct this project under the authority of 1) § 16(a)(1) of the Land and Water Conservation and Reclamation Act, Act of January 19, 1968, (1967), P.L. 996, No. 443, 32 P.S. § 5101 et seq.; 2) § 407 of the Surface Mining Control and Reclamation Act of 1977, Act of August 3, 1977, P.L. 95-87, 30 U.S.C., § 1201 et seq.; and 3) the Administrative Code of 1929, 71 P.S. §§ 510-15 and 510-17 (P.L. 177, No. 175) with funds provided by the U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement, under Title IV of the federal Surface Mining Control and Reclamation Act of 1977.

4. This project would require the consent of William Esposito and Joseph Esposito, the owners of the fourth parcel, who are deceased. On June 18, 2024, Darren Gessler, Mapping Manager for the City of Pittsburgh, confirmed this piece is considered owned by both William Esposito and Joseph Esposito (even though they are both deceased). Debbie Esposito and Kenneth Esposito would be happy to sign a Consent on this property because they own everything else that W. Esposito and J. Esposito owned, but legal ownership of this parcel is with William Esposito and Joseph Esposito, deceased.

5. The Secretary of the Department of Environmental Protection has made a written Finding of Fact, dated, November 8, 2024, that the hazard is at a stage where, in the public interest, action should be taken. Since the current owners of the surface are deceased, and thus cannot give permission to enter upon the property to conduct the project work, the Department makes the following Order.

THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION, HEREBY DECLARES THAT IT WILL ENTER INTO, OVER, AND UPON THE PROPERTY IN THE AREA as shown on the map and outlined in red for the purpose of conducting the aforesaid project pursuant to the lawful authority of Section 16(a)(1) of The Land and Water Conservation and Reclamation Act which provides that if the Secretary of Environmental Protection makes a Finding of Fact that (i) a mine fire, refuse bank fire, stream pollution resulting from mine drainage, subsidence resulting from mining or abandoned mine conditions detrimental to public health and safety is at a stage where in the public interest immediate action should be taken; and (ii) the owners of the property upon which entry must be made to combat the mine fire, refuse bank fire, stream pollution resulting from mine drainage or subsidence resulting from mining or abandoned mine conditions detrimental to public health and safety are not known, and are not readily available or will not give permission for the Secretary of Environmental Protection, political subdivisions of the Commonwealth or municipalities, their agents, employees, or contractors to enter upon said premises. Then, upon giving notice by mail to the owners if known or if not known by posting notice upon the premises and advertising once in a newspaper of general circulation in the municipality in which the land lies, the Secretary of Environmental Protection, political subdivisions of the Commonwealth or municipalities, their agents, employees or contractors, shall have the right to enter upon the premises and any other land in order to have access to the premises to combat the mine fire, refuse bank fire, stream pollution resulting from mine drainage, subsidence resulting from mining or abandoned mine conditions detrimental to public health and safety and to do all things necessary or expedient to do so. Such entry shall not be construed as an act of condemnation of property or of trespass thereon. The monies expended for such work and the benefits accruing to any such premises so entered upon shall be chargeable against such land and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry. Provided, however, that this provision is not intended to create new rights of action or eliminate existing immunities. Questions concerning this matter should be directed to Patrick Webb, P.E., Bureau Director, Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, P.O. Box 69205, Harrisburg, PA 17106-9205, telephone 814.472.1830. Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, telephone 717.787.3483. TDD users may contact the Board through the Pennsylvania Relay Service, telephone 800.654.5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form, and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board, telephone 717.787.3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Patrick M. Webb, P.E., Director, Bureau of Abandoned Mine Reclamation