

Killbuck Watershed Land Trust

Annual Monitoring Report



Current Landowners Contact Information

Name: Ned Grossman
 Address: 3030 Grand Bay Blvd #371
 Longboat Key, FL 34228
 Phone: 330-503-1893 (Mike Kortan, Tenant)
 Email: --

Property Details

#11 SR 95, LAKE FORK
 Farm Name: Acres of Diamonds, LLC
 Farm Address: SE of 111/112 SR 95, Ashland
 Parcel #H23-034-0-0009-0
 Acreage: 40.0
 CE Date: 12/12/2007
 Sign #: -- 29

Rock stubbs

Is the current landowner the signer of the original easement? ☒ Yes ☐ No
 Was the landowner contacted prior to the monitoring visit? ☒ Yes ☐ No
 How was the landowner contacted prior to the visit? ☒ Phone ☐ Email

Are there any subsequent legal interests on the protected property? ☐ Yes ☒ No
 (Research should be completed with the county recorder's office) *TE*

Monitor's Name: LINDA BUSH

Does the landowner have a copy of the recorded easement? checking ☐ Yes ☐ No

Is the property being marketed for sale? ☐ Yes ☒ No

Since our last monitoring visit (add notes on page 2)...

Has any portion of the property been transferred or subdivided? ☐ Yes ☒ No

Have there been any natural alterations caused by flooding, fire, wind, etc? ☐ Yes ☒ No

Has there been any construction on the land (buildings, roads, ponds, wells, etc.) ☐ Yes ☒ No

Easement Specific Questions:

Since our last monitoring visit...

Has there been any oil or gas activity ("...right to drill...lease...unitize...no unreasonable disturbance to the surface...")? **NO**

Has there been any timber harvesting ("...in accordance with a timber management plan approved by Trust.")? **NO**

KILLBUCK WATERSHED
 Land Trust



Additional comments from monitoring visit:

Travel up a nicely paved drive through a mature woods to the end of the drive on a hill top. The easement is on a 40A field up there 😊

After reviewing all of the information gathered from this monitoring visit, is the landowner in compliance with their Deed of Conservation Easement? ☒ Yes ☐ No

If no, describe possible violation: _____

Method of Inspection: ☒ Ground, walked site ☐ Ground, from roads ☐ Other: _____

Were any pictures taken during this visit? ☒ Yes ☐ No

If yes, briefly describe the pictures 5 from hill top around 40A bean field

Did the owner or owner's representative?

- ☒ Met the monitor
☐ Accompanied the monitor on the visit
☐ Neither met nor accompanied the monitor

List all persons present during monitoring: Rock, LINDA B.

How did/will the landowner receive a copy of this report? ☐ In Person ☒ Mail ☐ Email

Monitor's Signature: Kinda Bush Date of Visit: 11/15/24

Easement History Log [Such as, construction, natural alterations, violations, change in ownership, improvements, etc.]

11/7/23 – Property access is obtained through an easement granting ingress/egress as set forth in Section 6.2

11/7/23 – Lots of tree damage from the wind storm in June of 2022. Clean up was active during 2022 monitoring visit.

KILLBUCK WATERSHED
Land Trust

KW^LT

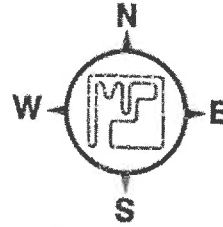
See Page 31

Perry Township

Wayne County

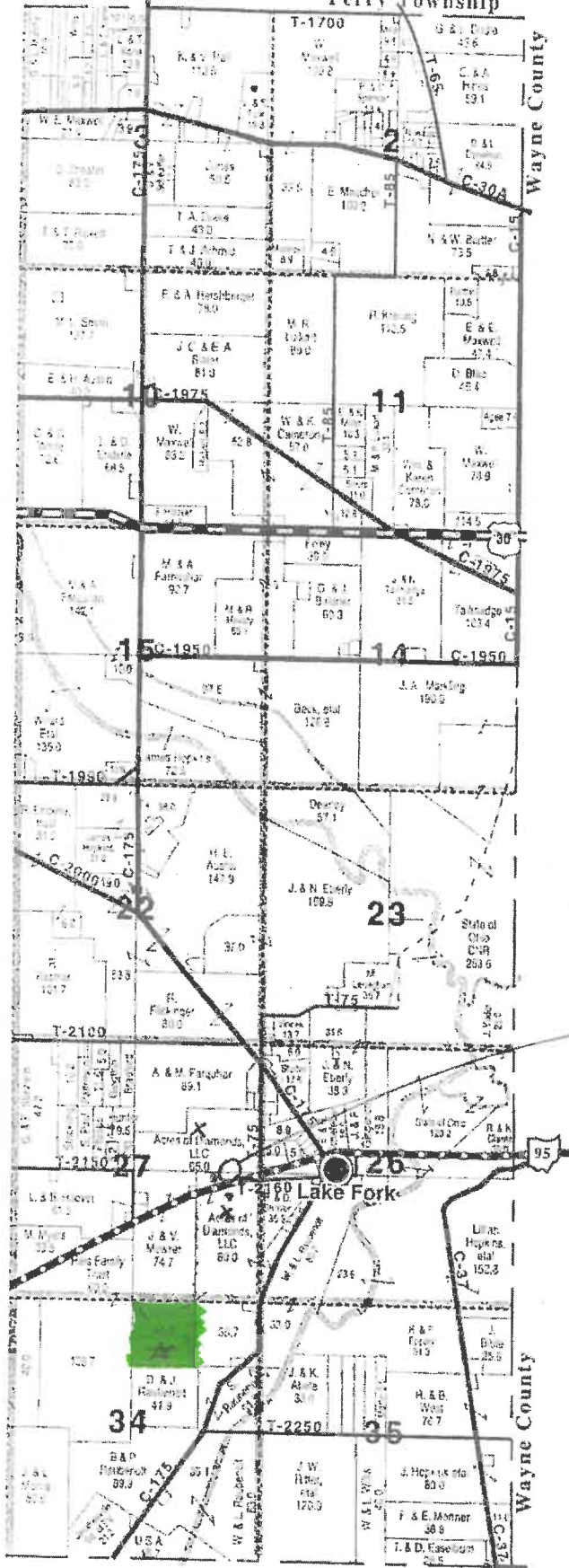
MOHICAN TOWNSHIP

T-21-N/R-15-W



MOHICAN TOWNSHIP

ASHLAND COUNTY



See Page 19

Lake Township

Wayne County

This conveyance has been examined
and the Grantor has complied with
Section 519.202 of the Revised Code

\$ _____ Fee \$ _____

DEC 18 2007

Number _____

Philip H. Leibolt
Ashland County Auditor

200700008746
Filed for Record in
ASHLAND COUNTY, OHIO
BARBARA J. HARDING
12-18-2007 At 03:29 pm.
EASEMENT 76.00
DR Book 572 Page 919 - 926

DEED OF CONSERVATION EASEMENT
AND AGREEMENT

no transfer necessary

This Deed of Conservation Easement ("Easement") is granted on this 12th day of December 2007 by **Acres of Diamonds, LLC, an Ohio Limited Liability Company**, having an address at 3201 Enterprise Parkway, # 450, Beachwood, OH 44122, together with its successors and assigns ("Grantor") in favor of the **Killbuck Watershed Land Trust**, a nonprofit corporation, qualified to do business in the State of Ohio, having an address at 2171-B Eagle Pass, Wooster, Ohio 44691, its successors and assigns ("Trust").

Whereas Grantor is the sole owner in fee simple of certain real property in Ashland County, the State of Ohio, more particularly described below (hereinafter referred to as the "Property"); and

Whereas the Trust is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 as amended (the "Code") and is qualified to accept conservation easements.

Now Therefore, in consideration of the mutual promises herein contained and for other valuable consideration and pursuant to the applicable Federal and State laws, the parties agree as follows.

1. Identification of Parties

1.1 Trust is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 as amended (the "Code") meets the requirements of Section 509(a)(2) of the Code and is a "qualified organization" as such term is defined in Section 170(h) of the Code and is qualified to take, hold and enforce conservation easements under the laws of the State of Ohio.

1.2 Grantor is the sole owner in fee simple of the Property and has full authority to donate this conservation easement (hereafter "Easement").

2. The Property

2.1 The Property consists of approximately 40 acres of undeveloped land located in Mohican Township, Ashland County, Ohio. Approximately 10 acres of the Property is woodland and the balance is tillable land. Access to the Property is obtained through an easement for ingress and egress as set forth in paragraph 6.2. The Property is more fully described as follows:

Situated in the Township of Mohican, County of Ashland and State of Ohio, and being the Northwest Quarter of the North East Quarter of Section 34, Township 21, Range 15, containing Forty (40) acres; more or less. Said land was described in deed recorded in Volume 125, Page 8, as follows: Being the North West Parcel of the North East Quarter of Section 34, Township 21, Range 15, commencing at the North West corner of said quarter; thence South on said quarter line 80 rods; thence East 80 rods; thence north 80 rods; thence west on section line to the place of beginning, containing 40 acres. Permanent Parcel #H23-034-0-0009-00.

Official Records 78, p. 644

2.2 The specific conservation values and features of the Property are documented in detail on plat and soil maps and photographs, all of which is on record in the offices of Trust (hereafter the "Baseline Documentation") which provides an accurate representation of the Property at the time of this grant for the purpose of monitoring future compliance with this grant.

2.3 Grantor intends that the natural characteristics and features established in the Property's Baseline Documentation together with all activities which shall hereafter be permitted under this grant (the "Conservation Values") shall be preserved and maintained in perpetuity. Any

activities which would disrupt or adversely alter the Conservation Values, in any significant respect, shall be prohibited.

3. The Grant of Easement

3.1 Grantor, on behalf of itself and its successors and assigns, herewith grants and conveys unto Trust, its successors, and assigns, an Easement in perpetuity over the Property as hereinafter set forth and intends, thereby, to convey to Trust the right to preserve and protect the Conservation Values of the Property in perpetuity.

3.3 The Trust, by accepting this grant, shall honor the intentions of the Grantor stated herein and shall preserve and protect in perpetuity the Conservation Values of the Property.

3.4 The Easement granted to the Trust hereunder gives rise to a property right that is immediately vested in the Trust. Grantor agrees that the fair market value of the perpetual conservation restriction granted under this Easement equals the fair market value of the Property taken as a whole multiplied by the "Applicable Percentage." The term "Applicable Percentage" means the percentage determined by dividing the value of the perpetual conservation restriction granted under this Easement, at the time of the grant hereunder, by the value of the Property taken as a whole at the time of such grant.

4. Statement of Purpose.

4.1 It is the purpose of this Easement to assure that the Property will be retained forever in a condition consistent with its Conservation Values. No activity will be allowed which would significantly impair or interfere with the Conservation Values of the Property.

4.2 Grantor intends that this Easement will confine the use of the Property to agricultural and conservation activities, including without limitation, farming, ranching, timber production, growing and harvesting crops, private hunting and trapping, private recreation and education. While maintaining the Property for agriculture is a primary purpose, the Property can be utilized for other open space and land conservation activity, even if such activity is not economically feasible. In furtherance of this purpose, if, at any future time, the owners of the Property cannot or do not desire to use the land for agricultural purposes, then the Property may be allowed to remain in a natural state of wilderness, undeveloped and unoccupied.

5. Rights of Grantor.

5.1 Rights of Ownership. Grantor reserves all customary rights and privileges of ownership, including the rights to sell, lease, transfer by gift or devise the Property, as long as such rights and privileges are exercised in a manner which is consistent in all significant respects with the terms and conditions of this Easement.

5.2 Acts Beyond Grantor's Control. Unless otherwise specified below, nothing in this Easement shall be construed to entitle Trust to bring any action against the Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm and earth movement or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

5.3 Privacy. The Grantor retains the right to privacy and the right to exclude any member of the public from trespassing on the Property. No right of access by the general public to any portion of the Property is conveyed by this Easement. This right shall not prevent the Trust from entering onto the Property at all reasonable times upon reasonable advance written notice first given for the purpose of inspecting the Property or enforcing the provisions of this Easement.

5.4 Agricultural and Conservation Purposes. Grantor retains the right to use the Property for agricultural and conservation purposes or other purposes consistent with the terms, conditions, restrictions and prohibitions herein or to allow others to use the Property for such purposes within applicable laws. Such purposes shall include, but not be limited to:

- A. The right to use the Property for the enjoyment of the natural environment for themselves and others in private ways and, at their discretion, through limited public recreational and educational activities.
- B. The right to make minor improvements to the Property, such as trails, necessary for agricultural and conservation purposes, but which are consistent with the purpose of this Easement.
- C. The right to repair, replace, or build new fences for purposes of reasonable and customary management of livestock and wildlife.
- D. The right to use the water rights for agricultural production or domestic use on the Property, as well as all non-tributary ground water and all water rights appurtenant to the Property, known or unknown, provided the Grantor shall not transfer, encumber, lease or otherwise sever such water rights from the title to the Property itself. Grantor maintains the right to use, maintain, establish, construct, and improve water sources, water courses and water bodies within the Property for the uses permitted by this Easement. Grantor may alter the natural flow of water over the Property in order to improve drainage of agricultural soils, reduce soil erosion or improve the agricultural or forest management potential of the Property, provided such alteration is consistent with the terms of this Easement and is carried out in accordance with law.
- E. The right to hunt or trap wild animals on the Property or to extend such rights to other individuals provided that the same shall not be conducted as a commercial enterprise.
- F. The right to construct and maintain unpaved farm roads that may be reasonably necessary and incidental to carrying out the improvements and uses permitted on the Property by this Easement, provided that driveways and parking areas adjacent to the homesite and/or connecting the homesite and farm buildings to public highways may be paved..
- G. The right to drill for and produce oil and gas, to lease the Property for such purposes, or to unitize the Property with other adjoining properties for such purposes as long as no unreasonable disturbance to the surface of the Property shall occur.

6. **Rights of Trust.** To accomplish the purpose of this Easement the following rights are conveyed to Trust by this Easement:

6.1 To preserve and protect the Conservation Values of the Property. In furtherance thereof, all development rights appurtenant to the Property, and not otherwise reserved to the Grantor, are hereby released, terminated and extinguished, and may not be used on or transferred to any portion of the Property as it is now or hereafter may be bounded or described, or used for the purpose of calculating permissible lot yields of any other property.

6.2 To enter upon the Property at reasonable times upon reasonable advance written notice first given in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantor. Trust's

entry shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property. Grantor hereby grants to the Trust, for the benefit of Trust's Conservation Easement interest in the Property and for the purpose of permitting the Trust to exercise its right of entry under and in accordance with this Section 6.2, a perpetual, non-exclusive easement and right of way for pedestrian ingress and egress to and from the Property and State Road 95, over, across, upon and through those portions of the "Contiguous LLC Property", as hereinafter defined, as may be designated by the Grantor from time to time at the request of the Trust and that allows the Trust reasonable pedestrian access to the Property. For purposes of this document, "Contiguous LLC Property" means that real property owned by the Grantor as of the date first set forth above that is contiguous to the Property.

6.3 The right to pursue any action in a court of law to seek to prevent any activity on or use of the Property that is inconsistent, in any significant manner, with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

7. **Prohibited Activities.** It is impossible to anticipate every use of the Property which will adversely affect the Conservation Values of the Property. However, there are specific activities which, in addition to others, are particularly abhorrent to the parties and therefore are specifically prohibited. This list should not be construed as being exclusive; rather the prohibited activities listed shall be in addition to any other activities which in the Trust's reasonable opinion will violate this grant.

7.1 Subdivision. No portion of the Property shall be subdivided, whether by physical or legal process, without the advance written permission of the Trust; however, Grantor shall be permitted to split off, by subdivision or otherwise, without such permission, portions of the Property in parcels of not less than 5 acres in size, allowing thereby separate legal parcels which shall be subject to the restrictions and prohibitions of this Easement.

7.2 Road Construction. No portion of the Property shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material except driveways and parking areas comprising part of the homesite and/or which provide access to farm buildings.

7.3 Trash. No trash, refuse, vehicle bodies or parts, rubbish, debris, junk, waste or radioactive or hazardous waste nor agri-sludge shall be placed, stored, dumped, buried or permitted to remain on the Property. The storage of agricultural products, byproducts and agricultural equipment on the Property in accordance with the purposes of this Easement is permitted.

7.4 Mining/Extraction of Minerals. No mining activity shall be conducted for the extraction of soil, sand, gravel, rock or other mineral substance, using any method that disturbs the surface of the land. Soil, sand, gravel and rock may be moved, without prior written permission, for agricultural purposes or to enhance or protect the natural qualities of the Property. The Property may be leased directly or unitized with other properties for the purpose of oil and gas production, pursuant to Paragraph 2.4.G.

7.5 Timber. Standing live timber shall not be cut for commercial use or sale except in accordance with a timber management plan approved by Trust. This prohibition shall not preclude Grantor from selectively cutting trees for Grantor's personal use.

7.6 Construction. No structures shall be built on the Property, except buildings and facilities for agricultural or other use consistent with the purposes of this Easement with the advance written permission of the Trust.

8. **Responsibilities of Grantor and Trust Not Affected.** Other than as specified herein, this Deed shall not impose any legal or other responsibility on the Trust, nor affect, in any way, any existing obligation of the Grantor as owners of the Property. Without limitation, this shall

include:

8.1 Taxes. The Grantor shall continue to be solely responsible for payment of all taxes or assessments levied against the Property that accrue while Grantor owns the Property. If the Trust is ever required to pay any such taxes or assessments on its interest in the Property, Grantor will reimburse the Trust for same.

8.2 Upkeep and Maintenance. The Grantor shall continue to be solely responsible for the upkeep and maintenance of the Property. The Trust shall have no obligation for the upkeep and maintenance of the Property.

8.3 Liability and Indemnification. If the Trust is ever required by a court to pay damages resulting from personal injury or property damage that occurs on the Property during the period that the Grantor owns the Property, the Grantor shall indemnify and reimburse the Trust for these payments as well as for reasonable attorney fees and other expenses of defending itself. This provision shall not apply to injuries or damage incurred by employees or volunteers of the Trust resulting from any entry onto the Property pursuant to any duties related to Trust.

8.4 Trust's Environmental Liability. Nothing in this Easement, nor any activities of the Trust, shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in the Trust to exercise physical or managerial control over the day-to-day operations of the Property, nor shall the Trust be considered an owner or operator of the Property when such term would have the effect of imposing any liability upon the Trust arising out of any Federal, State or local environmental laws or regulations.

9. Enforcement. Trust shall have the following rights of enforcement, in addition to all other rights provided by law.

9.1 The right to enter upon the Property shall belong to the Trust, with reasonable advance notice given to Grantor, for the purpose of inspecting for compliance with the terms of this Easement.

9.2 Written notice, mailed to the address provided herein, by registered or certified mail, return receipt requested, shall be given to the Grantor if the Trust reasonably determines or discovers that a violation of the terms of this Easement has occurred or is threatened. The notice shall be effective upon receipt or upon Grantor's refusal of receipt. Grantor shall thereupon undertake corrective action to restore the property in accordance with the terms of this Easement. If circumstances require immediate action, which in the reasonable opinion of the Trust, are necessary for the protection of the Property, Trust may proceed to enforce its rights herein and to seek all appropriate remedies without first issuing a notice, subject only to Ohio laws, regulations and rules of civil procedure.

9.3 Injunctive relief may be sought if in Trust's sole discretion, an ongoing or threatened violation could irreversibly diminish or impair the Conservation Values of the Property. The parties acknowledge that, with respect to violations of this Easement, Trust may have an inadequate remedy at law and therefore Trust shall be entitled to seek to enjoin a violation through a temporary restraining order, preliminary injunction and /or permanent injunction.

9.4 Additional relief. In addition to injunctive relief, Trust shall be entitled to seek the following remedies in the event of a violation:

- A. Monetary damages, including damages for the loss of the Conservation Values protected by this Easement
- B. Restoration of the Property to its condition existing prior to such violation

Said remedies shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. The failure of Trust to discover a violation or to take immediate legal action shall not bar Trust from doing so at a later time and the defenses of laches or the provisions of any applicable statutes of limitation are hereby expressly waived.

10. **Notice to Trust.** With regard to any activity requiring Trust's approval, Grantor shall notify the Trust, in writing, prior to conducting such activity in sufficient time (but not less than 30 days) to allow Trust an opportunity to consider the activity within the purposes of the Easement. After receipt of such notice, Trust shall respond within a reasonable time, but not later than 30 days; provided that if the Trust needs additional time to consider Grantor's request, Trust shall notify Grantor of its need for additional time. Trust shall not unreasonably withhold its permission if the proposed activity will not materially hinder nor impair the purposes of the Easement.

11. **Amendment of Easement.** This Easement may be amended only with the written consent of Trust and Grantor. Any such amendment shall be considered with the Statement of Purpose of this Easement and with Trust's easement amendment policies and shall comply with Section 170(h) of the Code, any regulations promulgated in accordance with that section, and any applicable Ohio statutes and regulations. No amendment shall make this Easement less restrictive in any significant manner. Any such amendment shall be duly recorded in the official records of Ashland County and annotated by reference to this original document.

12. **Transfer of Easement.** Trust shall not transfer the Easement to any other natural or legal person; provided, however, that Trust shall have the right to transfer this Easement to any public agency or private nonprofit organization that, at the time of transfer, is a "qualified organization" under Section 170(h) of the Code and under (applicable State easement enabling statute), provided the transferee expressly agrees to assume the responsibility imposed on Trust by this Easement. If Trust ever ceases to exist or no longer qualifies under Section 170(h) of the Code, or applicable state law, a court of competent jurisdiction shall transfer this Easement to another qualified organization having similar purposes that agrees to assume the responsibilities imposed by this Easement. Trust shall give Grantor at least 30 days written notice of its intent to transfer the Easement under this paragraph.

✓ 13. **Transfer of the Property.** At any time the Property itself, or any interest in it, is transferred by the Grantor to any third party, the Grantor shall notify the Trust, in writing, prior to the transfer of the Property and the document of conveyance shall expressly refer to this Deed of Easement. Copies of any recorded documents of transfer shall be timely provided to Trust.

14. **Interpretation.** This Deed shall be interpreted under the laws of the State of Ohio, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

15. **Perpetuation.** The rights created by this Easement shall run with the land in perpetuity. Every provision of this Deed that applies to the Grantor or Trust shall apply to their respective agents, heirs, executors, administrators, assigns and all other successors as their interests may appear.

No merger of title, estate or interest shall be deemed effected by any previous, contemporaneous or subsequent deed, grant or assignment of an interest or estate in the Property or any portion thereof, to Trust, it being the express intent of the parties that this Easement not be extinguished by or merged into any other interest or estate in the Property now or hereafter held by Trust.

16. **Termination of Easement.** The Court of Common Pleas of Ashland County, if it determines that conditions surrounding the Property have changed so much that it becomes

impossible or impractical to fulfill the conservation purposes of the Easement, shall be empowered to modify this Easement in accordance with all applicable laws and regulations, at the joint request of Grantor and Trust, provided that such modification shall strive to preserve the Conservation Values of the Property, whether or not such preservation is economically feasible.

16.1 If judicial proceedings, whether by eminent domain, condemnation, or other legal proceeding, extinguish or modify this Easement, Trust shall be entitled to that portion of the proceeds from any subsequent sale or other disposition of the Property that equals such proceeds multiplied by the Applicable Percentage.

16.2 If judicial proceedings, whether by eminent domain, condemnation, or other legal proceeding, extinguish or modify this Easement, Trust shall be entitled to that portion of the proceeds allocated to its Easement interest from any subsequent sale or other disposition of the Property which represents the value of the Property's development rights so modified.

17. **Authority of Grantor's Signatories.** Edward N. Grossman, Jr., who has signed this document on behalf of Grantor does hereby warrant that he is the Managing Member of Grantor and that he is duly empowered to execute this document on behalf of Grantor.

18. **Notices.**

For purposes of this document, legal notices shall be given as follows:

To Grantor: Acres of Diamonds, LLC
3201 Enterprise Parkway # 450
Beachwood, OH 41122

To Trust: Statutory Agent, Killbuck Watershed Land Trust
Attn: Ronald E. Holtman
2171-B Eagle Pass
Wooster, Ohio 44691-5320

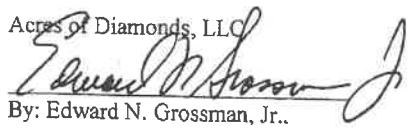
The parties or their successors shall provide current addresses to the other parties at any time that such addresses change. In the event a change of statutory agent and or the agent's address shall be filed by the Trust with the Ohio Secretary of State, such change shall be effective upon such filing date.

2007.

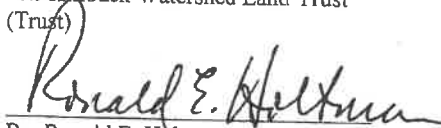
In Witness Whereof, we have hereunto set our hands this 12th day of December

Signed and acknowledged in presence of

Acres of Diamonds, LLC


By: Edward N. Grossman, Jr.,
Managing Member

The Killbuck Watershed Land Trust
(Trust)


By: Ronald E. Holtman, President

State Of Ohio

SS:

Cuyahoga County

Before me, a Notary Public in and for said County and State, personally appeared the above named **Edward N. Grossman, Jr.**, the Managing Member of the Grantor, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed, personally and as said Managing Member.

In Testimony Whereof, I have hereunto set my hand and official seal at Cleveland, Ohio, this 12 day of December 2007.

Sally A. Todt
Notary Public



SALLY A. TODT
Notary Public, State of Ohio, Cuy. Cty
My Commission Expires June 24, 2008

State Of Ohio

SS:

Wayne County

Before me, a Notary Public in and for said County and State, personally appeared the above named **Ronald E. Holtman**, President of **Killbuck Watershed Land Trust**, the Trust, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed, personally and as said officer.

In Testimony Whereof, I have hereunto set my hand and official seal at Wooster, Ohio this 13th day of December 2007.

Sondra G. Woods
Notary Public



SONDRA G. WOODS
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES
FEBRUARY 27, 2011

This instrument prepared by:
Logee, Hostetler, Stutzman & Lehman
Ronald E. Holtman, Attorney at Law
2171-B Eagle Pass, Wooster, OH 44691-5320
Phone (330)264-6115