

## ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by the United States Fish and Wildlife Service (FWS), the Meigs Soil and Water Conservation District (SWCD), Marco Jeffers, and Robert Jeffers, pursuant to Ohio Revised Code (ORC) §§5301.80 to 5301.92, for the purpose of subjecting the following described Property to the activity and use limitations set forth herein.

Background. In July 1993, a catastrophic mine flooding event at the Southern Ohio Coal Company (SOCCO) Meigs Mine No. 31 resulted in the emergency release of a substantial volume of untreated, and partially treated, mine water into Parker Run and Leading Creek. The environmental impact on the Leading Creek Watershed was substantial. Negotiations between SOCCO and the U.S. Department of Justice resulted in the establishment of the Leading Creek Improvement Account and the development of the Leading Creek Improvement Plan (LCIP) for the restoration and enhancement of water quality in the Leading Creek Watershed. The Account was established and the LCIP was developed pursuant to a Federal Court approved Consent Decree and Settlement Agreement filed March 22, 1996, in the U.S. District Court for the Southern District of Ohio. Pursuant to the Consent Decree, the U.S. Fish and Wildlife Service (FWS) is the Responsible Agency for the selection, implementation, and oversight of enhancement projects to be funded in whole or in part with funds from the Leading Creek Improvement Account. An Amended Consent Decree, negotiated in 2003, provided additional funding for the Leading Creek Improvement Account and reestablished the FWS's authority to implement and monitor projects intended to improve the aquatic life uses of the Leading Creek Stream System and/or to acquire resources equivalent to those affected by the 1993 dewatering of the Meigs Mine.

In an effort to improve the aquatic life uses of the Leading Creek Stream System, the FWS, the SWCD, Marco Jeffers, and Robert Jeffers agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to ORC §§ 5301.80 to 5301.92.
2. Property. This Environmental Covenant concerns an approximate one (1) acre tract of real property, located on Woodyard Road, Columbia Township, Section 5, Albany, Ohio 45710. The boundaries of this Environmental Covenant are more particularly described in Attachment A, which is attached hereto and incorporated by reference herein.
3. Owners. Marco Jeffers, 31750 Woodyard Road, Albany, Ohio 45710, and Robert Jeffers, 41810 State Farm Road, Albany, Ohio 45710, are the owners of the Property.
4. Project. The FWS and the SWCD intend to complete an environmental enhancement project on the Property, funded in whole or in part with funds from the Leading Creek Improvement Account. Project work includes removal of a dairy facility that is located practically in the streambed of Five Mile Run, and grading, seeding, and fencing in that same area. The FWS will maintain an Administrative Record for this project at the following office:  
  
U.S. Fish & Wildlife Service  
Ohio Field Office  
6950 Americana Parkway, Suite H  
Reynoldsburg, OH 43068
5. Holders. Marco Jeffers and Robert Jeffers are the Holders of this Environmental Covenant.
6. Activity and Use Limitations. The Owners hereby agree to comply with the following activity and use limitations:



- A. The Property shall be kept in its natural state, meaning that no new or additional commercial, industrial, or residential developments, or buildings, billboards or other structures of any kind, either temporary or permanent, shall be placed or erected on the Property, unless otherwise expressly provided hereunder.
  - B. The Owners shall not place dredged or fill material on the Property, or excavate, or remove top soil, sand, gravel, rock, minerals or other materials from the surface thereof, nor build roads or change the topography of the land in any manner, nor dredge or remove sand, gravel, or other material from the bed of Five Mile Run, or conduct any other activities that will adversely affect the quality of Five Mile Run (including channelizing work), other than that caused by the forces of nature or as otherwise reserved herein. Excepted from this Activity and Use Limitation is any area affected by maintenance, repair, or replacement work required on Woodyard Road (Township Road No. 3) and/or the adjacent bridge crossing Five Mile Run. The area affected by the work shall be the minimum necessary to accomplish the task. Upon completion of the work, the area shall be restored to its natural state.
  - C. Herbicides and/or pesticides may only be used in accordance with federal, state, and manufacturer prescribed methods and/or guidelines and only after approval by the FWS and SWCD.
  - D. No power or petroleum transmission lines may be constructed on the Property, nor shall any interests in the Property be granted for such purposes. However, the Owners reserve the right to maintain and repair existing telephone, electric, water, or other utility lines or mains located on the Property. The area affected by repair work shall be the minimum necessary to accomplish the task. Upon completion of the repair work, the area shall be restored to its natural state.
  - E. There shall be no construction of towers for communication or otherwise on the Property.
  - F. No trees, ground cover, or other vegetation shall be removed, planted, or mowed, except as is necessary to maintain foot paths and trails, restore natural habitat, promote natural vegetation, or protect life and property, and except as is provided for in the Jeffers Family Continuous CRP (Riparian Forest Buffer) Project conducted by the U.S. Department of Agriculture, Natural Resource Conservation Service, and Ohio Department of Natural Resources, Division of Soil and Water Conservation.
  - G. The Owners shall take reasonable measures to ensure that the Property shall be kept free of garbage, trash, and machinery, and that no other unsightly material shall be allowed to accumulate or be stored thereon.
  - H. No cattle grazing shall take place on the Property, nor shall cattle be permitted in Five Mile Run.
  - I. Each and every other activity or construction that is inconsistent with the purpose of this Environmental Covenant or which may endanger, affect, or impair the natural or scenic state of the Property is prohibited, except as provided in the Jeffers Family Farm 2003 EQIP Plan conducted by the U.S. Department of Agriculture, Natural Resource Conservation Service, and Ohio Department of Natural Resources, Division of Soil and Water Conservation.
7. Breach. If any event or action by or on behalf of the Owners, their successors or assigns, or Transferees, constitutes a breach of the activity and use limitations, the Owners, their successors or assigns, or Transferees, shall notify the FWS and SWCD within thirty (30) days of becoming aware of such breach, and shall remedy the breach within sixty (60) days of becoming aware of such breach.



8. Rights of Access. The Owners hereby grant to the FWS, SWCD, and their authorized representatives, a right of access to the Property for implementation or enforcement of this Environmental Covenant.
9. Compliance Enforcement. In the event of a violation of this Environmental Covenant, a civil action for injunctive or other equitable relief may be maintained by the FWS and/or the SWCD, pursuant to ORC §5301.91. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict the FWS or SWCD from exercising any authority under applicable law.
10. Running with the Land. This Environmental Covenant shall be binding upon the Owners and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to ORC §5301.85, subject to amendment or termination as set forth herein. The term "Transferee," as used in this Environmental Covenant, shall mean any future owners of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.
11. Notice upon Conveyance. The Owners, and all assigns and successors in interest and Transferees, shall notify the FWS and the SWCD of any proposed transfer of the Property or any portion thereof at least ninety (90) days prior to any such proposed transfer. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN  
ENVIRONMENTAL COVENANT, DATED \_\_\_\_\_, 20\_\_\_\_,  
RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE  
MEIGS COUNTY RECORDER ON \_\_\_\_\_, 20\_\_\_\_,  
IN \_\_\_\_\_.

The Owners shall provide the FWS and SWCD, within ten (10) days after each conveyance of an interest in any portion of the Property, with the name, address, and telephone number of the Transferee, and a copy of the deed or other documentation evidencing the conveyance and description of the property conveyed.

12. Representations and Warranties. The Owners hereby represent and warrant to the other signatories hereto:
- A. That the Owners are the sole owners of the Property;
  - B. That the Owners hold fee simple title to the Property, subject to the following interests or encumbrances: none;
  - C. That the Owners have the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
  - D. That the Owners have identified all other persons that own an interest in or hold an encumbrance on the Property and notified such persons of the Owners' intention to enter into this Environmental Covenant; and
  - E. That this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Owners are a party or by which the Owners may be bound or affected.



13. Amendment. This Environmental Covenant may be amended by consent of all of the following: the Owners or any Transferee, the FWS, and the SWCD, pursuant to ORC §5301.90 and other applicable law. The term, "Amendment," as used in the Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining.
- This Environmental Covenant may be amended only by a written instrument duly executed by the Regional Director of the FWS, the Chairman, Board of Supervisors of the SWCD, and the Owners or any Transferee of the Property or portion thereof, as applicable. Within thirty (30) days of signature by all requisite parties on any amendment of this Environmental Covenant, the Owners or any Transferee shall file such instrument with the Meigs County Recorder's Office, and shall provide a file- and date-stamped copy of the recorded instrument to the FWS and the SWCD.
14. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, enforceability of the remaining provisions shall not in any way be affected or impaired.
15. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.
16. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, the SWCD shall file this Environmental Covenant in the same manner as a deed to the Property, with the Meigs County Recorder's Office.
17. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed the Environmental Covenant has been recorded as a deed record for the Property with the Meigs County Recorder.
18. Distribution of Environmental Covenant. The Owners shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the FWS and the SWCD.
19. Notice. Unless otherwise notified in writing by or on behalf of the current owners, the FWS, or the SWCD, any document or communication required by this Environmental Covenant shall be submitted to:

Field Supervisor, Ohio Field Office  
U.S. Fish & Wildlife Service  
6950 Americana Parkway, Suite H  
Reynoldsburg, OH 43068

Leading Creek Program Administrator  
Meigs Soil and Water Conservation District  
33101 Hiland Road  
Pomeroy, OH 45769

Marco Jeffers  
31750 Woodyard Road  
Albany, Ohio 45710

Robert Jeffers  
41810 State Farm Road  
Albany, Ohio 45710

IT IS SO AGREED:

Marco Jeffers  
Signature of Marco Jeffers

Marco Jeffers  
Printed Name

4-13-06  
Date

State of Ohio )  
County of Meigs ) SS:

Before me, a notary public, in and for said county and state, personally appeared Marco Jeffers, providing satisfactory verification that he is the person identified herein above.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this 13th day of April, 2006.

Vicki E. Morrow  
Notary Public  
VICKI E. MORROW  
Notary Public, State of Ohio  
My Commission Expires Feb. 27, 2011  
Recorded in Meigs County  
Date of My Commission Expiration

Robert Jeffers  
Signature of Robert Jeffers

Robert Jeffers  
Printed Name

4-13-06  
Date

State of Ohio )  
County of Meigs ) SS:

Before me, a notary public, in and for said county and state, personally appeared Robert Jeffers, providing satisfactory verification that he is the person identified herein above.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this 13th day of April, 2006.

Vicki E. Morrow  
Notary Public  
VICKI E. MORROW  
Notary Public, State of Ohio  
My Commission Expires Feb. 27, 2011  
Recorded in Meigs County  
Date of My Commission Expiration

U.S. FISH & WILDLIFE SERVICE

Charles M. Wooley  
Acting Regional Director

*fw*  
Robyn Thorson, Regional Director  
Region 3  
1 Federal Drive  
Fort Snelling, Minnesota 55111

4/26/06  
Date

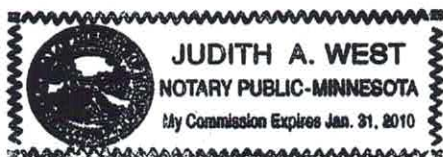
State of Minnesota )  
County of Hennepin ) ss:

Before me, a notary public, in and for said county and state, personally appeared Robyn Thorson, Regional Director, U.S. Fish and Wildlife Service, who acknowledged to me that she did execute the foregoing instrument on behalf of the U.S. Fish & Wildlife Service.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this 26 day of April, 2006.

Judith A. West  
Notary Public

1/31/2010  
Date of My Commission Expiration





MEIGS SOIL & WATER CONSERVATION DISTRICT

Joe Bolin Chairman  
Name/Title

Joe Bolin  
Printed Name

04/13/2006  
Date

State of Ohio )

County of Meigs )

ss:

Before me, a notary public, in and for said county and state, personally appeared Joe Bolin, who acknowledged to me that he/she did execute the foregoing instrument on behalf of the Meigs Soil & Water Conservation District.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal

this 13th day of April, 2006.

Notary Public



Vicki E. Morrow  
VICKI E. MORROW  
Notary Public, State of Ohio  
My Commission Expires Feb. 27, 2011  
Recorded in Meigs County

\_\_\_\_\_  
Date of My Commission Expiration



Mike Duhl

NRCS

Tract 201

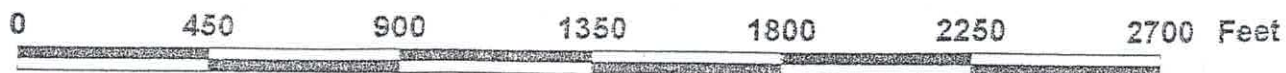
Steve Jenkins

Meigs SWCD

Date: 11/14/2003



## Legend



- Jeffers CRP Labels
- Jeffers CRP



Coordinates for Jeffers property to be placed under Environmental Covenant:

SE corner: 39 10.701  
82 11.890

SW corner: 39 10.659  
82 11.938

NE corner: 39 10.716  
82.11920

NW corner: 39 10.670  
82 11.974

SE corner = Beginning of 'access road' for cows at Woodyard Road. Used large sycamore tree as landmark.

SW corner = Opposite corner off Woodyard Road. Edge of barn/associated facilities close to fence.

NE corner: Top of 'access road' on hillside.

NW corner: Final corner. On hillside.

The distance between the NW and NE corner (long side of rectangle) was approx. 340 ft.

The distance between the NW and the SW corner (short side of rectangle) was approx. 140 ft.