

FILED

2023 APR 26 PM 3:40

CATHY S. CATSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION**

**HAROLD D. WARD, Director, Division of  
Mining and Reclamation, West Virginia  
Department of Environmental Protection**

**Plaintiff,**

**v.**

**Civil Action No. 20-C-282  
Presiding Judge: Christopher C. Wilkes  
Resolution Judge: James H. Young, Jr.**

**ERP ENVIRONMENTAL FUND, INC.,**

**Defendant.**

**ORDER GRANTING MOTION OF RECEIVER FOR AUTHORIZATION  
TO ENTRY EASEMENT AND RIGHT OF WAY AGREEMENT**

By motion of April 11, 2023, the Receiver sought permission of the Court to enter into an *Easement and Right of Way* agreement and *Supplemental Easement and Right of Way* agreement with Buyer, which would provide Buyer with an easement and supplement a pre-existing easement over two tracts of Receivership Estate real property in Boone County, West Virginia for the construction, repair, and/or maintenance of its utility facilities. The proposed *Easement and Right of Way* agreement and *Supplemental Easement and Right of Way* agreement would provide over \$100,000.00 to the Receivership Estate. The Receiver identified the Deed Book/Page Number where a description of the tracts for which the easement and supplemental easement are proposed in its motion and stated that it believed the easement agreements represent fair market value for Receivership Estate assets.

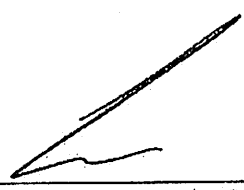
The Special Receiver also advised the Court that it reached an agreement with lien-holders, Appalachian Headwaters, Inc. and Cramer Security & Investigations, Inc., whereby Appalachian

Headwaters, Inc. and Cramer Security & Investigations, Inc. will execute limited lien releases in exchange for an agreed-upon percentage of the easement proceeds. Accordingly, Appalachian Headwaters, Inc. does not object to the motion.

Having reviewed the motion and heard such parties as desired to be heard, the Court hereby GRANTS the motion and FINDS and ORDERS as follows:

As to the tracts of real property listed in Receiver's motion filed by motion dated April 11, 2023, the Court finds that the Receiver may enter into an *Easement & Right-of-Way Agreement* with Buyer. Furthermore, the Receiver is authorized to execute any documents necessary to effectuate the execution of the *Easement & Right-of-Way Agreement*. No liens, claims, or encumbrances against the tracts listed in the Receiver's motion shall attach to any payment proceeds related to the *Easement & Right-of-Way Agreement*, nor shall any such liens, claims, or encumbrances interfere with Buyer's use and enjoyment of the resulting easement.

ENTERED this 26 day of Apr /, 2023.

  
CHRISTOPHER WILKES  
Presiding Judge

Date: 4/26/23  
Certified copies sent to:  
- counsel of record Buss. Ct.  
- parties C. Hunter  
- other (please indicate) J. Thompson  
By: B. Bailes  
- certified/1st class mail  
- fax  
- hand delivery  
- interdepartmental  
Other directives accomplished:  
Deputy Circuit Clerk:

STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA, SS  
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY  
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING  
IS A TRUE COPY FROM THE RECORDS OF SAID COURT.  
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 26  
DAY OF April 2023  
C. Gatson CLERK  
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA