

(For recording with Corps/DEQ permitting, and required to be recorded no more than 60 days after permit issuance.)

DECLARATION OF RESTRICTIONS

FOR

VA Hunter, LLC, Owner

BLACK DIAMOND, CRAIG COUNTY, VIRGINIA

THIS DECLARATION OF RESTRICTIVE COVENANTS is made this 19th day of April, 2007, by VA Hunter, LLC, a Delaware limited liability company, Owner.

WHEREAS, VA Hunter, LLC is the Owner of the Property more fully described on Exhibit A attached hereto; it being a part of the same property conveyed to Owner, by deeds from Robert H. Ratliff, et al., dated August 8, 2006, and duly recorded in the Clerk's Office of the Circuit Court of Craig County, Virginia in Deed Book 157, at pages 167 and 175, respectively:

WHEREAS, Owner desires to impose on said Property restrictive covenants expressing Owner's intent to preserve streams, wetlands and tributaries of said Property as shown on Exhibit B and as described as a Stream Buffer plan in perpetuity in its natural state as detailed below. These covenants are imposed by Owner freely and voluntarily, in order to assure that the aquatic impacts pursuant to Virginia Department of Environmental Quality (DEQ) permit number WP4-06-2280 and U.S. Army Corps of engineers (USACE) permit number 06-V2280 shall be minimal.

NOW THEREFORE THIS DECLARATION WITNESSETH: Owner does hereby declare, covenant and agree, for itself and its successors and assigns, that said Property as described as Black Diamond and shown on Exhibit B shall be hereafter held, leased, transferred, and sold subject to the following conditions and restrictions which shall run with the land and binding on all parties and persons claiming under them.

Covenants and Restrictions.

The Property described as subject to the Stream Buffer plan shown on Exhibit B attached hereto shall be preserved in perpetuity in its natural state, by prohibiting the following activities:

1. Destruction or alteration of the preservation area shown on Exhibit B other than those alternations authorized by the Norfolk District, USACE under permit number 06-V2280 and the DEQ under permit number WP4-06-2280;
2. Ditching, draining, diking, damming, filling excavating, grading, plowing, flooding/ponding, mining, drilling, placing of trash and yard debris or removing/adding topsoil, sand, or other materials (except as may be

- 2 -
- necessary on a case-by-case basis with prior written approval by DEQ and USACE);
3. Permitting livestock to graze, inhabit or otherwise enter the preservation area.
 4. Cultivating, harvesting, cutting, logging, planting, and pruning of trees and plants, or using fertilizers and spraying with biocides (except as may be necessary on a case-by-case basis with prior approval by USACE and DEQ);
 5. Lot Owners having a Lot bisected by a waterway may construct an access for ingress and egress to and from the otherwise inaccessible area of their Lot only after obtaining all required area permits/approvals from State and Federal authorities.
 6. Construction, maintenance or placement of any structures or fills including but not limited to building, mobile homes, fences, signs other than those which currently exist. However, boardwalks, wildlife management structures, observation decks, one informative sign, and unpaved foot trails may be placed within the preservation area provided that any such structure permits the natural movement of water and preserves the natural contour of the ground and subject to prior written approval by the USACE and DEQ.

Amendment

The covenants contained herein shall not hereafter be altered in any respect without the express written approval and consent of the Owner or its successor in interest and the USACE and DEQ. The Owner or its successor may apply to the USACE and DEQ for vacation or modification of this Declaration; however, after recording, these restrictive covenants may only be amended or vacated by a recorded document signed by the USACE and DEQ and the Owner or its successor in interest.

Compliance Inspections and Enforcement

The USACE, DEQ, and its authorized agents shall have the right to enter and go upon the Property to inspect the Property and take actions necessary to verify compliance with these restrictive covenants. The restrictive covenants herein shall be enforceable by any proceeding at law or in equity or administrative proceeding by the USACE or DEQ, or any owner of a Lot within Black Diamond. Failure by any agency (or owner) to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter.

Separability Provision

The provisions hereof shall be deemed individual and severable and the invalidity or partial invalidity or unenforceability of any one provision or any portion thereof shall not affect the validity or enforceability of any other provision thereof.

NOT 102 196 278

WITNESS the following signature and seal of VA Hunter, LLC, a Delaware limited liability company, by L. Hunter Wilson, its President.

VA HUNTER, LLC,
a Delaware limited liability company

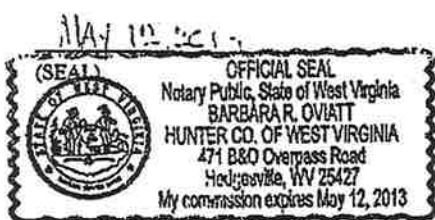
By: [Signature]
L. Hunter Wilson, President

STATE OF WEST VIRGINIA

COUNTY OF JEFFERSON

The foregoing instrument was acknowledged before me this 16th day of April,
2007, by L. Hunter Wilson, President of VA Hunter, LLC, a Delaware limited liability
company, on behalf of the limited liability company.

My commission expires:



[Signature]
Notary Public

THIS DOCUMENT PREPARED BY:

VA Hunter, LLC/USACE, Norfolk District
471 B&O Overpass Road
Hedgesville, WV 25427

NOT ADOPTED 2013

EXHIBIT A

Legal description of property.

"Black Diamond", as is more fully shown upon a plat thereof prepared by Terradon Corporation, dated July 10, 2006, and recorded in the Office of the Clerk of the Circuit Court of Craig County, Virginia in Deed Book 157, at page 204, et seq. and in Deed Book 158 at page 252, et seq., and page 268, et seq., LESS AND EXCEPTING OUTSALES, none of which are contained within the Property shown on Exhibit B, which remains vested in Owner.

EXHIBIT B

Legal description of preserved area.

The Stream Buffer and areas shown on all those Lots on that Final Plat of Black Diamond Subdivision, prepared by Terradon Corporation, approved April 19, 2007, and recorded in the Office of the Clerk of the Circuit Court of Craig County, Virginia in Deed Book 161, at page 829, including but not limited to:

- 1) That preservation easement shown as areas labeled BD9 and BD10 (Lots 44 and 45), to wit: An easement 50' in width extending both sides from the ordinary high water mark of the waterway and including the waterway as to BD9, and an easement 100' in width extending both sides from the ordinary high water mark of the waterway as to BD10. Said preservation easement is for the express purpose of installing one (1) crossing at an area therein to be determined by the USACE, not to exceed 100' in width as to the roadway or 100' in stream length.
- 2) That enhancement area wholly contained within Lot 66 as shown commencing at the mouth of Laurel Branch where it meets Johns Creek, then upstream 266', being a total of 50' in width extending both sides from the waterway as measured from ordinary high water mark of the waterway and including the waterway. This enhancement area is completely included within that 100' Stream Buffer provided for in the Supplemental Declaration of Reservations and Restrictive Covenants, regulated by the United States Fish and Wildlife Service (USFWS).
- 3) That enhancement area wholly contained within Lots 12 and 67 as shown extending 122' upstream along Laurel Branch and 50' in width extending both sides from the waterway as measured from ordinary high water mark of the waterway and including the waterway. This enhancement easement was previously created by that Declaration of Restrictions for Black Diamond, Craig County, Virginia dated September 26, 2006 and recorded in the Office of the Clerk of the Circuit Court of Craig County, Virginia in Deed Book 158, at page 68. This enhancement area is completely included within that 100' Stream Buffer provided for in the Supplemental Declaration of Reservations and Restrictive Covenants, regulated by the USFWS.
- 4) That created wetland mitigation on Lot 56 as shown on the aforesaid Final Plat.

456 3112 100 2081

VIRGINIA: In the office of the Clerk of the Circuit Court of Craig County the 2nd day of May 2067 this Deed DEC was presented and with the Certificate thereto annexed admitted to record at 10:51 o'clock A. M. The taxes imposed by sec. 58-54 58-54.1 & 58-55.1 of the Code of Virginia have been paid.

State Tax \$		Taxes	Inst. # <u>443</u>
Local Tax			
Add Tax			
Transfer Fee		<u>Perroy Beaton</u> Clerk	
Clerk Fee	<u>14.50</u>	By <u>Kearney</u> Deputy Clerk	
VSLF	<u>1.50</u>		
VOF			
DP			
TFR	<u>5.00</u>		

SUPPLEMENTAL DECLARATION OF RESERVATIONS AND RESTRICTIVE COVENANTS**BLACK DIAMOND**

THIS SUPPLEMENTAL DECLARATION is made as of April 19, 2007 to be effective upon recordation, by VA HUNTER, LLC, a Delaware limited liability company, its successors and assigns ("Developer").

WITNESSETH:

WHEREAS, Developer remains the owner of the real property described in Article I of this Declaration, less any outsales, and has created thereon a primarily residential community, with Roads and Other Common Facilities (as hereafter defined) for the benefit of said community; and

WHEREAS, Developer desires to continue to provide for the preservation of the ecosystem, values and amenities in said community and for their maintenance, and to this end, desires to subject the real property described in said Article I to the further provisions hereof, each and all of which is and are for the benefit of said property and each Owner thereof.

NOW, THEREFORE, the Developer declares that the real property described in Article I hereunder is and shall be further held, transferred, sold, conveyed and occupied subject to the covenants herein contained.

ARTICLE I
PROPERTIES SUBJECT TO THIS DECLARATION

Section 1. Lots. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Supplemental Declaration is located in the Potts Mountain District of Craig County, Virginia, and is more particularly described as follows:

Lots 1 through and including Lot 103, Black Diamond, less outsales, as are more fully shown upon that Final Plat prepared by Terradon Corporation, dated July 10, 2006, and recorded in the Circuit Court of Craig County, Virginia, in Deed Book 157, at page 204, et seq., and in Deed Book 158 at page 252, et seq., and page 268, et seq. Lots impacted by this instrument are owned by Developer and described below in Article II.

AND BEING the same real estate conveyed to VA Hunter LLC, a Delaware limited liability company, by Deeds dated August 8, 2006, recorded in the Circuit Court of Craig County, Virginia in Deed Book 157, at pages 167 and 175, respectively, all of which real property shall hereafter be referred to as "Existing Property."

ARTICLE II

(Formally Article IV, Section 6 – as amended hereby): Greenspace Areas Along Waterways, Including Tributaries; Stream Buffer Plan.

1. All protected areas ("Stream Buffers") described in former Article IV, Section 6. of the Declaration, including Common Areas, shall be deemed to include those shown on a subsequently recorded plat drawn by Terradon Corporation, approved April 19, 2007, and recorded in the Office of the Clerk of the Circuit Court of Craig County, Virginia in Deed Book 161, at page 829, labeled "Final Plat".

2. The Final Plat shows Stream Buffer Areas and Zones which shall be kept in their current natural and undisturbed condition. Accordingly:

a) Removal or cutting of existing or planted trees in the Stream Buffer is prohibited. Removal of invasive species as provided by the DCR invasive plant list (www.state.va.us/dcr/dnh/invlist.pdf) and planting of native plants as defined by the DCR (www.state.va.us/dcr/dnh/native.htm) is permitted. Removal of deadfall shall be permitted within the buffer.

b) The use of fertilizers and spraying with biocides is strictly prohibited except as may be necessary on a case-by-case basis with prior written approval by the United States Army Corps of Engineers.

c) No livestock or other farm, domestic or raised animals shall be permitted in the Stream Buffers. Any grazing animals shall be confined to areas outside both the Greenspace and 100-year

floodplain by reliable fencing erected and maintained at the expense of the livestock's owner. Livestock watering shall be only via a well and trough system.

d) Mowing within the riparian Buffers by bush/brush hog is limited to twice a year (once in the Spring and once in the Fall) and no lower than 8 inches. Mowing is prohibited within 8 feet of the water's edge. No mowing or maintenance may occur from May 15 through July 31 of any year. (Although not a requirement, it is recommended that no mowing or maintenance occur from April 15 through August 15 of any year to avoid the wildlife nesting season in Virginia). These mowing recommendations do not apply in the designated Common Areas that are identified on the Final Plat.

e) Ditching, draining, diking, damming, filling excavating, grading, plowing, flooding/ponding, mining, drilling, placing of trash and yard debris or removing/adding topsoil, sand, or other materials (except as may be necessary on a case-by-case basis with prior written approval by United States Army Corps of Engineers) is prohibited in the Stream Buffers.

f) All permanently marked Stream Buffer signs are to remain and be replaced/maintained by the Association as needed.

g) Lot Owners having a Lot bisected by a waterway may construct an access for ingress and egress to and from the otherwise inaccessible area of their Lot only after obtaining all required area permits/approvals from State and Federal authorities.

h) No structures, improvements or fencing is permitted within the Stream Buffers, except for the Common Areas having picnic shelters and wildlife management structures.

i) These restrictions will not prevent the further enhancement or restoration of streams and/or stream buffer if done so by permit from the appropriate state and federal agencies and in accordance with state and federal regulations using natural channel design techniques.

All protected areas described in former Section 6., including Common Areas, now labeled "Stream Buffers" shall be deemed to be included on that recorded plat drawn by Terradon Corporation, approved April 19, 2007, and recorded in the Office of the Clerk of the Circuit Court of Craig County, Virginia in Deed Book 161, at page 829 and labeled "Final Plat".

No amendment to this Supplemental Declaration affecting the Stream Buffers shall be effective without the express written approval by subsequent recorded instrument executed by the United States Fish and Wildlife Services. A Declaration of Restrictions required by the United States Army Corps of Engineers shall further govern the use of these areas; in the event of a conflict between these two instruments, the most restrictive shall apply.

WITNESS the following signature and seal of VA Hunter, LLC, a Delaware limited liability company, by L. Hunter Wilson, its President.

VA HUNTER, LLC,
a Delaware limited liability company

By:

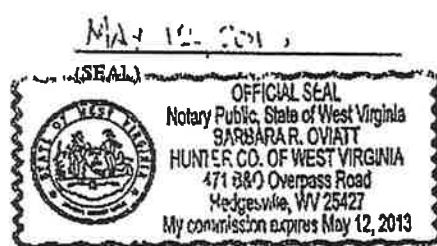
L. Hunter Wilson, President

STATE OF WEST VIRGINIA

COUNTY OF PUTNAM

The foregoing instrument was acknowledged before me this 15th day of April, 2007, by
L. Hunter Wilson, President of VA Hunter, LLC, a Delaware limited liability company, on behalf of
the limited liability company.

My commission expires:



Barbara R. Oviatt
Notary Public

VIRGINIA:
In the office of the Clerk of the Circuit Court of Craig County the 2nd day of May 2007 this Deed DEC was presented and with the Certificate thereto annexed admitted to record at 10:55 o'clock A M. The taxes imposed by sec. 58-54 58-54.1 & 58-65.1 of the Code of Virginia have been paid.

State Tax \$	_____	Tester:	_____	Inst. #	<u>444</u>
Local Tax	_____				
Add Tax	_____				
Transfer Fee	_____				
Clerk Fee	<u>14.50</u>				
VSLF	<u>1.50</u>	By	<u>Peggy B. Bost</u>	Clerk	
VOF	_____		<u>Kelly M. Bost</u>	Deputy Clerk	
DT	_____				
TF	<u>5.00</u>				

THIS DOCUMENT PREPARED BY:

VA Hunter, LLC
471 B&O Overpass Road
Hedgesville, WV 25427

