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CACAPON MEADOWS

Sections I and II

Dedication of Plat and
Declaration of Protective Covenants, : (523
Conditions and Restrictions

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, referred to as "Declarant", does hereby record the plats of a subdivision known as CACAPON MEADOWS SUBDIVISION, Section I and II, lying and being situate in Gore District, Hampshire County, West Virginia, and being more fully described on the plats of survey of Stultz and Associates, Inc., dated August, 1989, and made a part hereof, and recorded in the Clerk's Office of the County Commission of Hampshire County, West Virginia, of even date with the recording of this instrument in Map Book No. ____, pages (not yet assigned), to which reference is hereby made, and said real estate being part of a larger tract of real estate conveyed to B. K. Haynes Corporation from Michelle Carol Hott, by deed dated June 2, 1989, and recorded in said Clerk's office in Deed Book no. 310, Page 38, and by deed from Daniel W. Miller, Jr. and Jo Ella Miller, his wife, dated June 26, 1989, and recorded in the Hampshire County Clerk's Office in Deed Book No. 310, page 570. This is also the same real estate that was formerly referred to on plats of record in the Hampshire County Clerk's Office as "Cacapon Bluffs". "Cacapon Bluffs" was never created. Instead Declarant has superseded those plats with the plats of survey of Cacapon Meadows Section I & II.

All lots in the CACAPON MEADOWS SUBDIVISION, Section I and II shall be subject to the following protective covenants, conditions, and restrictions and easements which shall run with the land and shall be binding upon all subsequent owners of the lots:

ARTICLE I - DEFINITIONS

1. "Association" shall mean and refer to Cacapon Meadows Property Owners Association, its successors and assigns.

2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

3. "Property" shall mean and refer to that certain real property described above and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

4. "Lot" shall mean and refer to any numbered or lettered plat of land shown upon any recorded subdivision plat of the property.

5. "Declarant" shall mean and refer to B. K. Haynes Corporation, its successor and assigns.

ARTICLE II- MEMBERSHIP AND VOTING RIGHTS

1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

2. On or before December 31, 1989, or when three-fourths (3/4) of the lots have been sold, whichever occurs first, a Property Owners Association shall be established with membership consisting of the Owners (and only the owners) of each lot in CACAPON MEADOWS SUBDIVISION who shall have one (1) vote per lot owned. The Association shall be governed by the majority of the lot owners. A Board of Directors of three (3) to five (5) members, as determined by the Association, shall be elected by the lot owners. Unless otherwise stated herein, a quorum for meetings of the lotowners Association may be had upon the appearance of 51% of the owners at any meeting called by the Board, after proper notice of date, time, place and purpose is

024
given to the members. The Association shall conduct itself in accordance with the laws established for Corporations in West Virginia. The Bd. of Directors shall have the right to adopt, modify, and reenact bylaws not inconsistent with these protective covenants.

The initial Directors of the Association consisting of one to five members shall be appointed by the Declarant or its assigns and thereafter the Board of Directors shall be elected by the lot owners. The initial Directors shall be responsible for calling the first meeting of the Property Owners Association on or before March 15, 1990, and shall be responsible for the mailing of the written notice of the lot assessment which is due and payable by March 15, 1990. The initial meeting shall be held in Hampshire County, West Virginia, at a suitable place to be designated by the initial Board of Directors. At said meeting the said owners shall, by majority vote, form the said Association's legal entity as they deem advisable and shall elect a Board of Directors and or officers of said Association. Assuming a quorum, the Association may be administered by majority vote of those attending a properly constituted meeting. Provided that these covenants may only be amended in accordance with the written terms of same.

ARTICLE III COVENANT FOR MAINTENANCE ASSESSMENT

1. The Declarant shall assess initially, for each Lot, ONE HUNDRED DOLLARS (\$100.00) per year for the use, upkeep and maintenance of the rights-of-ways within CACAPON MEADOWS SUBDIVISION, Sections I and II.

1.1. The treasurer of the Association shall maintain all annual assessments collected for maintenance of rights of ways for Section I in an account separate and apart from the monies collected for road maintenance of Section II. The owners of Section I, by majority vote, shall determine how the monies are spent within Section I for road maintenance, and the owners of Section II, by majority vote, shall determine how the monies are spent within Section II for road maintenance.

2. Any assessment made pursuant to this paragraph, including a late fee of Five Dollars (\$5.00), interest at the rate of ten percent (10%) per annum from the date of delinquency, and reasonable attorney's fees incurred in the collection thereof, shall constitute a lien on this property until paid. The lien is expressly inferior and subordinate to any mortgage liens presently or hereafter encumbering the property affected by these protective covenants. This assessment may not be increased by more than a percentage increase greater than the Cost of Living Index (Urban) as published by the Department of Interior, Bureau of Standards. The owner of each lot, by acceptance of a deed thereto, automatically becomes a member of the Property Owners Association and is deemed to covenant and agree to pay One Hundred Dollars (\$100.00) per lot per year, beginning May 1, 1990, and to pay annually thereafter to the Property Owners Association, to be created as herein set forth, an amount determined by the positive vote of owners of at least two-thirds (2/3) of the lots in said subdivision as necessary for the purpose of maintaining and improving rights-of-ways and roadways shown on the subdivision plat. Beginning the spring of each year hereafter said Association shall notify each lot owner in writing, as to the amount of the lot assessment which shall be due and payable by the lot owner to the CACAPON MEADOWS Property Owners Association. In the event of a resale or transfer of one or more parcels in said subdivision, this obligation shall run with the land and become the obligation of the new owner(s) even though it may have been assessed to a prior owner. In the event of a transfer by judicial sale or sale under Deed of Trust, any past due and unpaid road maintenance fees shall be paid by the party forcing the sale of the lot, or be paid by the new purchaser. This section does not apply to Declarant should it reacquire title through judicial sale, deed of trust sale, or by voluntary sale from Owner. See Paragraph no. 4 below.

3. If the owner of any Lot is in default in the payment of any assessments, including interest and costs of collection, in addition to any other means of collection, the Property Owners Association may bring an action at law against the owner personally obligated to pay same and may also sell the lot involved at a public auction after advertisement once a week for two (2) successive weeks, in a newspaper having general circulation in Hampshire County, and after thirty (30) days written notice mailed to the last known address of said owner. Cost of sale, including reasonable and necessary attorney fees, advertising costs, auctioneering fees, recording fees, and other necessarily incurred costs shall be paid from the proceeds of sale before the payment of amount involved. Or, if the owner chooses to pay the assessments before sale of the property, the costs incurred to date of owner's payment of the assessment shall be collected from the owner as a condition precedent to cancellation of the sale.

4. In exchange for Declarant's installation of said roadways and rights-of-way, the Declarant shall be forever exempt from the payment of said annual assessments and maintenance fees and assessment fees as to all presently owned by or later reacquired by the Declarant. In the event the Declarant should reacquire real estate through purchase at a foreclosure sale or through settlement of Owner's default in any contract, note or deed of trust that Owner should be obliged to pay the Declarant, Declarant shall not be required to pay any past due Assessments that the previous Owner may have owed the Association.

5. The Association, by majority vote of the members, may impose annual association dues to be paid by each owner for each lot owned in order to provide necessary funds to ensure payment of the necessary costs of administering the lotowners association (preparation of newsletters, postage, phone calls, legal fees, etc.). The annual assessment may not exceed \$20.00 per lot.

6. If any one owner owns two or more adjoining lots, only one road maintenance assessment shall be payable so long as two or more adjoining lots are so owned, and only one house is built by said owner of said lots. If any of said lots is hereafter sold or conveyed or improved by an additional dwelling, it shall be subject to separate assessment of \$100.00. Nothing herein shall be deemed to alter the "one vote per one lot owned" rule which is established in Article II, paragraph 2 above.

6.1 Any owner may merge two lots to create one new lot. If the Owner elects to do this, then he must resurvey the two lots into one lot. The new survey shall clearly indicate the lot numbers of the two lots that have been combined. A copy of the plat shall be given unto the Association and recorded at the Clerk's Office. The merged lot shall have ONE vote at the Owners Association meeting, and shall be liable for one road maintenance fee. Set back restrictions as set forth herein shall apply to the boundaries of the newly formed lot.

ARTICLE IV USE RESTRICTIONS

1. No signs or advertising of any nature shall be erected or maintained on any lot, except for sale or rental signs not to exceed six (6) square feet in area, except for directional and informational signs of Declarant.

2. No owner of any lot shall interfere with the natural drainage of surface water from such lot to the detriment of any other lot. Consequently, in the construction of a driveway into any lot, a twelve (12) inch diameter culvert, or larger if necessary, shall be used in constructing the driveway in order to alleviate blockage of natural drainage. No parking is permitted upon any subdivision roads within the subdivision at any time and as part of the development of any lot, the Owner shall provide adequate off-road parking for owner and his guest(s).

3. Due to the unsightliness of junk vehicles on lots, no motor vehicle which does not have current license plates or an inspection sticker not more than six (6) months out of date shall be permitted on any Lot.

4. House trailers and mobile homes are not permitted in CACAPON MEADOWS SUBDIVISION, Section I and II.

5. No building of a temporary nature shall be erected or placed on any lot except those customarily erected in connection with building operations and in such cases, for a period not to exceed eight (8) months, provided however nothing shall be construed to prevent the owner from erecting tents on the lot and to camp overnight in said tents for a period of up to fifteen days, or use of a recreational vehicle for camping for a period of up to thirty days.

6. Not more than one single family residence shall be erected on a lot. Residences shall contain a minimum of 480 feet of living area, excluding basement, garage, porch, carport, deck, and overhanging eaves. All exterior construction must be completed and closed in within eight (8) months of the commencement of construction.

7. Each lot shall be used for residential or recreational purposes only, and any garage or outbuilding must conform generally in appearance and material with any dwelling on said lot.

Notwithstanding the prior paragraph, the following uses are permitted, subject to applicable state and local laws:

(a) Home occupations conducted by occupant.

(b) Agricultural uses, including incidental use and the construction of accessory buildings connected with agriculture or the building of a residence, including storage of temporary camping and lawn maintenance equipment. Said accessory buildings may be constructed before construction of the residence. Said accessory building shall not be used for temporary sleeping or camping quarters.

8. Not more than one (1) head of livestock per acre shall be permitted per lot, unless otherwise approved by the Board of Directors of the Property Owners Association, provided that no pigs or pig pens are allowed within the subdivision. All livestock must be fenced in. Operation of any laying hen, broiler houses, or other poultry business is prohibited. Limited raising of poultry for personal use is permitted.

9. The Owner shall maintain, repair and restore, as necessary, the exterior of any building or other improvements erected on any Lot owned by him. Owners likewise agree to repair and restore promptly to its prior condition any part of a subdivision road damaged by equipment of Owner or his contractor enroute to or from Owner's lot. All lots improved or unimproved, must be maintained by the lot owner in a neat and orderly condition at all times. No garbage, trash or inoperative vehicle or other debris shall be permitted to accumulate or remain on any lot.

10. No building shall be erected closer than twenty (20) feet from the side or rear line of any lot, nor less than sixty (60) feet from the center line of any road or right-of-way; provided that the Declarant or the Board of Directors of the Association shall authorize lesser set-backs where dictated by terrain; and provided further that side line set-backs shall not apply to a property line between tracts in single ownership. Lots may be merged and thereafter treated as one tract of real estate, and where two lots are merged together, the two or more lots which comprise the newly formed merged lot shall thereafter be sold and conveyed as one unit, and may not be sold separately.

11. All sanitation facilities constructed on any lot shall conform with the regulations of the West Virginia County Health Department.

12. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste must be kept in sanitary containers. All trash, garbage, fuel storage tanks, garden equipment, supplies and stored raw materials must be kept from view of the public. In the event any lot owner shall fail to discharge his aforesaid responsibilities in a manner satisfactory to the Board of Directors of the Property Owners Association, upon two-thirds (2/3) vote of the Board of Directors, and after fifteen (15) days notice to the owners of the Property, the Property Owners Association shall have the right, through its agents and employees, to enter upon said lot and perform necessary maintenance repairs (including mowing and removal of grass over 24" high in the form of hay), and restoration, or to remove any offending material or object. Such action shall not be deemed a trespass, and the cost of same when performed by the Association shall be added to and become a part of the assessment to which such lot is subject.

13. The Declarant reserves unto itself, and its assigns, easements for the installation, erection, maintenance, operation and replacement of telephone and electric light poles, conduits and related equipment, and/or sewer, gas, telephone, cable t. v., electric and water lines on, over and under a strip of land fifteen (15) feet wide along all property lines not serving as the centerline for rights-of-ways, and twenty (20) feet along all the rights-of-ways, and additional widths as necessary for guying purposes, in addition to easements reserved by any other instrument duly recorded. Nothing herein shall be construed as creating any duty on Declarant to install or maintain any utility services however, as it is contemplated that actual installation will be made at the expense of the utility and/or the owners.

14. Each lot owner shall have an unobstructed and the nonexclusive fifty foot right of ingress and egress with County Route 3/3 to and from his lot over the rights-of-ways and roadways as shown on the subdivision plats. The Property Owners Association shall be responsible for maintenance of the subdivision roads. The rights-of-ways shall be subject to the common usage of the Declarant, its heirs and assigns. Owners of Section I shall, by majority vote, determine the manner in which the road maintenance assessments are spent for maintenance of the main road serving Section I. Owners of Section II shall, by majority vote, determine the manner in which the road maintenance assessments are spent for maintenance of the main road serving Section II.

14.1 Owners of lots 11 & 12 of Section II shall have the right to access the Little Cacapon River on foot, as pedestrians, by utilizing a fifty foot right of way to Tract B, and then a 20 foot right of way across Tract B to the Little Cacapon River. Tract B, the fifty foot right of way leading to it, and the 20 foot right of way leading to it are shown on a plat of survey for B. K. Haynes Corporation, to be recorded in the Hampshire County Clerk's Office in the Plat Books of even date with the recording of these covenants, in Map Book no. _____, page to be assigned. Only foot travel is permitted by owners of lots 11 & 12 on the rights of way to the Little Cacapon River. The fifty foot right of way that extends from 3/3 over Tracts "A" and "B" to the Little Cacapon River is the right of way which provides motor vehicular ingress and egress to James Steptoe, his heirs and assigns, Tract A, its successors and assigns, and owner of Tract B, its successors and assigns.

14.2 Owner(s) of Lot 1, Section I shall have the right to access the Little Cacapon River on foot, as pedestrians, by utilizing the fifty foot right-of-way from Lot 1, Section I to the 20 foot river access easement between Lots 5 and 6, Section I. The 20 foot river access is as shown on the plat of Cacapon Meadows Subdivision, Section I.

15. The use of any motorcycle, dirt bike, all terrains vehicles, or other similar motorized conveyance within the subdivision is

prohibited unless it is equipped with proper noise abatement equipment.

16. Firearms shall not be discharged within five hundred (500) feet of any dwelling house. Nor shall they be discharged in such a manner that the trajectory of the projectile shall cross any of the subdivision roadways.

17. Subject to obtaining the permission and consent of the Hampshire County Health Department, the Declarant does hereby grant an easement to lot owners within the subdivision for the purpose of laying and maintaining septic tank systems and drain fields, across other neighboring or adjoining lots, where a lotowner's parcel (the dominant parcel) has been found to be unsuitable to sustain a sewage disposal system by the Health Department of Hampshire County, West Virginia. In the event all such lots have been previously sold by Declarant to lot owners, then these cross easements are hereby granted in advance to each of the lots in the subdivision where necessary and required to accommodate a dwelling on the lots in question, and such easements may be enforced by one lot owner against the other. Any such easement so exercised will be constructed in such a manner as to cause the least damage to the servient tract, and such easement shall include the right to lay pipes to and from the sewage disposal systems and shall include the right of repair and reinstallation of same in the future. Any Owner exercising such a right, however, has the duty to replace the surface of the servient tract to the same condition as it exercised prior to the construction activity and to reseed the real estate to the satisfaction of the owner of the servient tract. Any such easements granted herein shall be invalid, however, if its installation would prevent the servient tract or parcel from reasonably being utilized as a homesite as planned.

18. Some lots within the Cacapon Meadows Subdivision, Sections I and II lay on both sides of the subdivision roads, and to determine which lots fall into this category, reference is made to the subdivision plat. Any owner so affected shall have the right to construct buildings on one side of the road, and is granted an easement to lay necessary utility lines to accessory buildings under the subdivision road for the purposes of providing electricity, water, or other necessities to any accessory buildings, provided that the Owner shall be under a duty to perform the construction expeditiously and to return the road to the same condition as it existed prior to the construction. In addition, if the Owner finds that it is necessary to do so, the Owner may run lines for his sewage disposal system under the subdivision roads upon the same terms and conditions outlined above in this paragraph.

19. Further subdivision of any lot is permitted if the Lot owner complies with the applicable health laws; the zoning ordinance if in effect; and the subdivision control ordinance, if in effect. Any new lot created from further subdivision of a numbered lot described herein, shall bear a number or numeral which will identify it as having come from one of the existing lots of Cacapon Meadows (i.e. if lot 1 is subdivided, the new lot created may be named lot 1A). Furthermore, any lot created by further subdivision shall be bound by these covenants. A plat of survey showing the further subdivision of the original lot must be placed of records in the Plat Books at the Hampshire County Clerk's Office. In the event that said further subdivided lot is sold to a third party, or in the event that a house or other similar structure is placed thereon, the further subdivided lot shall be under a duty to pay a road maintenance fee as set forth herein. Any lot created by further subdivision shall have a vote for all matters called for under the covenants.

20. If any lot owner shall violate any of the covenants herein, it shall be lawful for any other person or persons owning any real estate situated in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, either to prevent him or them from so doing or to recover damages or other dues for such violation. Failure

to enforce any provision herein contained shall in no way be deemed a waiver of the right to do so hereafter.

21. The Association, may by majority vote of a quorum of its members, attending a duly constituted meeting may make additional rules, and regulations for the use of the lots within the subdivision as they see fit. PROVIDED HOWEVER, that if subsequently adopted rules, regulations, restrictions, or covenants, are to be enforced by fine or penalty, then they must be adopted by a 2/3 majority vote of the membership of the Association.

ARTICLE V GENERAL PROVISIONS

1. Declarant reserves the right to replat, resubdivide and renumber any unsold lot or lots, and to add additional adjoining real estate to said subdivision. Nothing herein shall be construed to prevent Declarant from imposing additional covenants or restrictions on any unsold lot(s) or other real estate later added to and becoming a part of said subdivision.

2. In the event state, local government, and utility, cooperative, Declarant, or municipality requires the installation of a public utility system within the area of which this is a part, the grantee or grantees, by the acceptance of a deed, do hereby agree to pay their proportionate share for the cost and expense of the erection, maintenance and operation thereof as the same cost is to be determined by the appropriate authority. Nothing herein shall be construed to imply any duty on grantor to provide utility services nor to contribute to the erection, construction or maintenance of any utility services.

3. All sewage disposal systems constructed on said lots shall conform to the regulations of the appropriate West Virginia Department of Health. Free standing toilets are also subject to the aforementioned requirements and shall not be constructed unless specific authority is first obtained from the Health Department, and then they must be placed in such location with respect to the residence, cabin, trailer or accessory building located on the premises that the free standing toilet does not create an unnecessarily unsightly condition to the adjoining lot owners within the subdivision. In this connection, the Owner should submit plans for the construction to the Property Owners Association, and obtain prior approval from the Board of Directors prior to the location and construction of a free standing toilet.

4. No building shall be constructed and no well shall be drilled on any lot until a sewage disposal permit has been obtained from the West Virginia Health Department.

5. The Association, or any Owner, shall have the right to enforce by any proceedings, at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or Association or by any Owner to enforce any provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

6. The covenants, restrictions and other provisions of this Declaration shall run with and bind the land for a term of ten (10) years from the date this Declaration is recorded, after which they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first ten (10) year period by an instrument signed by not less than ninety (90%) of the lot owners, and thereafter by an instrument signed by not less than seventy-five (75%) of the lot owners.

7. Invalidiation of any of the covenants, restrictions or other provisions of this Declaration by judgment or Court Order shall in no wise affect any other provisions, which shall remain in full force and

effect. (530

9. Whenever in this Declaration the context so required, the masculine gender includes the feminine and neuter, singular number includes the plural and the plural number includes the singular.



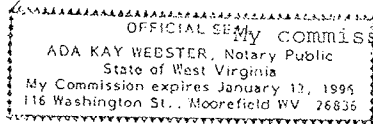
B. K. HAYNES CORPORATION

BY: B. K. Haynes
ITS PRESIDENT, DECLARANT

State of West Virginia,

County of Hampshire, to-wit:

The foregoing instrument was acknowledged before me this the 12
day of November 1989, by B. K. Haynes, President of B. K. Haynes
Corporation.



My commission expires Jan. 12, 1996
Ada Kay Webster
Notary Public

This instrument prepared by:
Oscar M. Bean
116 Washington St., Drawer 30
Moorefield, W. Va. 26836
304/538/6198 FAX 304/538/7155

STATE OF WEST VIRGINIA, County of Hampshire, to-wit:

Be it remembered that on the 29th day of November, 1989, at 1:49 P M.,
this Protective Covenant was presented in the Clerk's Office of the County Commission of said County
and with the certificate thereof annexed, admitted to record.

Attest Nancy C Feller Clerk
County Commission, Hampshire County, W. Va.

CASIO & HARRIS INC., SPENCER, W. VA. RE ORDER NO. 82567D-S