

Flescher Acres

DECLARATION OF PROTECTIVE AND
RESTRICTIVE COVENANTS APPLICABLE TO CERTIFICATE
OF SURVEY NO. 474762/E, LEWIS AND CLARK COUNTY, MONTANA

8141-2118
M12-1418

Kermit J. Mueller & Associates, LTD., sometimes appearing of record as Kermit J. Mueller & Associates, L.T.D., (KJM) a Montana limited partnership, whose principal office is located at 1744 1/2 North Montana, Helena, MT 59601, adopts this Declaration of Protective and Restrictive Covenants which are applicable to the lands described below, effective the 26th day of August, 1991.

W I T N E S S E T H:

WHEREAS, KJM is causing certain lands in Lewis and Clark County, Montana, to be divided into tracts of land, each of which is in excess of twenty (20) acres in size;

AND WHEREAS, KJM, is the legal owner of all of said lands; and,

WHEREAS, KJM desires to place covenants and restrictions upon the lots and tracts of land contained in the hereinafter defined area for their protection and benefit as the present owners and for all future owners thereof; and

NOW, THEREFORE, this Declaration of Protective and Restrictive Covenants is made to apply to the following-described property located in Lewis and Clark County, Montana, and more particularly described as follows:

A parcel of land in Sections 14 and 23, Township 14 North, Range 6 West, P.M.M., which is the exterior boundary of Certificate of Survey No. 474762/E, and which includes the sixteen (16) parcels shown on said Certificate of Survey, and more particularly described as follows:

A tract of land in the S1/2 of Section 14 and in Section 23 of Township 14 North, Range 6 West of the Principal Meridian, Lewis and Clark County, Montana, more particularly described as follows:

Beginning at the southwest corner of Section 14 (a brass cap by the B.L.M.); then N. 00°14'53" E., 1318.48 feet along the section line between

Section 14 and Section 15 to the S. 1/16 corner; thence N. 89°57'46" E., 2618.60 feet along the 16th line to the C-S 1/16th corner of Section 14; thence S. 89°59'38" E., 1314.37 feet along the 1/16th line to the SE 1/16th corner of Section 14; thence S. 00°23'10" W., 1319.31 feet along the 1/16th line to the E 1/16th corner on the section line between Sections 14 and 23; thence S. 00°12'23" E., 2627.00 feet along the 1/16th line to the C-E 1/16th corner on the east-west center of Section 23; thence S. 89°59'29" E., 1318.86 feet along the east-west center of Section 23 to the E. 1/4th corner of Section 23; thence S. 00°04'01" W., 694.50 feet along the east boundary of Section 23; thence S. 90°00'00" W., 1315.55 feet; thence N. 00°12'23" W., 400.92 feet; thence S. 90°00'00" W., 2062.50 feet to a survey cap on the highway right of way; thence, following the highway right of way, N. 47°27'29" E., 74.44 feet; thence S. 42°32'08" E., 10.00 feet; thence along a non-tangent curve to the left having a radius of 472.9 feet, 1550.35 feet (chord bearing N. 43°40'45" W., distance - 943.59 feet); thence S. 44°58'03" W., 762.61 feet; thence N. 45°01'57" W., 99.83 feet; thence along a curve to the right having a radius of 297.5 feet, 96.66 feet (chord bearing S. 54°17'34" W., distance - 96.23 feet); thence S. 63°37'03" W., 23.46 feet; thence along a curve to the left having a radius of 657.5 feet, 175.60 feet (chord bearing - S. 56°00'47" W., distance - 175.08 feet); thence, leaving the highway right of way, N. 05°51'13" W., 1701.45 feet; thence N. 00°00'00" W., 729.21 feet, thence N. 32°38'53" W., 482.54 feet to the point of beginning, as shown on the Certificate of Survey filed under Doc. No. 474762/E.

The described property included with the exterior boundary of said Certificate of Survey contains 360 acres more or less.

1. Dwellings. All dwellings shall be of good quality, permanent-type construction, affixed to the realty and aesthetically compatible with other structures within the area of the Survey and the area of Certificate of Survey Nos. 273890, 319720 and 360449, Lewis and Clark County, Montana, all of which is generally referred to as "Flesher Acres.". Each dwelling shall contain not less than five hundred (500) square feet of living space on the

main floor, exclusive of porches and garage. All buildings must be constructed of stone, brick, frame or log materials, or metal siding of a subdued color, in order to blend in with the surroundings and natural coloring of the area. All roofs must be finished with shakes, shingles, copper, rock, slate, composition shingles, or a painted surface in a subdued or naturally finished color. All exterior walls or structures must be finished naturally or in subdued colors or earth tones. All buildings must be placed on a permanent foundation. Trailer houses or mobile homes, including those commonly known as "double-wides," may not be permanently located upon the property. All outbuildings shall be of good quality, permanent-type construction and aesthetically compatible with the whole premises.

2. Temporary Structures. No structure of a temporary character may be constructed, placed or used on any parcel at any time as a residence or otherwise; provided however, unoccupied, recreational vehicles, travel trailers and campers which are not unsightly may be stored on the premises when not in use. Campers, travel trailers or motor homes may be parked on the property and occupied on a temporary basis not to exceed six (6) consecutive months.

3. Location of Buildings. All dwellings and other structures shall be located at least one hundred (100) feet from the main stem of Canyon Creek and at least fifty (50) feet from all roads and property lines.

4. Septic Systems. There shall be no outhouses or privies upon the property. All dwellings shall be equipped with a septic-sewer system which complies with the laws of the State of Montana, the rules and regulations of the Montana Department of Health and Environmental Sciences and all local health authorities.

5. Garbage. No lot shall be used or maintained as a dumping ground, nor shall any rubbish, trash, garbage or other waste be allowed to accumulate. All garbage must be kept in sanitary containers. No trash or garbage shall be burned anywhere on said lands except in fire-safe masonry or metal incinerators which shall be kept in clean and sanitary condition. Any burning shall conform to local and state health and fire regulations. Individual owners shall be responsible for the collection and disposal of their own garbage.

6. Fencing. No boundary fences shall be erected. Property owners may fence yard areas, but such fences shall not restrict access by foot to and along streams on the property, or restrict easements on or across the property. All fences must be well-built, of good quality materials and properly maintained so as not to adversely affect the aesthetic value of any property. All fences shall be attached to posts, and no live tree shall be used as a post. The use of barbed wire is prohibited. Fences may be erected to enclose a maximum of two (2) acres for the keeping of animals as provided in Covenant No. 9.

7. One Division Permitted; Limitation. Each lot shown on Certificate of Survey No. 474762/E may be further divided one time; provided the segregated parcel must be at least five (5) acres in size. No further division is permitted. No more than two (2) residential dwelling units may be constructed on any of the originally described, 20+ acre parcels. The division of a parcel into two smaller parcels shall not enable an owner to construct more than two (2) dwelling units on any one of the originally described parcels.

8. Commercial Enterprise. No business, commercial, mining, or industrial enterprise of any type, shall be conducted on, in front of or in connection with the parcels within the area.

9. Animals. Except as hereinafter provided, no animals, other than household pets, shall be kept upon the premises, and no household shall have more than two (2) pets. No person shall raise animals, pets, fowl or pigeons for sale or for commercial purposes. The owner of each lot or parcel may keep only those household pets which can be kept without any continuous or audible disturbances or nuisances to the other residents of the area. Horses may be kept on parcels twenty (20) acres in size or larger. All animals shall be properly fed, watered and sheltered from the elements in such a manner and as shall be consistent with their good health. Each owner thereof or person responsible therefor shall treat and care for such animals in a humane manner. All structures used for animal control shall be aesthetically compatible and consistent with the character of the area. All structures and fenced areas shall be screened from sight by natural barriers between the main roads and the fenced area. A maximum of two (2) horses may be kept on any twenty (20) acre tract, and which horses shall be in addition to the two (2) house pets permitted above. No

more than two (2) acres of each twenty (20) acre parcel may be fenced for animal use and control. The purpose of this covenant is to prevent overgrazing of land which may cause dust and erosion. No owner shall allow animals to overgraze any tract or lot. All animals of any type kept on said lands must be kept within a properly fenced enclosure. Animal waste shall be removed from the premises or otherwise disposed of periodically so as not to become obnoxious to other owners or become offensive or a nuisance. Nothing in this covenant shall prohibit or exclude this land from agricultural use.

10. Abandoned Vehicles. No motor vehicle which cannot be moved under its own power may be left on any lot or parcel (other than in a garage) for more than one (1) week or left on the road in any area at any time. On-site parking shall be provided on every parcel or tract for all automobiles, trucks, trailers, and other motor vehicles. Inoperable or junk cars, vehicles or equipment shall not be permitted on any lot.

11. Signs and Billboards. No signs, billboards, posters or advertising displays or devices of any kind or character shall be displayed on any of said parcels, except "for sale" or "for rent" signs, mailboxes or signs to identify the residents.

12. Nuisances; Noise. No noxious, offensive or unlawful activity shall be carried upon on any parcel nor shall anything be carried on which is a nuisance to the residents of the area. Motorcycles, snowmobiles, all-terrain and similar motorized vehicles shall be operated in such a way as to not disturb the residents of the area.

13. Easements. There is hereby reserved, for the purpose of public utilities and access, a permanent easement across a strip of land twenty (20) feet wide on each side of all roads shown on Certificate of Survey No. 474762/E, and of all property lines for the purpose of ingress and egress to install, maintain and remove such utilities as may be required, and to allow access to streams and roadways for residents of the area.

In addition, two (2) access easements are hereby reserved for the benefit of and use by all landowners within Flesher Acres on both sides of Montana Highway 279, to access public lands generally surrounding Flesher Acres. These access roads are the same access roads

referred to in paragraph 15 hereof. The first access easement shall extend from the tunnel under Montana Highway 279, north along the access road on the west side of Canyon Creek through parcels 1 through 8 on Certificate of Survey No. 474762/E, as shown on said survey. The second access easement shall extend north along the east side of Canyon Creek through parcels 8 through 16 on Certificate of Survey No. 474762/E, as shown on said survey.

14. Tree Cutting. No trees shall be cut down upon the lots except for personal use to construct a cabin or as reasonably necessary for firewood. Select cutting of timber shall be allowed to clear structure sights. Commercial harvesting of timber is prohibited.

15. Access Roads. There is reserved for purposes of access to and from all parcels, two (2) access roads, each of which is within a sixty (60) feet wide easement running generally north and south from Montana Highway 279, parallel to and along each side of Canyon Creek, all as shown on Certificate of Survey No. 474762/E.

16. Hunting. No hunting or shooting shall be allowed within the boundaries of the surveyed area. There shall be no discharge of firearms into or from within the area.

17. Fireworks. No fireworks or other explosive or incendiary devices shall be stored or used upon the land or in the structures thereon.

18. Pollution. There shall be no discharge of any hazardous or toxic materials or chemicals in the air, land or waters. Natural streams or bodies of water shall not be polluted or degraded by any activity on the property.

19. Association of Owners; Powers. The owners of seventy-five (75) percent of the parcels shown on Certificate of Survey No. 474762/E, may form a homeowners association which shall have the authority to adopt rules and regulations to enforce and enhance the provisions of these covenants and to assess costs necessary for common expenses for the benefit of the owners including but not limited to road maintenance and repair provision of utility service, security, fire protection, insurance and other similar expenses.

These Restrictive Covenants shall be for the benefit of all the people owning land within the above-described

property which describes the exterior boundaries of Certificate of Survey No. 474762/E and for the benefit of owners within the property generally known as Flesher Acres. KJM, an association formed under the authority granted in paragraph 19 above, and every person having any right, title or interest in any of the properties shall have the right to prevent or stop any violation of any covenant or restriction by injunction or other lawful procedure in law or equity against the person or persons violating or threatening to violate these restrictive covenants.

The easements for road access and for utilities granted in paragraphs 13 and 15 above shall be permanent and shall run with the land. These easements may not be terminated without the unanimous consent of the owners of the property described in Certificate of Survey No. 474762/E, and all of the owners of property within the area generally referred to as Flesher Acres for whose benefit they were granted or reserved. The easements may be relocated or modified in the manner set forth below for alteration of the covenants and restrictions.

With the exception of the permanent easements described in paragraphs 13 and 15, the foregoing covenants, conditions, restrictions and reservations shall run with the land and shall be binding upon all owners of any right, title or interest in the described property of any person claiming under them for a period of thirty (30) years from the date these covenants are recorded. These covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the owners of seventy-five (75) of the total acres within the area of Certificate of Survey No. 474762/E, agreeing to change said covenants in whole or in part and setting forth the changes as recorded in Lewis and Clark County. These covenants may be altered or additions may be made hereto with the written consent of the owners of seventy-five (75) percent of the above-described property,

by written amendment, acknowledged and filed with the office of the Clerk and Recorder of Lewis and Clark County.

IN WITNESS WHEREOF, Kermit J. Mueller and Associates, a limited partnership, hereby sets its hand on this 26 day of August, 1991.

KERMIT J. MUELLER & ASSOCIATES, LTD.
a Limited Partnership, also
appearing of record as Kermit J.
Mueller & Associates, L.T.D.

By: *Kermit J. Mueller*
Kermit J. Mueller, General Partner

STATE OF MONTANA

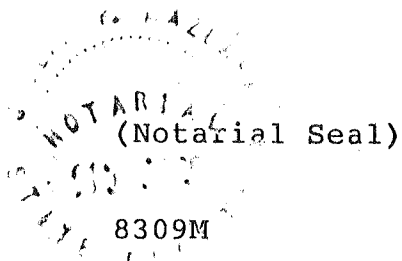
County of Lewis and Clark

: ss.
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On this 26th day of August, 1991, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared Kermit J. Mueller, known to me to be the General Partner of Kermit J. Mueller & Associates, Ltd., a Montana limited partnership, whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same on behalf of the partnership.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first above written.

Joseph P. Pasquib
NOTARY PUBLIC FOR THE STATE OF MONTANA
Residing at: Helena, Montana
My commission expires: Dec. 1, 1991



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MARTHA B. MCGEE,
TREAS/CLK

-8- LEWIS & CLARK CO., MONT.

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BY *Shirley McDetok*

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RESTRICTIVE COVENANTS APPLICABLE
TO CERTIFICATE OF SURVEY NUMBER 319720

M-1338

WHEREAS, the undersigned, KERMIT J. MUELLER AND ASSOCIATES, LTD., a limited partnership, is causing certain lands in Lewis and Clark County, Montana, within Certificate of Survey Number 319720, to be divided into small acreage tracts; and

WHEREAS, the said Kermit J. Mueller and Associates, Ltd., is the legal owner or equitable owner of all of said property; and

WHEREAS, the said owner desires to place restrictions upon the lots and tracts of land contained in said hereinafter defined area for the use and benefit of itself as the present owner and for all future owners thereof;

NOW, THEREFORE, this declaration of restrictions and conditions is made to apply to the following-described property situate, lying and being in Lewis and Clark County, Montana, and more particularly described as follows:

A parcel of land in Section 23, Township 14 North, Range 6 West, M.P.M., within Certificate of Survey Number 319720;

Said parcel lies on the East side of an existing state highway running between Helena, Montana, and Lincoln, Montana, being 226.58 acres in size, more or less.

1. Dwellings. All dwellings shall be of good quality, permanent-type construction, affixed to the realty and aesthetically compatible with other structures within the area of the survey. Each dwelling shall contain not less than two hundred fifty square feet of living space on the main floor, exclusive of porches and garage. All buildings must be constructed of stone, brick, frame or log materials, or metal siding of a subdued color, in order to blend in with the surroundings and natural coloring of the area; and all roofs must be finished with shakes, shingles, copper, rock, slate, composition shingles or a painted surface in a subdued or naturally finished color. All exterior walls or structures must be finished naturally or in subdued colors or earth tones. All buildings must be placed on a permanent foundation. Trailer houses or mobile homes, including those commonly known as "double-wides", may not be permanently located upon the property. All outbuildings shall be of good quality, permanent-type construction and aesthetically compatible with the whole premises.
2. Temporary Structures. No structure of a temporary character will be constructed, placed or used on any lot at any time as a residence or otherwise, except unoccupied travel trailers and campers which are not unsightly may be stored on the premises when not in use. Campers, trailer houses or mobile homes may be parked on the property on a temporary basis not to exceed six consecutive months.
3. Location of Buildings. All dwellings and other structures shall be located at least fifty feet from streams and roads and at least fifty feet from all property lines for all parcels except number 43 and 50 which shall maintain 30 feet from all streams, roads, and property lines.
4. Septic Systems. All permanent, year-round dwellings shall be equipped with a septic-sewer system which complies with the laws of the State of Montana, the regulations of the Montana Board of Health and local health regulations. Dwellings used only for occasional recreational use may be equipped with an outhouse or privy which complies with the laws of the State of Montana, the regulations of the Montana State Board of Health and local health regulations.

5. Garbage. No lot shall be used or maintained as a dumping ground, nor shall any rubbish, trash, garbage or other waste be allowed to accumulate; all garbage must be kept in sanitary containers. No trash or garbage shall be burned anywhere on said lands except in fire-safe masonry or metal incinerators which shall be kept in clean and sanitary condition. All such garbage disposals shall conform to local and state health and fire regulations. Individual owners shall be responsible for the collection and disposal of their own garbage.

6. Fencing. No boundary fences shall be erected. Property owners may fence yard areas, but such fences shall not restrict access by foot to and along streams on the property. All fences must be well built, of good quality materials and properly maintained so as not to adversely affect the aesthetic value of any property. All fences shall be attached to posts, and no live tree shall be used as a post. Barbed wire will not be permitted. Fences may be erected to enclose a maximum of ten acres for the keeping of animals as provided in Covenant No. 9.

7. Further Subdividing. No lot or tract shall be further subdivided, except that an owner may make one division of land after his purchase but, in no event, shall there be a division of land which leaves a remaining parcel which is less than five acres in size.

8. Commercial Enterprise. No commercial enterprise, industrial enterprise or mining of any type shall be carried on, upon, in front of or in connection with the parcels within the area; provided, however, that Kermit J. Mueller and Associates expressly reserves the right to construct a commercial services area to serve the residents, guests of residents and visitors of the area. Such commercial development shall be aesthetically compatible and consistent with the character of the area.

9. Animals. Except as hereinafter provided, no animals, other than household pets, shall be kept upon the premises. No person shall raise animals, pets, fowls or pigeons for sale or for commercial purposes. The owner of each lot or parcel may keep the usual household pets which can be kept without any continuous or audible disturbances or nuisances to the other residents of the area. Horses may be kept on parcels twenty acres in size or larger. All animals shall be properly fed, watered and sheltered from the elements in such a manner and as shall be consistent with their good health; and each owner thereof or person responsible therefor shall treat and care for such animals in a humane and merciful fashion, so that other persons in the area shall not be required to tolerate or condone inhumane treatment. All structures used for animal control shall be aesthetically compatible and consistent with the character of the area. All structures and fenced areas shall be screened from sight by natural barriers between the main roads and the fenced area. A maximum of two animals may be kept on any twenty-acre tract. No more than ten acres of each twenty-acre parcel may be fenced for animal use and control. The purpose of this covenant is to prevent overgrazing of land which would cause dust and erosion, and in no case shall any owner allow animals to overgraze any tract or lot. All animals of any type kept on said lands must be kept within a properly fenced enclosure. Animal waste shall be removed from the premises or otherwise disposed of periodically so as not to become obnoxious to other owners or become offensive or a nuisance. Nothing in this covenant shall prohibit or exclude this land from agricultural use.

10. Abandoned Vehicles. No motor vehicle which cannot be moved under its own power may be left on any lot or parcel other than in a garage for more than one week or left on the road in any area at any time. On-sight parking shall be provided on every parcel or tract for all automobiles, trucks, trailers, etc., kept by any of the owners or family on any tract. Scrap, junk cars and the like will not be permitted on any lot.

11. Signs and Billboards. No signs, billboards, posters or advertising displays or devices of any kind or character shall be displayed on any of said lots, excepting land-sale promotion signs, mail boxes or signs to identify the residents. For sale and for rent signs will not exceed two feet by two feet.

12. Nuisances. No noxious, offensive or unlawful activity shall be carried upon on any parcel nor shall anything be carried on which is a nuisance to the residents of the area.

13. Easements. There is hereby reserved, for the purpose of public utilities and access, a permanent easement across a strip of land ten feet wide on each side of all property lines for the purpose of ingress and egress to install, maintain and remove such utilities as may be required and to allow access to streams and roadways for residents of the area.

14. Tree Cutting. No trees shall be cut down upon the lots except for personal use to construct a cabin or as reasonably necessary for firewood. Select cutting of timber shall be allowed to clear structure sights and as deemed necessary by K. J. Mueller and Associates to prepare sites for sale. Commercial harvesting of timber shall not be allowed.

15. Private Roads. Private roads to the twenty-acre sites shall, when necessary, follow property boundaries. There is hereby reserved for the purpose of private road access to and from all sites within the area a permanent easement across a strip of land twenty feet wide on each side of all property lines. Access to other sites across such easements shall not be restricted or interfered with by the owner.

16. Hunting. No hunting or shooting shall be allowed within the boundaries of the surveyed area. There shall be no discharge of firearms into or from within the area.

17. Fireworks. No fireworks or other explosive shall be stored or used upon the land or in the structures thereon.

18. Pollution. There shall be no discharge of chemicals or potentially toxic materials into the environment. Natural streams or bodies of water shall not be polluted. Owners shall take reasonable precautions to prevent pollution or deterioration of lands or waters within the area.

19. Yard Lamps. No full-time or automatic yard or pole lights are allowed. All yard or pole lights must be on a manually controlled switch and used by the owners with discretion.

20. Motorcycles. The use of motorcycles and snowmobiles shall be directly restricted to common access road use only for ingress and egress of property owners. Motorcycles and snowmobiles shall not be used off common access roads or for recreational purposes.

All of these restrictive covenants shall be for the benefit of all the people owning land within the boundaries of Certificate of Survey Number _____; and the grantor and every person having any right, title or interest in any of those lots shall have the right to prevent or stop any violation of any restriction by injunction or other lawful procedure in law or equity against the person or persons violating or threatening to violate these restrictive covenants.

The foregoing covenants, conditions, restrictions and reservations are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of thirty years from the date these covenants are recorded; and said covenants shall be automatically extended for successive periods of ten years unless an instrument is signed by the owners of a majority of the acreage within the area of Certificate of Survey Number _____

agreeing to change said covenants in whole or in part and setting forth the changes. These covenants may be altered or additions made hereto with the written consent of the owners of a majority of the acreage of the above-described property by written amendment, acknowledged and filed with the office of the Clerk and Recorder of Lewis and Clark County, Montana.

IN WITNESS WHEREOF, Kermit J. Mueller and Associates, a limited partnership, hereby sets its hand on this 24th day of June, 1980.

KERMIT J. MUELLER AND ASSOCIATES,
A Limited Partnership

By: *Ardine L. Bjerke*
ARDINE L. BJERKE Partner

STATE OF MONTANA)
:SS
County of Lewis and Clark)

On this 24th day of June, 1980, before me, the undersigned, a Notary Public in and for the State of Montana, personally appeared ARDINE L. BJERKE, known to me to be a Partner of KERMIT J. MUELLER AND ASSOCIATES, a limited partnership, and acknowledged to me that he executed the same on behalf of the partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal on the day and year first-abov. written.

James R. Clark
NOTARY PUBLIC FOR STATE OF MONTANA
Residing at Helena, Montana
My Commission Expires 12-10-80

(NOTARIAL SEAL)

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COUNTY OF LEWIS AND CLARK)
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