2003020194
MCDOWELL CO, NC FEE $38.00
STATE OF NC REAL ESTATE EXTX
$169.00
PRESENTED & RECORDED:
11-20-2003 03:38:00 PM
Patricia A. Reel
REGISTER OF DEEDS
BY: TONIA R HAMPTON
BK:CRP 760
PG:86-94

Coat

Excise Tax $ 169.00	S-Tract 2085.02 Recording Time, Book and Page

Tax Lot No.: P/O 1713-00-64-8902 Parcel Identifier No. _____
Verified by _____ County on the _____ day of _____, 2003
by _____
Mail after recording to Crescent Resources, LLC, Attn: S. Higginson, P.O Box 1003, Charlotte, NC 28201-1003
This instrument was prepared by Parker, Poe, Adams & Bernstein L.L.P., Three Wachovia Center, Suite 3000, 401 South Tryon Street, Charlotte, NC 28202 (BMM)
Brief Description For The Index:

32.92 Acres, Nebo Township, McDowell County, NC

NORTH CAROLINA SPECIAL WARRANTY DEED

THIS DEED made this 10th day of November, 2003, by and between:

APPROVED TO RECORD
TAX DEPARTMENT
11/20/03

GRANTOR	GRANTEE
CRESCENT RESOURCES, LLC, a Georgia limited liability company	**McDOWELL COUNTY,** a political subdivision of the State of North Carolina c/o Charles R. Abernathy 60 East Court Street Marion, NC 28752

APPROVED BY CRA WATERSHED ADMINISTRATOR

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that Grantor, for a valuable consideration paid by Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto Grantee in fee simple, all that certain lot or parcel of land described in **Exhibit A** attached hereto ("**Property**").

38.92

The conveyance is made subject to the covenants and restrictions set forth on **Exhibit B** attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the Property and all privileges and appurtenances thereto belonging to Grantee in fee simple.

And Grantor covenants with Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated.

Title to the Property is subject to the following exceptions:

(1) flood easements in favor of Duke Energy Corporation (formerly known as Duke Power Company) and riparian rights of others, including, but not limited to, the flood easement to flood to the 1210 foot contour line and all other reservations, restrictions and conditions contained in that deed recorded in Deed Book 206, Page 870;

(2) transmission line and retail electric line rights-of-way, if any, reserved by or granted to Duke Energy Corporation (formerly known as Duke Power Company);

(3) ad valorem taxes for the year 2004 and subsequent years;

(4) "rollback" or other deferred ad valorem property taxes;

(5) matters affecting title to the Property as shown on the Plat or which would be shown on a current and accurate survey of the Property (including any encroachments);

(6) easements, covenants, restrictions and conditions of record, and rights-of-way of public and private streets and roads, including, but not limited to, the existing right-of-way of State Road 1588 shown on the Plat as "Forest Lake Heights Drive";

(7) easements, restrictions and rights-of-way as may be apparent from an inspection of the Property;

(8) zoning, subdivision, land use and other laws, regulations or ordinances applicable to the Property; and

(9) the reservations and restrictions set forth herein.

CRP 760 88

IN WITNESS WHEREOF, Grantor has executed this deed as of the day and year first above written.

CRESCENT RESOURCES, LLC,
a Georgia limited liability company

By: _____
James M. Short, Jr.
Senior Vice President

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, a Notary Public of Lincoln County and State of North Carolina, do hereby certify that James M. Short, Jr., personally came before me this day and acknowledged that he is Senior Vice President of **CRESCENT RESOURCES, LLC**, a Georgia limited liability company, and that he, as Senior Vice President, being authorized to do so, executed the foregoing instrument on behalf of the limited liability company.

Witness my hand and notarial seal, this the 10th day of November, 2003.

_____
Notary Public

My Commission Expires: 3/27/2006

[NOTARIAL STAMP-SEAL]

SUSAN HIGGINSON
NOTARY
***
PUBLIC
LINCOLN COUNTY, N.C.

EXHIBIT A

All references to recording information shall refer to documents that were recorded in the Office of the Register of Deeds for the county in which the Property is located.

All that certain tract of land located in Nebo Township, McDowell County, North Carolina, designated as "Surplus Tract CRID No. 2085-02, 32.92 Acres" on plat recorded in Plat Book 8, Page 11 ("**Plat**"); **AND BEING** all or a portion of the land conveyed to Western Carolina Power Co. (presently known as Duke Energy Corporation) by deed from M. H. Hunter (BR-54) recorded in Deed Book 54, Page 10; by deed to Western Carolina Power Co. (presently known as Duke Energy Corporation) from Hutton & Bourbonais, et al. (BR-55) recorded in Deed Book 53, Page 515; and by deed to Crescent Land & Timber Corp. (presently known as Crescent Resources, LLC) from Duke Power Company (presently known as Duke Energy Corporation) recorded in Deed Book 206, Page 870.

EXHIBIT B

GENERAL DEED RESTRICTIONS

THE PROPERTY SHALL BE CONVEYED SUBJECT TO THE FOLLOWING RESTRICTIONS, WHICH SHALL ENCUMBER THE PROPERTY AND SHALL RUN WITH TITLE TO THE PROPERTY.

1. **Definition of "Property".** As used herein, the word **"Property"** shall mean all of the property conveyed by Grantor to Grantee pursuant to this deed; provided that if the conveyed property consists of more than one subdivided parcel of land, or if the property conveyed is ever subdivided into more than one parcel, then the defined term "Property" shall mean each parcel of land containing all or a portion of the property conveyed hereby and the restrictions set forth herein shall apply to each such subdivided parcel.

2. **Use.** The Property shall be used only for (i) detached, single-family residence purposes, together with the accessory buildings and structures permitted pursuant to **Section 7** below; and/or (ii) the construction and operation of a water treatment facility pursuant to **Section 3** below. Except as otherwise expressly permitted herein, no more than one detached single-family residential dwelling may be constructed on the Property. No condominium, townhouse, duplex, apartment or other multi-family residential uses are permitted on the Property. Further, no camper, trailer, motor home, boat (including, without limitation, any boat docked adjacent to the Property), recreational vehicle, or similar habitable or transportable unit or structure shall be allowed to remain on or adjacent to the Property as a place of residence.

3. **Water Treatment Facility.** Notwithstanding anything contained herein to the contrary, a water treatment facility may be constructed on all or a portion of the Property. Any such water treatment facility shall be constructed and operated in a good and workmanlike manner and in compliance with all applicable local, state and federal laws and regulations. During and after the construction of any such water treatment facility, the portion of the Property on which such water treatment facility is constructed shall not be subject to **Sections 5, 6, 7 and 8** below; provided, however, that if such portion of the Property later ceases to be used for such water treatment facility, then, at such time, **Sections 5, 6, 7 and 8** shall apply to such portion of the Property.

4. **Restricted Activities.** The following activities are prohibited on the Property:

   a. Raising, breeding, or keeping of animals, livestock or poultry of any kind, except that dogs, cats, or other usual and common household pets (which are registered, licensed and inoculated as required by law) may be permitted on the Property;

   b. Any activity which violates local, state, or federal laws or regulations;

   c. Institutional uses, including but not limited to group homes, day care centers, churches, temples or shrines, rest homes, schools, medical care facilities, lodges, inns, beds and breakfasts, except that a water treatment facility constructed and operated in accordance with the terms of **Section 3** above is permitted; and

   d. Any business or trade, except that: (i) in accordance with the terms of **Section 3** above a water treatment facility is permitted on all or a portion of the Property; and (ii) an owner or occupant residing on the Property may conduct business activities within a dwelling on

the Property so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the dwelling unit; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve regular visitation of the Property by clients, customers, suppliers, or other business invitees; (d) the business activity does not involve any service or delivery business in which more than one vehicle used in such business would be parked overnight on the Property, or for which any parts, equipment supplies, raw materials, components or tools are stored on the Property; and (e) the business activity is consistent with the residential character of the Property and does not constitute an unreasonable disturbance to adjoining land owners or others, a nuisance, or a hazardous or offensive use. The foregoing shall not preclude occasional garage sales, moving sales, rummage sales, or similar activities provided that such activities are not held on the Property more than once in any six-month period. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required. The leasing of the Property for single-family residential use shall not be considered a business or trade within the meaning of this subsection.

5. Prohibited Conditions. None of the following structures or improvements may be located upon the Property:

a. Structures, equipment or other items which are visible from any road or adjacent property which have become rusty, dilapidated, or otherwise fallen into disrepair;

b. Towers, antennas, or other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind which are located outside of the dwelling on the Property other than (i) a customary antenna, which shall not extend more than ten (10) feet above the top roof ridge of the dwelling; and (ii) a satellite disc or dish no larger than eighteen inches (18") in diameter;

c. Any freestanding transmission or receiving towers or any non-standard television antennae; and

d. Chain-link fences.

6. Quality Craftsmanship/Dwelling Size. All buildings and outbuildings erected upon the Property shall be built on site of new materials of good grade, quality and appearance, and shall be constructed in a good, workmanlike manner, conforming to all applicable building codes. Further, all dwellings must meet the following construction requirements:

a. One story dwellings shall not contain less than 1,800 square feet of Heated Living Area (defined below);

b. One and a half story dwellings shall not contain less than 2,000 square feet of Heated Living Area;

c. Two (or more) story dwellings shall not contain less than 2,200 square feet of Heated Living Area;

d. All dwellings and accessory structures shall be completely supported with solid brick, brick or stone covered block, or stucco covered foundation;

e. Roofs shall have not less than a 6 in 12 inch pitch, and not less than a 12 inch overhang, and shall be covered with asphalt or fiberglass shingles, terra cotta tile, real or man-made slate, copper sheathing or wood shingles or pre-painted metal roofing;

f. The exterior surfaces of all dwellings and accessory structures shall be covered only with brick, stone, hard stucco (synthetic stucco is not permitted), wood, or siding consisting of wood, composite or vinyl material; provided, that any horizontal siding must be completely supported to maintain a straight and even outer surface and must be fully and properly finished; and

g. Exteriors of all dwellings and accessory structures must be completed within one year after the commencement of construction, and a certificate of occupancy issued within two years after commencement of construction.

As used herein, **"Heated Living Area"** excludes basement areas (defined as any level in which at least one perimeter wall is below, or partially below, grade), unless such basement areas have two or more perimeter walls above surrounding grade, and such basement areas are fully heated and air-conditioned and constructed to a quality equal to the above grade levels of the dwelling. In addition, Heated Living Area excludes vaulted ceilings areas, attics, unheated porches, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios. The term **"story"** shall mean a finished horizontal division of Heated Living Area extending from the floor of such division to the ceiling above it. The term **"half story"** shall mean a story which contains fifty percent (50%) or less Heated Living Area than the story in the house containing the most Heated Living Area.

7. Permitted Accessory Structures. No buildings, structures or improvements of any kind may be located on the Property other than one detached, single-family residential home, and the following permitted accessory structures:

a. Storage and shop outbuildings, including detached garages, workshops, storage and utility buildings, greenhouses and similar buildings, not exceeding the height of the roof of the residence on the Property. The total square footage contained within all such outbuildings combined shall not exceed two thousand (2000) square feet. All outbuildings shall be permanently affixed to the Property and shall be covered with the approved exterior materials described in **Section 6(f)** above.

b. Recreational structures, including decking, gazebos, covered patios, playhouses, barbecue pits and similar structures. The total square footage contained within such structures when combined shall not exceed one thousand (1000) square feet in area.

8. Site Development Requirements. The Property shall be subject to the following specific development requirements.

a. No portion (or portions) of the Property greater than two thousand (2000) square feet shall be: (i) denuded of ground cover or topsoil, (ii) graded, (iii) excavated or (iv) covered with earth or other natural or man-made fill material, unless all required

building, grading and erosion control permits have been issued by the applicable municipal authorities.

b. All denuded, graded, excavated or filled areas shall be stabilized and replanted on or before: (i) the thirtieth (30th) day following the initial denuding, grading, excavation, or filling (unless footings and foundations are being installed upon the disturbed area and construction is being diligently and continuously pursued upon such area); or (ii) such time as construction is completed or interrupted for a period of thirty (30) continuous days. In addition to, or in the absence of local or state government regulations on such land disturbance, none of the activities described in (i) through (iv) in **Section 8 (a)** above shall be allowed to commence prior to the proper installation (in accordance with manufacturer's instructions) of construction silt fencing on the lower perimeters of all areas within the Property to be disturbed, and any other areas which may be impacted by silt runoff from any disturbed areas located on the Property.

9. No Claims. No owner of the Property or of any Benefited Property (defined below) shall have any claim or cause of action against Grantor or its affiliates arising out of the exercise, or non-exercise, or enforcement, or failure to enforce, or the amendment, release or grant of variance with respect to any covenant, condition, restriction, easement or other right reserved hereunder or referred to herein.

10. No Delay. No delay or failure on the part of Grantor to invoke an available remedy with respect to a violation of any restriction contained herein shall be held to be a waiver by Grantor of any right available to it upon the recurrence or continuance of said violation or the occurrence of a different violation.

11. Rights of Enforcement. The covenants, conditions and restrictions set forth herein shall run with the title to the Property and shall benefit Grantor and all property (the "**Benefited Property**") owned on the date hereof by Grantor or its subsidiaries located within one thousand feet of any portion of the Property (other than any property located within the FERC boundaries of any lake). If the Property owner, its heirs, successors, tenants, or assigns shall violate or attempt to violate any of the covenants, conditions or restrictions contained herein, Grantor and any subsequent owner of any portion of the Benefited Property may enforce the covenants, conditions and restrictions set forth herein by any remedy available at law or in equity, either to prevent or remediate such violation, or recover damages for such violation, or both; provided that, with the exception of Grantor, no Benefited Property owner shall have the right to enter the Property in order to monitor or enforce compliance without court order. The party bringing such action shall be entitled to recover its reasonable attorney's fees and expenses incurred in such proceedings from the person or entity violating or attempting to violate the same. Nothing herein shall be held to impose any restriction on any other land owned by Grantor, its subsidiaries or affiliates.

12. Modification, Amendment, Variances. Grantor hereby reserves the right for itself and its successors or assigns, to amend or modify, release, or grant variances with respect to the covenants, conditions, easements and restrictions set forth herein. As used in this **Section 12**, the term "successors or assigns" shall be limited to Grantor's successors or assigns by merger or consolidation or by written assignment.

13. Reserved Easement. Grantor hereby reserves unto itself and any successors in title, (i) a ten (10) foot wide easement extending into the Property from and along all side Property lines for the installation and maintenance of utility lines, drainage ditches or facilities, or any other related improvements that may be required by Grantor or its successors or assigns; and (ii) a fifteen (15) foot wide easement extending into the Property from and along any public or private road rights of way for the installation and

maintenance of utility lines, drainage ditches or facilities, or any other related improvements that may be required by Grantor or its successors or assigns.

14. **Minimum Lot Size.** The Property may not be subdivided in a manner that will result in any lot or parcel being created which is less than 21,000 square feet.

15. **No Modular or Mobile Homes.** No mobile, manufactured or modular home or structure having the characteristics or appearance of a mobile, modular or manufactured home, including, without limitation, any mobile, modular or manufactured home as defined by the building codes or other applicable laws of the state in which the Property is located, shall be located upon the Property.

Patricia A. Reel
Register of Deeds

McDowell County
Register of Deeds

21 South Main Street, Suite A • Marion, NORTH CAROLINA 28752
Telephone 828-652-4727 • Fax 828-652-1537 • E-Mail register@mcdowell.main.nc.us

****

Filed For Registration: 11/20/2003 03:38:00 PM

Book: CRP 760 Page: 86-94

Document No.: 2003020194

DEED 9 PGS 207.00

Recorder: TONIA R HAMPTON

****

State of North Carolina, County of Mcdowell

The foregoing certificates of SUSAN HIGGINSON Notary(ies) Public is(are) certified to be correct this 20TH of NOVEMBER 2003.

PATRICIA A. REEL, REGISTER OF DEEDS

By: Tonia R Hampton
DEPUTY REGISTER OF DEEDS

****

DO NOT REMOVE!

This certification sheet is a vital part of your recorded document. Please retain with original document and submit when re-recording.

2004005782
MCDOWELL CO, NC FEE $38.00
STATE OF NC REAL ESTATE EXTX
$173.00
PRESENTED & RECORDED:
08-10-2004 03:36:11 PM
Patricia A. Reel
REGISTER OF DEEDS
BY: JANE B MCGEE
DEPUTY REGISTER OF DEEDS
BK:CRP 791
PG:236-244

Coats Excise Tax $ 173.00	S-Tract 2085.06 Recording Time, Book and Page

Tax Lot No.: 1723-00-42-8722 Parcel Identifier No. _____
Verified by _____ County on the _____ day of _____, 2004
by _____
Mail after recording to Crescent Resources, LLC, Attn: S. Higginson, P.O Box 1003, Charlotte, NC 28201-1003
This instrument was prepared by Parker, Poe, Adams & Bernstein L.L.P., Three Wachovia Center, Suite 3000, 401 South Tryon Street, Charlotte, NC 28202 (BMM)
Brief Description For The Index:

32.89 Acres, Nebo Township, McDowell County, NC

APPROVED TO RECORD
TAX DEPARTMENT

APPROVED BY 8/10/04
CRA
WATERSHED ADMINISTRATOR

NORTH CAROLINA SPECIAL WARRANTY DEED

THIS DEED made this 3rd day of August, 2004, by and between:

GRANTOR	GRANTEE
CRESCENT RESOURCES, LLC, a Georgia limited liability company	**McDOWELL COUNTY,** a political subdivision of the State of North Carolina c/o Charles R. Abernathy 60 East Court Street Marion, NC 28752

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that Grantor, for a valuable consideration paid by Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto Grantee in fee simple, all that certain lot or parcel of land described in **Exhibit A** attached hereto ("**Property**").

The conveyance is made subject to the covenants and restrictions set forth on **Exhibit B** attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the Property and all privileges and appurtenances thereto belonging to Grantee in fee simple.

And Grantor covenants with Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated.

Title to the Property is subject to the following exceptions:

(1) flood easements in favor of Duke Energy Corporation (formerly known as Duke Power Company) and riparian rights of others, including, but not limited to, the flood easement to flood to the 1210 foot contour line and all other reservations, restrictions and conditions contained in that deed recorded in Deed Book 206, Page 870;

(2) transmission line and retail electric line rights-of-way, if any, reserved by or granted to Duke Energy Corporation (formerly known as Duke Power Company);

(3) ad valorem taxes for the year 2004 and subsequent years;

(4) "rollback" or other deferred ad valorem property taxes;

(5) matters affecting title to the Property as shown on the Plat or which would be shown on a current and accurate survey of the Property (including any encroachments);

(6) easements, covenants, restrictions and conditions of record, and rights-of-way of public and private streets and roads, including, but not limited to, the existing right-of-way of State Road 1588 shown on the Plat as "Forest Lake Heights Drive," the existing right-of-way of State Road 1536 shown on the Plat as "SR 1536," and the existing driveway shown on the Plat as "12' Gravel Drive";

(7) easements, restrictions and rights-of-way as may be apparent from an inspection of the Property;

(8) zoning, subdivision, land use and other laws, regulations or ordinances applicable to the Property; and

(9) the reservations and restrictions set forth herein.

CRP 791 238

IN WITNESS WHEREOF, Grantor has executed this deed as of the day and year first above written.

CRESCENT RESOURCES, LLC,
a Georgia limited liability company

By: _____
James M. Short, Jr.
Senior Vice President

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, a Notary Public of Lincoln County and State of North Carolina, do hereby certify that James M. Short, Jr., personally came before me this day and acknowledged that he is Senior Vice President of **CRESCENT RESOURCES, LLC**, a Georgia limited liability company, and that he, as Senior Vice President, being authorized to do so, executed the foregoing instrument on behalf of the limited liability company.

Witness my hand and notarial seal, this the 3rd day of August, 2004.

_____
Notary Public

My Commission Expires: 3/27/2006

[NOTARIAL STAMP-SEAL]

SUSAN HIGGINSON
NOTARY
***
PUBLIC
LINCOLN COUNTY, N.C.

EXHIBIT A

All references to recording information shall refer to documents that were recorded in the Office of the Register of Deeds for the county in which the Property is located.

All that certain tract of land located in Nebo Township, McDowell County, North Carolina, designated as "Surplus Tract CRID No. 2085-06, 32.89 Acres" on plat recorded in Plat Book 8, Page 11 ("**Plat**"); **AND BEING** all or a portion of the land conveyed to Western Carolina Power Co. (presently known as Duke Energy Corporation) by deed from Hutton & Bourbonais, et al. (BR-55) recorded in Deed Book 53, Page 515; and by deed to Crescent Land & Timber Corp. (presently known as Crescent Resources, LLC) from Duke Power Company (presently known as Duke Energy Corporation) recorded in Deed Book 206, Page 870.

EXHIBIT B CRP 791 240

GENERAL DEED RESTRICTIONS

THE PROPERTY SHALL BE CONVEYED SUBJECT TO THE FOLLOWING RESTRICTIONS, WHICH SHALL ENCUMBER THE PROPERTY AND SHALL RUN WITH TITLE TO THE PROPERTY.

1. **Definition of "Property".** As used herein, the word **"Property"** shall mean all of the property conveyed by Grantor to Grantee pursuant to this deed; provided that if the conveyed property consists of more than one subdivided parcel of land, or if the property conveyed is ever subdivided into more than one parcel, then the defined term "Property" shall mean each parcel of land containing all or a portion of the property conveyed hereby and the restrictions set forth herein shall apply to each such subdivided parcel.

2. **Use.** The Property shall be used only for (i) detached, single-family residence purposes, together with the accessory buildings and structures permitted pursuant to **Section 7** below; and/or (ii) the construction and operation of a water treatment facility pursuant to **Section 3** below. Except as otherwise expressly permitted herein, no more than one detached single-family residential dwelling may be constructed on the Property. No condominium, townhouse, duplex, apartment or other multi-family residential uses are permitted on the Property. Further, no camper, trailer, motor home, boat (including, without limitation, any boat docked adjacent to the Property), recreational vehicle, or similar habitable or transportable unit or structure shall be allowed to remain on or adjacent to the Property as a place of residence.

3. **Water Treatment Facility.** Notwithstanding anything contained herein to the contrary, a water treatment facility may be constructed on all or a portion of the Property. Any such water treatment facility shall be constructed and operated in a good and workmanlike manner and in compliance with all applicable local, state and federal laws and regulations. During and after the construction of any such water treatment facility, the portion of the Property on which such water treatment facility is constructed shall not be subject to **Sections 5, 6, 7 and 8** below; provided, however, that if such portion of the Property later ceases to be used for such water treatment facility, then, at such time, **Sections 5, 6, 7 and 8** shall apply to such portion of the Property.

4. **Restricted Activities.** The following activities are prohibited on the Property:

   a. Raising, breeding, or keeping of animals, livestock or poultry of any kind, except that dogs, cats, or other usual and common household pets (which are registered, licensed and inoculated as required by law) may be permitted on the Property;

   b. Any activity which violates local, state, or federal laws or regulations;

   c. Institutional uses, including but not limited to group homes, day care centers, churches, temples or shrines, rest homes, schools, medical care facilities, lodges, inns, beds and breakfasts, except that a water treatment facility constructed and operated in accordance with the terms of **Section 3** above is permitted; and

   d. Any business or trade, except that: (i) in accordance with the terms of **Section 3** above a water treatment facility is permitted on all or a portion of the Property; and (ii) an owner or occupant residing on the Property may conduct business activities within a dwelling on

the Property so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the dwelling unit; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve regular visitation of the Property by clients, customers, suppliers, or other business invitees; (d) the business activity does not involve any service or delivery business in which more than one vehicle used in such business would be parked overnight on the Property, or for which any parts, equipment supplies, raw materials, components or tools are stored on the Property; and (e) the business activity is consistent with the residential character of the Property and does not constitute an unreasonable disturbance to adjoining land owners or others, a nuisance, or a hazardous or offensive use. The foregoing shall not preclude occasional garage sales, moving sales, rummage sales, or similar activities provided that such activities are not held on the Property more than once in any six-month period. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required. The leasing of the Property for single-family residential use shall not be considered a business or trade within the meaning of this subsection.

5. **Prohibited Conditions.** None of the following structures or improvements may be located upon the Property:

a. Structures, equipment or other items which are visible from any road or adjacent property which have become rusty, dilapidated, or otherwise fallen into disrepair;

b. Towers, antennas, or other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind which are located outside of the dwelling on the Property other than (i) a customary antenna, which shall not extend more than ten (10) feet above the top roof ridge of the dwelling; and (ii) a satellite disc or dish no larger than eighteen inches (18") in diameter;

c. Any freestanding transmission or receiving towers or any non-standard television antennae; and

d. Chain-link fences.

6. **Quality Craftsmanship/Dwelling Size.** All buildings and outbuildings erected upon the Property shall be built on site of new materials of good grade, quality and appearance, and shall be constructed in a good, workmanlike manner, conforming to all applicable building codes. Further, all dwellings must meet the following construction requirements:

a. One story dwellings shall not contain less than 1,800 square feet of Heated Living Area (defined below);

b. One and a half story dwellings shall not contain less than 2,000 square feet of Heated Living Area;

c. Two (or more) story dwellings shall not contain less than 2,200 square feet of Heated Living Area;

d. All dwellings and accessory structures shall be completely supported with solid brick, brick or stone covered block, or stucco covered foundation;

e. Roofs shall have not less than a 6 in 12 inch pitch, and not less than a 12 inch overhang, and shall be covered with asphalt or fiberglass shingles, terra cotta tile, real or man-made slate, copper sheathing or wood shingles or pre-painted metal roofing;

f. The exterior surfaces of all dwellings and accessory structures shall be covered only with brick, stone, hard stucco (synthetic stucco is not permitted), wood, or siding consisting of wood, composite or vinyl material; provided, that any horizontal siding must be completely supported to maintain a straight and even outer surface and must be fully and properly finished; and

g. Exteriors of all dwellings and accessory structures must be completed within one year after the commencement of construction, and a certificate of occupancy issued within two years after commencement of construction.

As used herein, **"Heated Living Area"** excludes basement areas (defined as any level in which at least one perimeter wall is below, or partially below, grade), unless such basement areas have two or more perimeter walls above surrounding grade, and such basement areas are fully heated and air-conditioned and constructed to a quality equal to the above grade levels of the dwelling. In addition, Heated Living Area excludes vaulted ceilings areas, attics, unheated porches, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios. The term **"story"** shall mean a finished horizontal division of Heated Living Area extending from the floor of such division to the ceiling above it. The term **"half story"** shall mean a story which contains fifty percent (50%) or less Heated Living Area than the story in the house containing the most Heated Living Area.

7. Permitted Accessory Structures. No buildings, structures or improvements of any kind may be located on the Property other than one detached, single-family residential home, and the following permitted accessory structures:

a. Storage and shop outbuildings, including detached garages, workshops, storage and utility buildings, greenhouses and similar buildings, not exceeding the height of the roof of the residence on the Property. The total square footage contained within all such outbuildings combined shall not exceed two thousand (2000) square feet. All outbuildings shall be permanently affixed to the Property and shall be covered with the approved exterior materials described in **Section 6(f)** above.

b. Recreational structures, including decking, gazebos, covered patios, playhouses, barbecue pits and similar structures. The total square footage contained within such structures when combined shall not exceed one thousand (1000) square feet in area.

8. Site Development Requirements. The Property shall be subject to the following specific development requirements.

a. No portion (or portions) of the Property greater than two thousand (2000) square feet shall be: (i) denuded of ground cover or topsoil, (ii) graded, (iii) excavated or (iv) covered with earth or other natural or man-made fill material, unless all required

building, grading and erosion control permits have been issued by the applicable municipal authorities.

b. All denuded, graded, excavated or filled areas shall be stabilized and replanted on or before: (i) the thirtieth (30th) day following the initial denuding, grading, excavation, or filling (unless footings and foundations are being installed upon the disturbed area and construction is being diligently and continuously pursued upon such area); or (ii) such time as construction is completed or interrupted for a period of thirty (30) continuous days. In addition to, or in the absence of local or state government regulations on such land disturbance, none of the activities described in (i) through (iv) in **Section 8 (a)** above shall be allowed to commence prior to the proper installation (in accordance with manufacturer's instructions) of construction silt fencing on the lower perimeters of all areas within the Property to be disturbed, and any other areas which may be impacted by silt runoff from any disturbed areas located on the Property.

9. No Claims. No owner of the Property or of any Benefited Property (defined below) shall have any claim or cause of action against Grantor or its affiliates arising out of the exercise, or non-exercise, or enforcement, or failure to enforce, or the amendment, release or grant of variance with respect to any covenant, condition, restriction, easement or other right reserved hereunder or referred to herein.

10. No Delay. No delay or failure on the part of Grantor to invoke an available remedy with respect to a violation of any restriction contained herein shall be held to be a waiver by Grantor of any right available to it upon the recurrence or continuance of said violation or the occurrence of a different violation.

11. Rights of Enforcement. The covenants, conditions and restrictions set forth herein shall run with the title to the Property and shall benefit Grantor and all property (the "**Benefited Property**") owned on the date hereof by Grantor or its subsidiaries located within one thousand feet of any portion of the Property (other than any property located within the FERC boundaries of any lake). If the Property owner, its heirs, successors, tenants, or assigns shall violate or attempt to violate any of the covenants, conditions or restrictions contained herein, Grantor and any subsequent owner of any portion of the Benefited Property may enforce the covenants, conditions and restrictions set forth herein by any remedy available at law or in equity, either to prevent or remediate such violation, or recover damages for such violation, or both; provided that, with the exception of Grantor, no Benefited Property owner shall have the right to enter the Property in order to monitor or enforce compliance without court order. The party bringing such action shall be entitled to recover its reasonable attorney's fees and expenses incurred in such proceedings from the person or entity violating or attempting to violate the same. Nothing herein shall be held to impose any restriction on any other land owned by Grantor, its subsidiaries or affiliates.

12. Modification, Amendment, Variances. Grantor hereby reserves the right for itself and its successors or assigns, to amend or modify, release, or grant variances with respect to the covenants, conditions, easements and restrictions set forth herein. As used in this **Section 12**, the term "successors or assigns" shall be limited to Grantor's successors or assigns by merger or consolidation or by written assignment.

13. Reserved Easement. Grantor hereby reserves unto itself and any successors in title, (i) a ten (10) foot wide easement extending into the Property from and along all side Property lines for the installation and maintenance of utility lines, drainage ditches or facilities, or any other related improvements that may be required by Grantor or its successors or assigns; and (ii) a fifteen (15) foot wide easement extending into the Property from and along any public or private road rights of way for the installation and

maintenance of utility lines, drainage ditches or facilities, or any other related improvements that may be required by Grantor or its successors or assigns.

14. Minimum Lot Size. The Property may not be subdivided in a manner that will result in any lot or parcel being created which is less than 21,000 square feet.

15. No Modular or Mobile Homes. No mobile, manufactured or modular home or structure having the characteristics or appearance of a mobile, modular or manufactured home, including, without limitation, any mobile, modular or manufactured home as defined by the building codes or other applicable laws of the state in which the Property is located, shall be located upon the Property.

Patricia A. Reel
Register of Deeds

McDowell County
Register of Deeds

21 South Main Street, Suite A • Marion, NORTH CAROLINA 28752
Telephone 828-652-4727 • Fax 828-652-1537 • E-Mail register@mcdowell.main.nc.us

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Book: CRP 791 Page: 236-244

Document No.: 2004005782

DEED 9 PGS 211.00

Recorder: JANE B MCGEE

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State of North Carolina, County of McDowell

The foregoing certificates of SUSAN HIGGINSON Notary(ies) Public is(are) certified to be correct this 10TH of AUGUST 2004.

PATRICIA A. REEL, REGISTER OF DEEDS

By: Jane B McGee
DEPUTY REGISTER OF DEEDS

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