

Michael Dimino, Bethesda, MD.  
Commissioners,

Please accept the attached documents describing agreements between the US Fish & Wildlife Service (USFWS) and the Black Diamond Ranch in Craig County, VA along the currently proposed Alt 110 line for the MVP project. The documents include: 1) a map identifying stream buffers, 2) covenants applicable to Johns Creek on the property, and to most all tributary streams entering Johns Creek on the property, 3) a Partnership for Fish and Wildlife agreement, 4) correspondence between the USFWS and the Army Corp of Engineers regarding the agreement.

The attached documents raise issues which should be addressed in any environmental study associated with the Alt 110 route, as should the existence of a private dam on Johns Creek in close proximity down stream of the proposed stream crossing.

Michael J. Dimino  
Bethesda, MD



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

Ecological Services  
6669 Short Lane  
Gloucester, VA 23061

February 2, 2007

Colonel Dionysios Anninos  
U.S. Army Corps of Engineers  
Norfolk District  
803 Front Street  
Norfolk, Virginia 23510-1096

Attn: Thom Leedom  
Regulatory Branch

Re: Black Diamond Ranch, Project No.  
06-V2280, Craig County, Virginia

Dear Colonel Anninos:

The U.S. Fish and Wildlife Service (Service) has received your request for information on federally listed or proposed endangered and threatened species and designated critical habitat for the referenced project. This letter is submitted in accordance with provisions of the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

The project, as proposed, is likely to adversely affect the James spiny mussel (*Pleurobema collina*), federally listed endangered. However, the applicant has agreed to the following project modifications to avoid the likelihood of adverse effects. These modifications include:

1. Implementation of strict sedimentation and erosion controls during ground disturbing activities.
2. No instream work will occur from May 15 through July 31 of any year.
3. Stream buffers will be designated on all streams within the property limits and will be preserved in perpetuity. Buffer areas are delineated on the attached stream buffer plan dated 2-2-07. Buffers along John's Creek are delineated as the 100-year floodplain or shown as the stream easement line, whichever is greater. Buffer areas will be shown on the plat for each parcel. The restrictive covenants will not cover existing buildings. Article IV Section 6 *Greenspace Areas along Waterways* in the current Declaration of Reservations and Restrictive Covenants will be amended to incorporate the modifications. These revisions will be approved by the Service prior

water's edge

to recordation. Any future revisions to Article IV Section 6 in the Declaration of Reservation and Restrictive Covenants will require approval from the Virginia Field Office of the Service.

- a. Invasive species (as provided in the Department of Conservation and Recreation's invasive plant list at <http://www.state.va.us/dcr/dnh/invlist.pdf>) may be removed from the buffer areas. Plants native to this area may be planted within the buffer zone (see list at <http://www.state.va.us/dcr/dnh/native.htm>).
- b. Mowing within the riparian buffers by bush/brush hog will be limited to twice a year (once in the spring and once in the fall) and no lower than 8 inches. Mowing is prohibited within 8 feet of the water's edge. No mowing or maintenance will occur from May 15 through July 31 of any year. (Although not a requirement, we recommend that no mowing or maintenance occur from April 15 through August 15 of any year to avoid the wildlife nesting season in Virginia). These mowing recommendations do not apply in the designated common areas that are identified on the stream buffer plan.
- c. Removal or cutting of existing or planted trees is prohibited in the stream buffer areas.
- d. Application of fertilizers or biocides is prohibited in the stream buffer areas.
- e. The applicant has agreed to plant clusters of 6-8 trees/shrubs along the non-forested tributaries to John's Creek. The Service is currently working on the specifics of the planting plan with the applicant. Monitoring and long-term management will be consistent with the requirements for the stream enhancement area in the current permit.
- f. The applicant has agreed to provide the materials to permanently mark the buffer areas with signs that are clearly visible throughout the year.

If the proposed activity is modified as described above, through changes in project design or incorporation into permit conditions, the Service believes that the project would not likely adversely affect listed species and that further consultation pursuant to section 7 of the ESA is not necessary. If the above project modifications are not adopted, further consultation with the Service will be necessary pursuant to 50 CFR 402.13 and 402.14. We request that you notify the Service as to whether the recommended modifications will be implemented.

In addition to the above modifications, the Service has agreed to provide technical assistance to the applicant for the tree planting efforts, stabilization of an eroding streambank, and the installation of the buffer signs.

If project plans change or portions of the proposed project were not evaluated, it is our recommendation that the changes and/or remainder of the project be submitted for our review. If you have any questions or need further assistance, please contact Kimberly Smith of this office at (804) 693-6694, extension 126.

Sincerely,

Karen L. Mayne  
Supervisor  
Virginia Field Office

cc: Hunter Wilson

*FWS - TA for planting, bank work, installation of signs*

*Then - buffer sign materials, plant trees*



Virginia Field Office  
6669 Short Lane  
Gloucester, Virginia 23061

August 21, 2007

Dear Project Participant,

Please find enclosed your completed Partners agreement for Black Diamond Ranch in Craig County, Virginia.

Should you have any questions please contact me at 804-693-6694 extension 124.

Sincerely,

Will Smith  
Program Biologist

cc: Stuart Lynde, Environmental Services and Consulting, Blacksburg, VA

**PARTNERS FOR FISH AND WILDLIFE**

**HABITAT RESTORATION AND WATER QUALITY IMPROVEMENT AGREEMENT**

This fish and wildlife habitat restoration agreement is entered into pursuant to authority contained in Section 1 of the Fish and Wildlife Coordination Act (16 U.S.C. 661) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j). This agreement allows the U.S. Fish and Wildlife Service (Service) and its partners to undertake fish and wildlife habitat restoration activities on lands owned by the cooperator, as depicted in Appendix A.

Cooperator: **VA Hunter LLC**

SS or Tax ID #

Mailing Address: **471 B&O Overpass Road  
Hedgeville, WV 25427**

Phone: **304-262-2770**

Project Location: **Tributaries to Johns Creek at Maggie, Craig County,  
Commonwealth of Virginia**

Habitat Restored: **62,304 linear feet of riparian buffer.**

Length of Agreement: **99 Years**

Contract Begins: **March 1, 2007**

Contract Ends: **March 1, 2106**

In signing this agreement, the Cooperator joins as a participant in a fish and wildlife habitat restoration program and grants to the Service, or its designees, the authority to complete necessary habitat restoration, creation, or improvement activities or to personally carry out fish and wildlife habitat activities with financial or material support from the Service as described in Appendix B. The site plan drawings included in Appendix A indicate pre-restoration site conditions and work to be completed.

**COSTS:** The estimated construction costs of the habitat project and the amount contributed by the Service are identified in Appendix B. Any donation of supplies or equipment, or direct payment from the Service or its Partners to the Cooperator for carrying out these habitat activities, is also identified in Appendix B. If the Cooperator is being reimbursed for actions taken as part of this agreement, these actions are described in Appendix B.

**ACCESS RIGHTS:** The Cooperator grants the Service vehicular access to the site at reasonable times for conducting project-related activities, such as inspecting completed work, surveying wildlife populations, etc. The Cooperator retains all rights to control trespass and retains all responsibility for taxes, assessments, granting rights-of-way, control and eradication of noxious

weeds, and other incidences of ownership.

**MAINTENANCE and MANAGEMENT:** The Cooperator assumes responsibility for all maintenance and management after the initial habitat work is completed, except for initial maintenance required because of inadequate construction by the Service. Inadequate construction performed by the Cooperator under the special provisions in Appendix B must be rectified by the Cooperator at his/her expense. Cooperator agrees to adhere to management provisions and plans as specified in Appendix B. Modifications to the original habitats improvements as shown in Appendix B that the Cooperator may want to undertake shall require the written concurrence of the Service.

**CONTRACT MODIFICATIONS:** The agreement may be modified at any time with consent from the U.S. Fish and Wildlife Service. Modification requests shall be sent to the Assistant Regional Director - Ecological Services, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035. This agreement may not be modified or terminated by the Cooperator without the written consent of the U.S. Fish and Wildlife Service Virginia Field Office.

The termination date of the agreement will determine when obligations between the parties shall end. At the end of the agreement period, any habitat developments to the land will become the property of the Cooperator. There shall be no obligation to any of the parties after the agreement has expired. Specifically, the Service will be under no obligation to restore the land to its original condition.

**MITIGATION:** Restoration under this agreement cannot be credited as mitigation required for the receipt of Federal, State, or local wetland or stream permits as per Local Operating Procedures between the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service dated February 14, 2005 and a Directive between the Virginia Department of Environmental Quality and the U.S. Army Corps of Engineers public noticed June 21, 2005.

**CHANGES IN OWNERSHIP:** The Cooperator guarantees ownership of the above-described land and warrants that there are no outstanding rights which interfere with the rights of the Service or its Partners under this agreement. In the event the Cooperator transfers any of the lands designated and described in the attached site plan map, he/she shall take such steps as are necessary to inform the purchaser of the existence of this agreement. Additionally, any deed, lease, or other instrument of transfer will be made subject to this agreement so that the new landowner shall become the Cooperator. The Cooperator will notify the Service of any changes in ownership.

**FUNDING:** The Service is prohibited by law from making obligations that exceed available funds, and therefore the Service can only do that work which is funded. In the event funds are not available to do the habitat restoration work within the period of time or in the manner described on the attached site plan, the Service will notify the Cooperator of that fact.

This fish and wildlife habitat restoration agreement is entered into pursuant to authority contained in Section 1 of the Fish and Wildlife Coordination Act (16 U.S.C. 661) and the Fish

and Wildlife Act of 1956 (16 U.S.C. 742a-742j).

Signature by the parties to this agreement signifies understanding of each parties rights and responsibilities.

  
COOPERATOR (VA HUNTER LLC)


8-2-07  
DATE

  
COOPERATOR

8-2-07  
DATE

  
FIELD REPRESENTATIVE (USFWS)

8-3-07  
DATE

  
PROJECT LEADER, Karen Mayne  
U.S. FISH AND WILDLIFE SERVICE

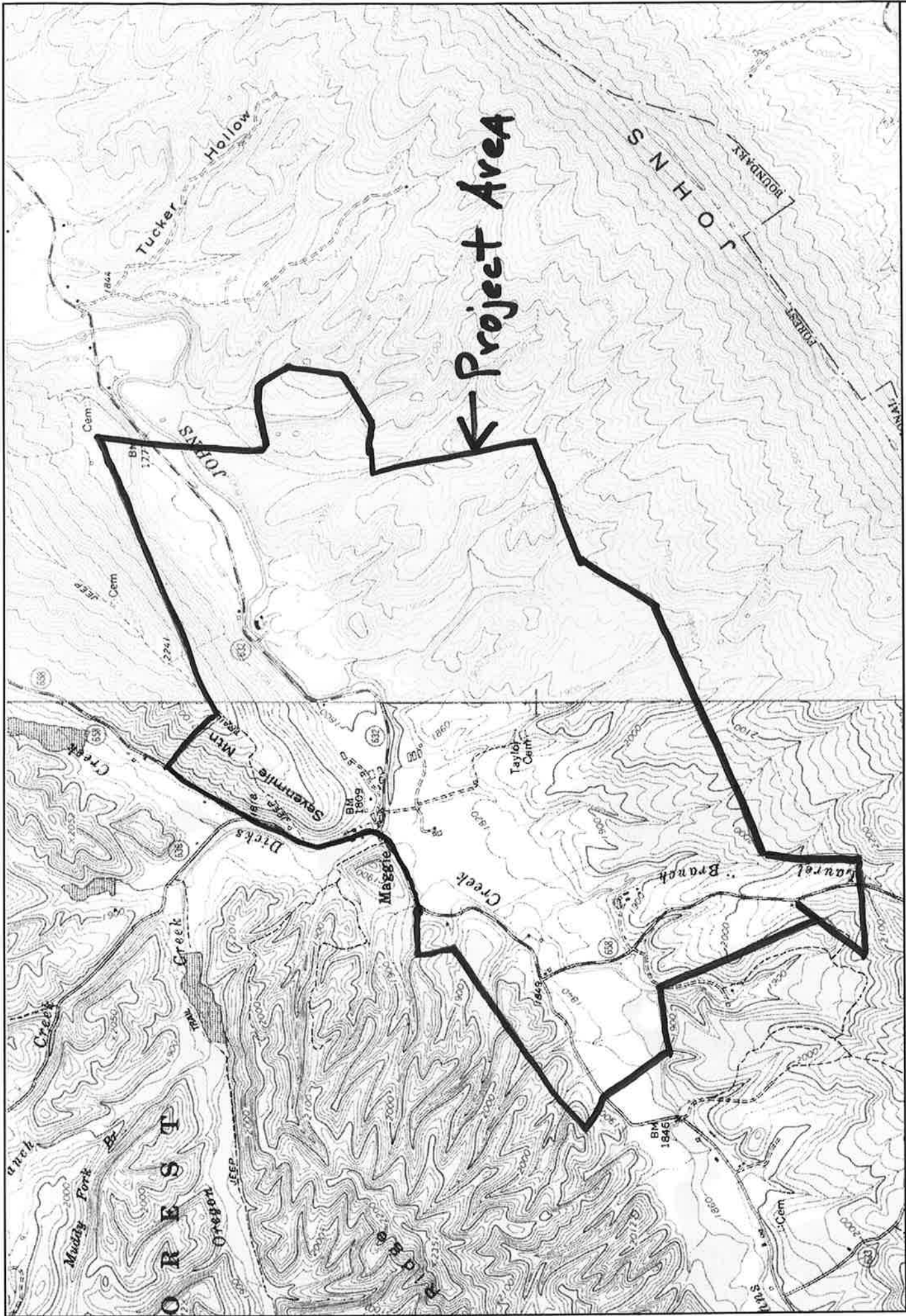
8/17/2007  
DATE



APPENDIX A

LOCATION MAP

RESTORATION PLAN (Terradon Exhibit Map)



← Project Area

Location: 037° 25' 13.02" N 080° 22' 21.30" W NAD 27  
Caption: VA Hunter LLC  
Project Location Craig County  
Maggie, Virginia

Name: CRAIG SPRINGS  
Date: 8/3/2007  
Scale: 1 inch equals 2000 feet

APPENDIX B

BUDGET/COST ESTIMATES,  
SERVICE CONTRIBUTIONS,  
SPECIAL PROVISIONS

**Appendix B**  
**Partners for Wildlife**  
**Cost Estimate, Partner Contributions, and Special Provisions**

**Landowner:** VA Hunter LLC

**Location:** Johns Creek and Tributaries at Maggie, Craig County  
Commonwealth of Virginia

**Project Description:**

Establish an estimated 13 miles of riparian buffer on Johns Creek and associated tributaries as shown on Terradon Exhibit Map for Black Diamond Subdivision Stream Buffer Plan. Buffer width will range from 50-100 feet from edge of water as described in the restrictive covenants and will be delineated by signed posts placed every 100 feet along border of buffer. In non-forested areas the buffer will include tree clumps at waters edge spaced 150 feet apart. Total project size is estimated to involve 51,036 linear feet of tributary streams and 11,268 linear feet of Johns Creek.

**Cost Estimate for Materials and Contracted Services:**

Tree Establishment

419 tree clumps @ 8 seedlings per clump, tubed and matted (1070 trees @ \$7.44 ea.): 3220.46

Buffer Establishment in Forested Portions

200-6' galvanized U-channel metal sign posts (\$9.11 ea.): 1822.00  
Alt. method of mounting remaining signs to trees (galv. roofing nails, screws, or bands): 178.00  
USFWS responsible for buffer delineation, installing posts, and mounting signs: NA

Buffer Delineation in Field Portions

376-8 ft. posts (4-6 in. dia. salt treated wooden fence posts): 2925.00  
Contracted labor to install posts: 2339.00  
USFWS responsible for buffer delineation and mounting signs: NA

Signs

1202 aluminum custom buffer delineation signs @ 3.00 ea.: 3606.00

**TOTAL COST OF PROJECT: \$14,090.46**

**USFWS CONTRIBUTION:**

Hardwood Tree Establishment (25% of practice cost): 805.12  
Installation of posts in field portions: 2339.00  
USFWS staff will be responsible for buffer delineation, installing posts, and mounting signs. Some work may be contracted. Estimated in-kind contribution: 27,200.00  
**Total: \$30,344.12**

**LANDOWNER COST:**

Materials for buffer delineation posts and signs: 8531.00  
Hardwood Tree Establishment (75% of practice cost): 2415.34  
**Total: \$10,946.34**

**USFWS Contributions:**

The U.S. Fish and Wildlife Service (Service) is responsible for labor costs associated with the buffer establishment portion of the project.

The Service and/or its Partners will reimburse the Cooperator for pre-approved labor costs associated with the project, after receiving associated receipts and documenting successful completion of project. Actual contracted labor costs submitted for reimbursement may not exceed \$11,000.00 (costs + 10%).

Labor costs do not reflect staff time contributed by USFWS personnel for project coordination, design, and project implementation. Some labor responsibilities of the Service may be contracted by the USFWS.

**Landowner Contributions:**

Landowner will provide costs of all materials and 75% of the tree planting costs, not to exceed \$12,040.97 (costs + 10%).

Project must be completed by September 15, 2007 to meet funding year requirements.

Landowner is responsible for initial payment of goods and services and will be reimbursed for receipted goods and services upon completion of work unless other arrangements are made prior to start of project.

**Special Provisions and Project Specifications:**

Actual costs in excess of 10% greater than the estimated costs will be shared equally between the landowner and the Service.

No grazing is allowed within the Stream Buffer Conservation Area unless a grazing plan is pre-approved by the Service.

Buffer posts shall be established in accordance with the Restrictive Covenants regarding distance from edge of water in stream.

Buffer signs shall be placed 100 feet apart along the outside buffer edge and approximately 4 feet above the ground. Within forested areas, at least every 4<sup>th</sup> sign (25%) will be mounted on galvanized metal posts.

Buffer edge shall be delineated by representative staff of the Service using flagging or other visual means deemed suitable by the fence post installer. Landowner retains the right to verify location of buffer edge at no financial obligation to the Service.

Buffer management and activities within buffer shall be in accordance with the Restrictive Covenants.

Landowner is responsible for maintaining all structures in working condition and following written management recommendations.

Project area shall be maintained in native vegetation for the length of the agreement. No removal of non-native or invasive vegetation is required under this agreement. However, this agreement does not prohibit the removal of non-native invasive vegetation.

Project is subject to review, approval, and compliance with all local, state, and federal laws before funds may be allocated.

Existing hard and soft mast producing trees within the project area will be left undisturbed to benefit wildlife (example: oak, hickory, persimmon, dogwood, etc.). Exceptions may occur under fire management regimes.

No instream work may occur from May 15 through July 31

All contractors and installers shall be responsible for familiarizing themselves with the project's Scope of Work, plans and specifications.

## **RIPARIAN BUFFER PLANTING SPECIFICATIONS**

### **Species List**

River Birch *Betula nigra*

Black Willow *Salix nigra*

Red Maple *Acer rubrum*

American Sycamore *Platanus occidentalis*

Green Ash *Fraxinus pensylvanica*

Common Persimmon *Diospyros virginiana*

Tulip Poplar *Liriodendron tulipifera*

### **Spacing Details**

8 stems per group spaced 12 feet on-center within each group

Group area equals 12 x 48 feet. (12 feet back from top of bank and 48 feet along bank.

Each group spaced 150 feet apart on alternating sides of channel.

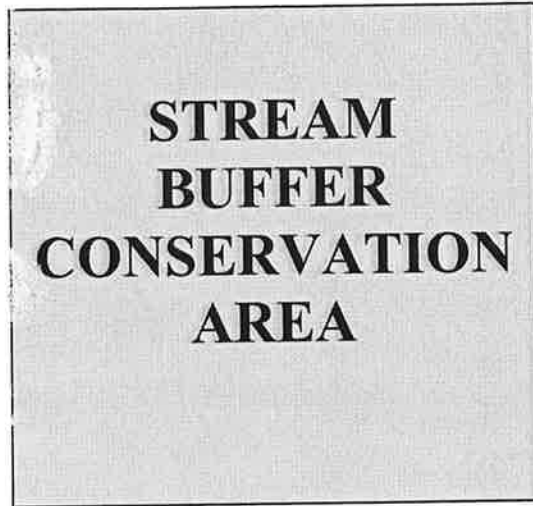
### **Monitoring and Maintenance**

Monitoring and maintenance will be the responsibility of the landowner and/or homeowners association.

Trees will be checked annually for survivorship for a period of 5 years.

Dead stems will be replaced/replanted annually.

**PROPOSED 9" x 12" BUFFER SIGN**



SUPPLEMENTAL DECLARATION OF RESERVATIONS AND RESTRICTIVE COVENANTS

**BLACK DIAMOND**

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

WITNESSETH:

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

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

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

ARTICLE I  
PROPERTIES SUBJECT TO THIS DECLARATION

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

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

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

ARTICLE II

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

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

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

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

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

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



SUPPLEMENTAL DECLARATION OF RESERVATIONS AND RESTRICTIVE COVENANTS

**BLACK DIAMOND**

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

WITNESSETH:

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

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

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

ARTICLE I  
PROPERTIES SUBJECT TO THIS DECLARATION

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

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

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

ARTICLE II

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

VA HUNTER, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
L. Hunter Wilson, President

STATE OF \_\_\_\_\_,

COUNTY OF \_\_\_\_\_,

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

My commission expires:

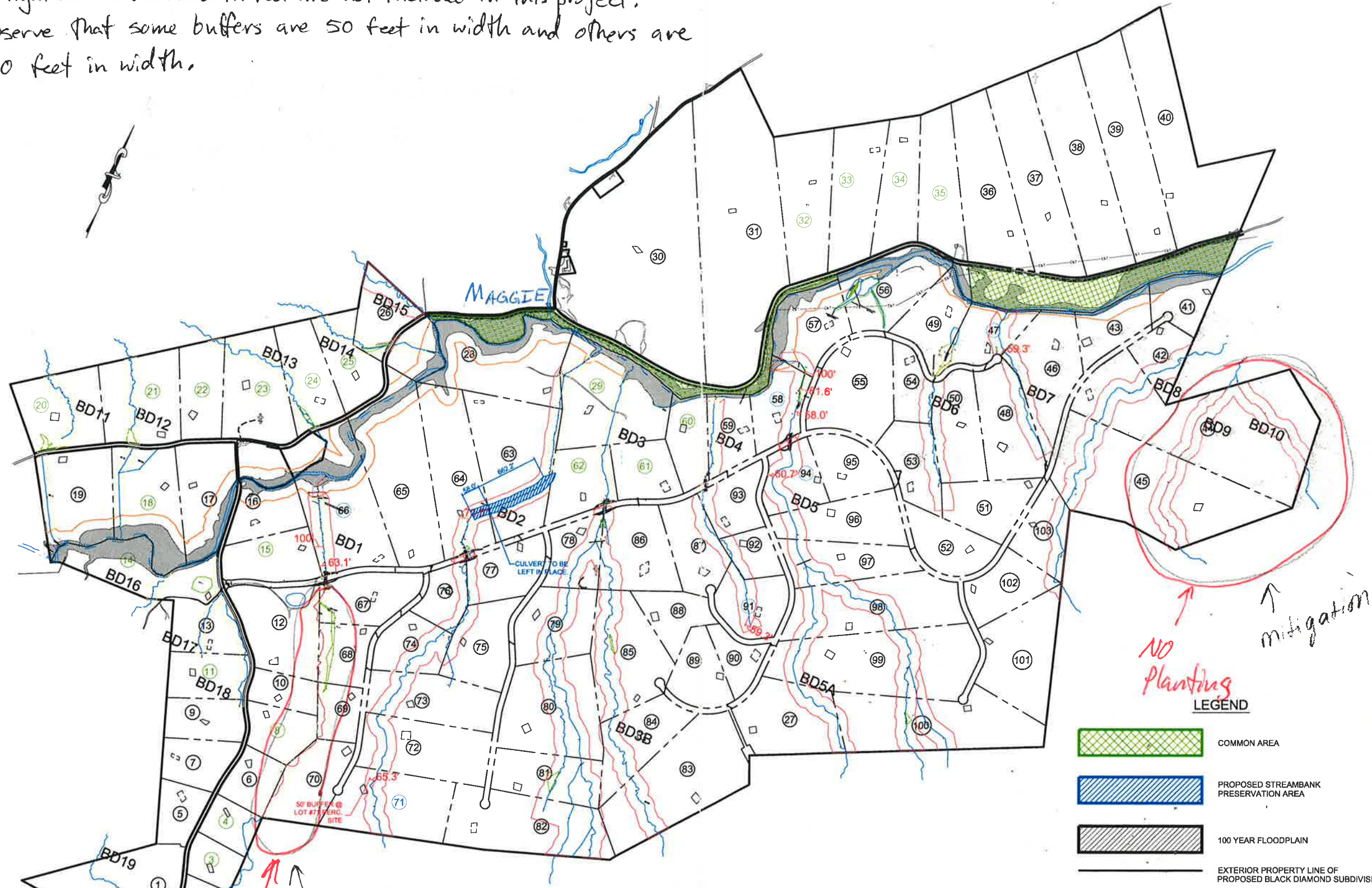
\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
Notary Public

THIS DOCUMENT PREPARED BY:

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

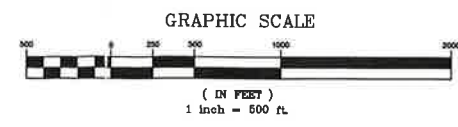
Notes: Mitigation areas circled in red are not included in this project.  
 Observe that some buffers are 50 feet in width and others are 100 feet in width.



*NO Planting*  
*mitigation*

*NO Planting*  
*mitigation*

- LEGEND**
- COMMON AREA
  - PROPOSED STREAMBANK PRESERVATION AREA
  - 100 YEAR FLOODPLAIN
  - EXTERIOR PROPERTY LINE OF PROPOSED BLACK DIAMOND SUBDIVISION
  - INTERIOR LOT LINES FOR BLACK DIAMOND SUBDIVISION
  - LOTS WITH EASEMENT ENCROACHMENT AREAS
  - CURRENT SOLD LOTS BY VA HUNTER, LLC
  - 100' STREAM BUFFER
  - 50' STREAM BUFFER
  - STREAM EASEMENT LINE



| NO. | DATE | REVISION |
|-----|------|----------|
|     |      |          |
|     |      |          |
|     |      |          |

**TERRADON**  
 Engineering - Surveying - Landscape Architecture  
 25143 West Virginia  
 (304) 755-8291 FAX 755-2436  
 www.terradon.com

EXHIBIT MAP  
 BLACK DIAMOND SUBDIVISION  
 STREAM BUFFER PLAN

|             |            |
|-------------|------------|
| Project No. | 05664-01L  |
| Drawn:      | RR         |
| Checked:    | JJ         |
| Approved:   | RR         |
| Scale:      | 1"=500'    |
| Date:       | 2.02.07    |
| CAD File #  | BLACK DIAM |