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172572 BOOK: 285 RECORDS PAGE: 616 Pages: 6  
STATE OF MONTANA LINCOLN COUNTY  
RECORDED: 12/02/2003 3:30 KOI: COVENANT  
CORAL M. CUMMINGS CLERK AND RECORDER  
FEE: \$54.00 BY: *Jeanie Stewart - Deputy*  
TO: LINCOLN COUNTY TITLE CO. 119 W. 5TH ST. LIBBY, MONTANA 59923

**DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS**

This Declaration made this 31<sup>st</sup> day of October, 2003, by the undersigned, hereinafter called the Declarant, states:

**I RECITAL:**

Declarant is the owner of real property described in Part II and is desirous of subjecting this property to the conditions, covenants, and reservations set forth in Part III, all of which is intended for the benefit of the property and for each owner thereof. These conditions, covenants and restrictions shall run with the land and each parcel or lot contained therein and shall apply to and shall bind all successive owners of every parcel or lot.

**II PROPERTY SUBJECT TO THIS DECLARATION:**

The real property affected by this declaration is described as follows:

LOT 1: A tract of land lying Northeasterly of Libby, Lincoln County, Montana, lying wholly within the North Half of the South Half, Section 16, Township 32 North, Range 28 West, P.M.M., containing ±22.993 acres, and more particularly described as follows:  
Commencing at the W 1/4 corner, said Sec. 16, T.32N., R.28W., P.M.M., a 3 1/4 inch diameter BLM brass capped monument and being the True Point of Beginning; thence, along the westerly section line, said Sec. 16,  
S. 00° 40' 41" W. 232.39 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS, lying on the northerly right-of-way limit of a 30.00 foot road easement, known as "Five Mile Creek Road No. 4893"; thence, continuing along the westerly section line,  
S. 00° 40' 41" W. 32.36 feet to an unmarked computed point and the intersection of the westerly section line of said Sec. 16 and the centerline of "Five Mile Creek Road"; thence,  
Easterly following said road centerline the following courses, all to unmarked computed points: thence,  
Southeasterly along the centerline of "Five Mile Creek Road",  
S. 67° 19' 47" E. 413.83 feet and the beginning of a curve concave northerly having a radius of 387.57 feet; thence,  
Easterly along said curve through a delta angle of 42° 49' 55", an arc length of 289.73 feet; thence,  
N. 69° 50' 18" E. 115.17 feet to the beginning of a curve concave southeasterly having a radius of 451.37 feet, through a delta angle of 24° 29' 52", an arc length of 192.99 feet; thence,  
S. 85° 27' 40" E. 73.60 feet to the beginning of a curve concave northerly having a radius of 350.00 feet; thence,

Easterly along said curve through a delta angle of 30° 27' 20", an arc length of 186.04 feet; thence,  
 N. 64° 05' 00" E. 513.57 feet to the beginning of a curve concave southerly having a radius of 225.00 feet; thence,  
 Southeasterly along said curve through a delta angle of 57° 17' 45", an arc length of 225.0 feet and point of reverse curve, the beginning of a curve concave northeasterly having a radius of 570.00 feet; thence,  
 Southeasterly along said curve through a delta angle of 19° 01' 27", an arc length of 189.26 feet; thence,  
 S. 77° 38' 42" E. 581.76 feet to the beginning of a curve concave northerly having a radius of 750.00 through a delta angle of 33° 45' 04", an arc length of 441.80 feet and point of reverse curve and the beginning of a curve concave southerly having a radius of 310.00 feet; thence,  
 Southeasterly along said curve through a delta angle of 39° 45' 18", an arc length of 215.10 feet; thence,  
 S. 71° 38' 28" E. 79.83 feet; thence, leaving said road centerline  
 N. 00° 32' 05" W. 31.70 feet to a 5/8 inch diameter rebar marked Hughes 7322LS, lying on the northerly right-of-way limit of said 30.00 foot road easement; thence, leaving said road centerline  
 N. 00° 32' 05" W. 279.75 feet to the C-W-E- 1/64 corner, a 3 1/4 inch diameter aluminum capped monument marked Hughes 7322LS; thence, along the east-west mid-section line of said Sec. 16  
 S. 89° 57' 35" W. 670.93 feet to the C 1/4 corner, a 3 1/4 inch diameter aluminum capped monument marked Hughes 7322LS; thence, continuing along the east-west mid-section line of said Sec. 16;  
 S. 89° 58' 39" W. 2681.78 feet to the W 1/4 corner, a 3 1/4 inch diameter BLM brass cap monument and the True Point of Beginning.  
 SUBJECT TO a 60.00 foot road easement, known as Five Mile Creek Road No. 4893, filed in Book 63 at Page 448.  
 TOGETHER WITH all appurtenant easements of record.

LOT 2: A tract of land, lying Northeast of Libby, Lincoln County, Montana, lying wholly within the North Half of the South Half, Section 16, Township 32 North, Range 28 West, P.M.M., containing ±20.000 acres, and more particularly described as follows:  
 Commencing at the S 1/16 corner, said Section 16, T.32N., R.28W., P.M.M., a 3 1/4 inch diameter aluminum capped monument, stamped Hughes 7322LS, per C.S. No. 1742; thence, along the westerly section line of said Sec. 16,  
 N. 00° 40' 41" E. 1028.37 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS; thence, continuing along the westerly section line,  
 N. 00° 40' 41" E. 32.35 feet to an unmarked computed point and the intersection of the westerly section line of said Sec. 16 and the centerline of "Five Mile Creek Road"; thence,  
 Southeasterly along the centerline of said "Five Mile Creek Road",  
 S. 67° 19' 47" E. 413.83 feet to an unmarked computed point and the beginning of a curve concave northerly having a radius of 387.57 feet; thence,  
 Easterly along said curve through a delta angle of 42° 49' 55", an arc length of 289.73 feet to an unmarked computed point; thence,  
 Easterly along the centerline of said "Five Mile Creek Road",  
 N. 69° 50' 18" E. 115.17 feet to an unmarked computed point and the beginning of a curve concave southeasterly having a radius of 451.37 feet; thence,  
 Easterly along said curve through a delta angle of 19° 20' 09", an arc length of 152.33 feet to an unmarked point; thence, leaving said centerline of "Five Mile Creek Road",

S. 00° 01' 57" E. 30.01 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS, lying on the southerly right-of-way limit of a 30.00 foot road easement, known as "Five Mile Creek Road No. 4893"; thence,  
S. 00° 01' 57" E. 924.24 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS; thence,  
S. 89° 54' 07" W. 936.14 feet along the 1/16th subdivisional line to a 3 1/4 inch diameter aluminum capped monument marked Hughes 7322LS, being the S 1/16 corner of said Sec. 16 and the True Point of Beginning.  
SUBJECT TO a 60.00 foot road easement, known as Five Mile Creek Road No. 4893, filed in Book 63 at Page 448.  
TOGETHER WITH all appurtenant easements of record.

LOT 3: A tract of land, lying Northeasterly of Libby, Lincoln County, Montana, lying wholly within the North Half of the South Half, Section 16, Township 32 North, Range 28 West, P.M.M., containing ±20.000 acres, and more particularly described as follows:  
Commencing at the S 1/16 corner, said Sections 15 and 16, T.32N., R.28W., P.M.M., a 3 1/4 inch diameter aluminum capped monument, stamped Hughes 7322LS, per C.S. No. 1742; thence,  
S. 89° 56' 27" W. 879.17 feet along the 1/16th subdivisional line to a set 5/8 inch diameter rebar marked Hughes 7322LS, and being the True Point of Beginning; thence, continuing along the 1/16 subdivisional line,  
S. 89° 56' 27" W. 879.89 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS; thence,  
N. 00° 00' 00" E. 895.54 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS, lying on the southerly right-of-way limit of a 60.00 foot road easement known as "Five Mile Creek Road No. 4893"; thence,  
N. 00° 00' 00" E. 63.22 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS, lying on the northerly right-of-way limit of said "Five Mile Creek Road" easement; thence,  
N. 00° 00' 00" E. 31.70 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS; thence,  
N. 89° 59' 00" E. 879.89 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS; thence,  
S. 00° 00' 00" E. 213.89 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS, lying on the northerly right-of-way limit of said "Five Mile Creek Road" easement; thence,  
S. 00° 00' 00" E. 63.41 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS, lying on the southerly right-of-way limit of said "Five Mile Creek Road" easement; thence,  
S. 00° 00' 00" E. 712.50 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS; and the True Point of Beginning.  
SUBJECT TO a 60.00 foot road easement, known as "Five Mile Creek Road No. 4893", filed in Book 63 at Page 448.  
TOGETHER WITH all appurtenant easements of record.

LOT 4: A tract of land lying Northeasterly of Libby, Lincoln County, Montana, lying wholly within the North Half of the South Half, Section 16, Township 32 North, Range 28 West, P.M.M., containing ±20.000 acres, and more particularly described as follows:  
Commencing at the S 1/16 corner between Sections 15 and 16, T.32N., R.28W., P.M.M., a 3 1/4 inch diameter aluminum capped monument, stamped Hughes 7322LS, per C.S. No. 1742, and the True Point of Beginning; thence,

S. 89° 56' 27" W. 879.17 feet along the 1/16th subdivisional line to a set 5/8 inch diameter rebar marked Hughes 7322LS; thence,  
 N. 00° 00' 00" W. 712.50 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS, lying on the southerly right-of-way limit of a 60.00 foot road easement, known as "Five Mile Creek Road No. 4893"; thence,  
 N. 00° 00' 00" W. 63.41 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS, lying on the northerly right-of-way limit of said "Five Mile Creek Road" easement; thence,  
 N. 00° 00' 00" W. 213.89 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS; thence,  
 N. 89° 59' 00" E. 881.71 feet to the N-N-S 1/256 corner, a 3 1/4 inch diameter aluminum capped monument, stamped Hughes 7322LS, per C.S. No. 1742; thence, along the easterly section line of said Sec. 16,  
 S. 00° 08' 28" W. 293.68 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS, lying on the northerly right-of-way limit of said "Five Mile Creek Road" easement; thence, continuing along said section line,  
 S. 00° 08' 28" W. 62.25 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS, lying on the southerly right-of-way limit of said "Five Mile Creek Road" easement; thence,  
 S. 00° 08' 28" W. 138.63 feet to the 1/1024 corner, a 3 1/4 inch diameter aluminum capped monument, stamped Hughes 7322LS, per C.S. No. 1742; thence, continuing along said section line,  
 S. 00° 09' 10" W. 494.60 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS and the True Point of Beginning.  
 SUBJECT TO a 60.00 foot road easement, known as Five Mile Creek Road No. 4893, filed in Book 63 at Page 448.  
 TOGETHER WITH all appurtenant easements of record.

REMAINDER: A tract of land, lying Northeasterly of Libby, Lincoln County, Montana, lying wholly within the North Half of the South Half, Section 16, Township 32 North, Range 28 West, P.M.M., containing ±64.836 acres, and more particularly described as follows:  
 Commencing at the S 1/16 corner, said Sec. 16, T.32N., R.28W., P.M.M., a 3 1/4 inch diameter aluminum capped monument, stamped Hughes 7322LS, per C.S. No. 1742; thence, along the southerly line of said C.S. No. 1742,  
 N. 89° 54' 07" E. 936.14 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS and being the True Point of Beginning; thence,  
 N. 00° 01' 57" W. 924.24 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS, lying on the southerly right-of-way limit of a 60.00 foot road easement, known as "Five Mile Creek Road No. 4893"; thence,  
 N. 00° 01' 57" W. 30.01 feet to an unmarked computed point and the centerline of "Five Mile Creek Road" thence,  
 Easterly following said road centerline the following courses, all to unmarked computed points; thence,  
 Southeasterly along the centerline of "Five Mile Creek Road" and the beginning of a curve concave southerly having a radius of 451.37 feet; thence,  
 Easterly along said curve through a delta angle of 5° 09' 43", an arc length of 40.67 feet; thence,  
 S. 85° 27' 40" E. 73.60 feet to the beginning of a curve concave northerly having a radius of 350.00 feet; thence,  
 Easterly along said curve through a delta angle of 30° 27' 20", an arc length of 186.04 feet; thence,  
 N. 64° 05' 00" E. 513.57 feet to the beginning of a curve concave southerly having a radius of 225.00 feet; thence,

Southeasterly along said curve through a delta angle of 57° 17' 45", an arc length of 225.00 feet and point of reverse curve, the beginning of a curve concave northeasterly having a radius of 570.00 feet; thence,  
Southeasterly along said curve through a delta angle of 19° 01' 27", an arc length of 189.26 feet; thence,  
S. 77° 38' 42" E. 581.76 feet to the beginning of a curve concave northerly having a radius of 750.00 through a delta angle of 33° 45' 04", an arc length of 441.80 feet and point of reverse curve and the beginning of a curve concave southerly having a radius of 310.00 feet; thence,  
Southeasterly along said curve through a delta angle of 39° 45' 18", an arc length of 215.10 feet; thence,  
S. 71° 38' 28" E. 79.83 feet; thence, leaving said road centerline  
S. 00° 32' 05" E. 19.50 feet to a 3 1/4 inch diameter aluminum capped monument marked Hughes 7322LS; thence, along the northerly line of said C.S. 1742  
N. 89° 59' 00" E. 249.11 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS; thence, due  
South 990.45 feet to a set 5/8 inch diameter rebar marked Hughes 7322LS; thence, along the south line of said C.S. No. 1742  
S. 89° 56' 27" W. 904.34 feet to the C-S 1/16 corner, a 3 1/4 inch diameter aluminum capped monument marked Hughes 7322LS; thence, continuing along the South line of said C.S. No. 1742  
S. 89° 54' 07" W. 1780.12 feet to a set 5/8 inch rebar marked Hughes 7322LS the True Point of Beginning.  
SUBJECT TO a 60.00 foot road easement, known as Five Mile Creek Road No. 4893, filed in Book 63 at Page 448.  
TOGETHER WITH all appurtenant easements of record.

No other property, other than that described above, shall be subjected to this declaration, unless and until specifically made subject thereto.

### III. DECLARATION:

The foregoing described real property is subject to the following set of restrictions, covenants, reservations and conditions to insure the best use, appropriate development, and improvements of each lot and building site; and, further, to protect the owners of building sites against improper use of surrounding building sites as will deprecate, depreciate or otherwise adversely affect the value of their property; to preserve the natural beauty of said property; and, in general, to provide the quality of improvements within the described property and surrounding properties and thereby enhance the value of improvements made by the purchasers of the parcels, lots and building sites:

1. The residence, or any structure associated therewith on any lot shall not be located closer than twenty (20) feet from any property line.

2. No basement, tent, shack, garage, barn, mobile home, or other outbuilding shall be erected at any time to be used as a primary residence.
3. No single family residence shall be allowed to remain with the exterior unfinished or unpainted more than one (1) year from the date of beginning construction. All exterior construction shall be completed within twelve (12) months of its starting date. If metal roofs are installed they must have and be maintained with a dark, non-glare finish.
4. No commercial activities shall be permitted or allowed to be conducted on any lot or parcel and no gas, oil, mineral, quarry or gravel operation shall be permitted on any lot or parcel.
5. All individual or community water and/or sewage systems shall be designed, installed and maintained in compliance with rules, regulations, and standards established by the Montana Department of Health and Environmental Sciences and the Lincoln County Board of Health.
6. Solar roof panels shall be allowed, but shall not be allowed to be maintained at a height more than three (3) feet above the highest roof line of the residence or garage to which they are attached. T.V. antennas and satellite dishes shall be allowed.
7. No junk (including non-operable motor vehicles or parts thereof), trash, debris or other forms of solid waste, shall be allowed to accumulate on any lot or parcel but shall be promptly and officially disposed of. All rubbish, trash, garbage and other putrefied forms of waste shall be kept in sanitary containers equipped with tight fitting lids. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.
8. No billboards or advertising signs of any character (except "For Sale" signs) shall be erected, placed, maintained or permitted on any lot.  
Standard address sineage shall be allowed.

9. Lot owners will maintain a 60 feet separation between residential structures, including mobile homes, if possible.
10. Roofs of structures will be constructed of, or made to be, a fire resistant material (Fire Rating Class "A" or "B") and kept free of debris such as pine needles, leaves, moss, etc.
11. A thirty (30) foot perimeter will be kept around structures in which weeds, brush, and other debris capable of rapidly transmitting fire are removed.
12. No portion of a tree or any other vegetation will extend to within 25 feet of the outlet of a stovepipe or chimney.
13. A minimum setback distance for any development be maintained to a distance of at least thirty (30) feet from any property line.
14. Residential structures will have displayed, a number indicating its address or location, that can be read by emergency vehicles from at least 100 feet. (Numbers at least 4 inches high and 1/2 inch wide)
15. Noxious Weeds and seeds are a public nuisance under Montana Law and it is unlawful to permit noxious weeds to propagate within the subdivision. If noxious weeds are identified on this property, it is the responsibility of the property owner to contact the Lincoln County Noxious Weed District, 418 Mineral Avenue, Libby, MT 59923, (406) 293-7781 ext. 260, to eliminate the problem or if necessary enter into a noxious weed management agreement with the Lincoln County Noxious Weed Board as soon as noxious weeds are detected.
16. Existing topsoil will be stripped and stockpiled wherever soil is to be disturbed for roads, excavations, grading, etc.
17. Topsoil will be replaced on all disturbed areas. Upon completion of the grading, it will be fertilized and seeded with native or commercial grass.
18. There is a potential for wildlife conflicts when living in wild land interface areas, feed and solid waste products must be contained or covered to reduce the potential for the enticement of wildlife.

19. Any riverbank improvements will only be made after a permit has been obtained from the appropriate governing body.

These restrictions, covenants, reservations, and conditions are to run with the land and shall be binding on all parties owning property within the subject property, and shall be in effect for a period of ten (10) years from the date hereof, after which time said covenants shall be extended automatically for successive periods of ten (10) years unless a written instrument signed by eighty percent (80%) of the current owners of lots has been recorded to amend this Declaration or any parts thereof.

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of the aforementioned restrictions, either to restrain violation or to recover damages.

Invalidation of any one of these restrictions, covenants, reservations or conditions, by judgment, or by court order, shall in no way affect any of the other provisions hereof which shall remain in full force and effect.

The conditions, restrictions, stipulations, agreements, and covenants contained herein shall not be waived, altered, abandoned, terminated or amended, in whole or in part, except by written consent, duly recorded in the office of the Clerk and Recorder of Lincoln County, Montana, of the Lincoln County Board of Commissioners and the owners of the privately owned land included within the boundaries of the property.



IN WITNESS WHEREOF, the Declarants have executed this instrument the day and year first herein above written.

THE CHILDRENS SURGERY LIMITED  
PROFIT SHARING PLAN NO. 4

By *Walton K. T. Shim*  
Walton K.T. Shim, M.D. Trustee

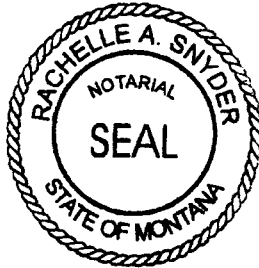
STATE OF MONTANA )  
County of Lincoln ) ss.

On this 31<sup>st</sup> day of October, 2003, before me, a notary public in and for said State, personally appeared WALTON K.T. SHIM, M.D., TRUSTEE of THE CHILDRENS SURGERY LIMITED PROFIT SHARING PLAN NO. 4, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

(SEAL)

*[Signature]*  
Notary Public for State of Montana  
Residing at Libby, MT  
My commission expires June 21, 2004



*Rachelle Snyder*  
notary public for state of mont.  
Residing @ libby, mt  
My commission exp. 10/12/2007