

**CAPON SPRINGS AND FARMS, INC.,
A WEST VIRGINIA CORPORATION**

TO: DEED RIGHT OF WAY

MONTE F. BOURJAILY, IV

AND

**RAY MICHAEL CULTER, AS TRUSTEE FOR
THE RAY MICHAEL CULTER LIVING
TRUST DATED JANUARY 31, 2000, and**

**RAY MICHAEL CULTER, AS SUCCESSOR
TRUSTEE FOR THE PAULETTE RUTH
WUERTH CULTER LIVING TRUST DATED
JANUARY 31, 2000**

THIS RIGHT OF WAY, made this
3rd day of December, 2014, by and
between Capon Springs and Farms,
Inc., A West Virginia Corporation,
hereinafter "Capon Springs," party
of the first part, and Monte F.
Bourjaily, IV, hereinafter
"Bourjaily," party of the second
part, and Ray Michael Culter, as
Trustee for the Ray Michael Culter
Trust Living Trust dated January
31, 2000, and Ray Michael Culter,
as Successor Trustee for the
Paulette Ruth Wuerth Culter Living
Trust dated January 31, 2000,
hereinafter "Culter Trust," party
of the third part.

WHEREAS, Capon Springs, the party of the first part is the owner of
all that tract or parcel of real estate situate in Capon District of
Hampshire County, West Virginia, identified on the Hampshire County Land
Records as Tax Map 35, Parcel 5, described as containing 99.64 acres,
more or less, and also 2,419.5 acres, more or less, 116 acres and 52
poles, more or less, located on the southern side of Back Creek Road
County Route 23/3, which is a portion of the real estate conveyed unto
Capon Springs by deed of Capon Springs and Farms, a West Virginia
Partnership, on December 17, 1980, and of record in the Office of the
Clerk of the County Commission of Hampshire County, West Virginia, in
Deed Book 247 at Page 208; and

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ATTORNEYS AT LAW
56 E. MAIN STREET
ROMNEY, WV 26757

WHEREAS, Bourjaily, party of the second part, is the owner of that certain parcel of real estate containing 181.67 acres, more or less, depicted on a survey prepared by Dick A. Heavner, P.S. NO. 997, titled "Plat of Survey Prepared for: Monte F. Bourjaily, IV," ("Heavener Plat") and to be recorded contemporaneously with the recordation of this Right of Way, lying adjacent to the 99.4 acre, 2,419.5 acres, and 116 acres and 52 poles, Capon Springs parcels referenced above, which he was devised by the provisions of the Last Will and Testament of his grandmother, Catherine D. Garber, dated September 10, 2012, probated July 9, 2014, and of record in the aforesaid Clerk's Office in Will Book 61 at Page 687, which in that will of Catherine D. Garber, Monte F. Bourjaily, IV is referred to as "Michael Bourjaily," which is his nickname, and Monte F. Bourjaily, IV is one in the same person as Michael Bourjaily; and,

WHEREAS, Culter Trust, party of the third part, is the owner of that certain parcel of real estate containing 208.816 acres, more or less, lying adjacent to the Bourjaily tract referenced above, which was conveyed unto Culter Trust by deed of Bonni V. McKeown, et als, on December 19, 2000, and of record in the Office of the Clerk of the County Commission of Hampshire County, West Virginia, in Deed Book 403 at Page 535; and,

WHEREAS, as depicted on a plat prepared by R & S Services, Inc., dated August 31, 1992, titled "Survey of 208.816 Total Acres," ("Davy Plat"), of record in the aforesaid Clerk's Office in Map Book No. 9, at page 129, there is a right of way referred to as "Centerline of Existing Roadbed (See Note B.)." All of the aforesaid parties utilize this right of way to access their respective properties.

WHEREAS, Capon Springs has now agreed to grant and convey unto Bourjaily and Culter Trust, and Bourjaily has now agreed to grant and convey unto Culter Trust and Capon Springs, and Culter Trust has now agreed to grant and convey unto Capon Springs a 20-foot wide nonexclusive right of way, leading from Back Creek Road, County Route 23/3, over the

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road depicted on the Heavener plat as "Existing access road" and the Davy Plat as "Centerline of Existing Roadbed (See Note B.)", those being the same road, to the parties' respective tracts.

WHEREAS, Capon Springs has previously conveyed unto Bonni V. McKeown, Lauren R. McKeown, and Marilyn McKeown (predecessors in title to the aforesaid Culter Trust tract) a right of way over the aforementioned road on April 16, 1986, by Right-of-Way Agreement of record in the aforesaid Clerk's Office in Deed Book no. 286, at page 199.

AND NOW, THEREFORE, THIS RIGHT OF WAY, TO WIT:

WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid, receipt whereof being hereby acknowledged, and other good and valuable consideration deemed valid at law,

- the said Capon Springs does, by these presents, grant and convey unto Bourjaily, his heirs, successors, and assigns, and Culter Trust, its successors and assigns, a twenty foot (20') wide nonexclusive right of way from Point B to Point H over the "Centerline of Existing Roadbed (See Note B.)" right of way as shown on the Davy Plat,
- the said Bourjaily does, by these presents, grant and convey unto Culter Trust and Capon Springs, its successors and assigns a twenty foot (20') wide nonexclusive right of way, from Point H to Point A over the "Centerline of Existing Roadbed (See Note B.)" right of way as shown on the Davy Plat.
- the said Culter Trust does, by these presents, convey unto Capons Springs, its successors and assigns a twenty foot (20') wide nonexclusive right of way, from Point A and continuing on the remainder of the road titled "Centerline of Existing Roadbed" as it crosses the Culter Trust tract and onto Capon Springs tracts in two different locations as shown on the Davy Plat.

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P.L.L.C.
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All parties shall maintain the areas of the right of way covered in this agreement in proportion to the amount of use that party exhibits. Should any party subsequently subdivide its tract, then that would create additional user(s) of the right of way, then any new owner shall automatically become liable for a portion of the maintenance costs in proportion to the amount of use that party exhibits. It shall be the responsibility of the selling party to include this language into any deed of conveyance including incorporating this document into such deed.

Any party may upgrade the right of way as it crosses the Capon Springs tract and Bourjaily tract, but that party upgrading the right of way will be solely responsible for the costs, fees, work, and labor to do same. It is understood between the parties that no part of the right of way crossing the Culter Trust tract may be upgraded except for by the Culter Trust.

Should any party hereto personally damage or be responsible for any damage to the right of way that is not ordinary wear and tear, that party will solely be responsible for repairing and restoring that portion of the right of way that was damaged to a condition equal to or better than it was before the damage.

For the aforesaid consideration, Capon Springs does further convey unto Bourjaily the right to install electric, phone, utilities, etc., above ground or below ground, parallel to the aforesaid road crossing Capon Springs, but not to exceed ten feet (10') from the boundary of the aforesaid road. Bourjaily does agree to pay the sum of \$1,000.00 to Capon Springs should Bourjaily ever install electric or phone lines above ground over the land of Capon Springs. Should electric or phone lines be installed below ground, there will be nothing payable to Capon Springs.

This Right of Way shall be recorded in the Office of the Clerk of the County Commission of Hampshire County, West Virginia, and shall be cross-referenced under the names of each of the parties hereto; and shall be incorporated into all subsequent deeds to any real estate effected by this Right of Way.

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TO HAVE AND TO HOLD the aforesaid right of way unto Capon Springs,
Bourjaily and Culter Trust, their heirs, successors and assigns, forever.

WITNESS the following signatures and seals:

Capon Springs and Farms, Inc.

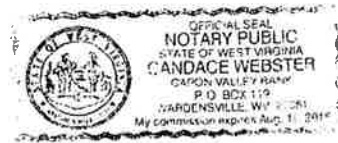
Thomas W. Austin, Pres. (SEAL)
BY: Thomas W. Austin, President

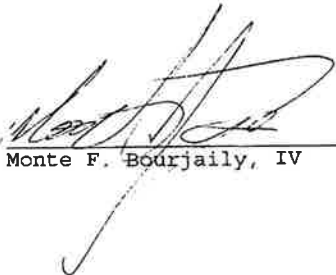
STATE OF WEST VIRGINIA,
COUNTY OF HAMPSHIRE, TO WIT:

I, Candace Webster, a Notary Public within and for
the county and state aforesaid, do hereby certify that **Capon Springs and
Farms, Inc.**, by **Thomas W. Austin, its President**, whose name is signed to
the foregoing Deed Right of Way dated the 3rd day of December, 2014, has
this day acknowledged the same before me in my said county and state.

Given under my hand and Notarial Seal the 11th day of December,
2014.

Candace Webster
Notary Public





Monte F. Bourjaily, IV (SEAL)

STATE OF WEST VIRGINIA,
COUNTY OF HAMPSHIRE, TO WIT:

I, SANDRA N. VASQUEZ, a Notary Public within and for the county and state aforesaid, do hereby certify that **Monte F. Bourjaily, IV**, whose name is signed to the foregoing Deed Right of Way dated the 3rd day of December, 2014, has this day acknowledged the same before me in my said county and state.

Given under my hand and Notarial Seal the 11th day of December, 2014.





Notary Public



Reagan K. Goodman
NOTARY PUBLIC
Commonwealth of Virginia
Reg. # 7087766
My Commission Expires Aug. 31, 2015

Ray M. Culter (SEAL)
Ray Michael Culter, Trustee of
Ray Michael Culter Living Trust
Dated January 31, 2000

STATE OF WEST VIRGINIA,
COUNTY OF HAMPSHIRE, TO WIT:

I, Reagan K. Goodman, a Notary Public within and for the county and state aforesaid, do hereby certify that Ray Michael Culter, Trustee of Ray Michael Culter Living Trust dated January 31, 2000, whose name is signed to the foregoing Deed Right of Way dated the 3rd day of December, 2014, has this day acknowledged the same before me in my said county and state.

Given under my hand and Notarial Seal the 11 day of December, 2014.



Reagan K. Goodman
NOTARY PUBLIC
Commonwealth of Virginia
Reg. # 7087766
My Commission Expires Aug. 31, 2015

Reagan K. Goodman
Notary Public

Ray M. Culter (SEAL)
Ray Michael Culter, Successor Trustee of
Paulette Ruth Wuerth Culter Living Trust
Dated January 31, 2000

STATE OF WEST VIRGINIA,
COUNTY OF HAMPSHIRE, TO WIT:

I, Reagan K. Goodman, a Notary Public within and for the county and state aforesaid, do hereby certify that Ray Michael Culter, Successor Trustee of Paulette Ruth Wuerth Living Trust dated January 31, 2000, whose name is signed to the foregoing Deed Right of Way dated the 3rd day of December, 2014, has this day acknowledged the same before me in my said county and state.

Given under my hand and Notarial Seal the 11 day of December, 2014.

Reagan K. Goodman
Notary Public

This instrument was prepared by
W. Joseph Milleson, Jr., Attorney at Law,
Keaton, Frazer & Milleson, PLLC, Romney, WV,
without the benefit of a title examination.
Z:\Janie\Rights of Way\Bourjail\CaponSprings.Culter.Kahng

ERIC W STRITE
HAMPSHIRE COUNTY 10:06:02 AM
Instrument No 161855
Date Recorded 12/24/2014
Document Type ROW
Pages Recorded 7
Book-Page 525-509
Recording Fee \$7.00
Additional \$6.00

21.18 ACRES
 D.B. 326, PG. 207
 T.M. 36, PAR. 32

CAPON SPRINGS & FARMS, INC.
 RESIDUE OF 152 ACRES
 D.B. 247, PG. 203
 SEE D.B. 190, PG. 53
 T.M. 36, PAR. 5

CLAIRE A. BELLINGHAM
 JOHN C. BELLINGHAM
 45.25 ACRES
 D.B. 248, PG. 549
 T.M. 36, PAR. 5.1

CATHERINE DELANEY FOUVEAUX
 200 ACRES
 W.B. 90, PG. 637
 SEE D.B. 96, PG. 23
 T.M. 36, PAR. 10

**DAVM
 PLAT**

COURSE & DISTANCE CHART

A - 100	BRG-	1	S 03° 18' 26" W	73.54
100 - 101	BRG-	2	S 02° 58' 33" E	80.02
101 - 102	BRG-	3	S 13° 07' 44" E	115.18
102 - 103	BRG-	4	S 21° 14' 10" E	92.14
103 - 104	BRG-	5	S 28° 05' 43" E	273.70

