

SER

## FIRST AMERICAN TITLE COMPANY

- 501 WEST WEBER AVENUE, SUITE 300 • P.O. BOX 7875 (95267) • STOCKTON, CA 95203 • (209) 929-4800  
 250 CHERRY LANE, SUITE 103 • P.O. BOX 2126 • MANTECA, CA 95337 • (209) 239-5513  
 241 EAST TENTH STREET, SUITE B • TRACY, CA 95376 • (209) 836-1140

California Regional Water Quality  
3443 Routier Road, Suite A  
Sacramento, CA 95827-3003

Escrow No. 148562JS  
Date: March 16, 1999  
Re: 5050 CARPENTER ROAD AND  
4989 EAST MARIPOSA ROAD  
STOCKTON, CA 95215

Dear Steve Rosenbaum,

To assist us in handling the above numbered escrow, we enclose for your review the items indicated below:

1. Certified copy of Covenant and Environmental Restriction on Property per your request.

We appreciate having the opportunity of working with you. If there are any items you want furnished to you, please let us know so that we may provide them to you when we receive them. If you have any questions, please call us.

Sincerely,

Joanne Shagi  
Escrow Manager

Enclosure(s)

RECEIVED  
SACRAMENTO  
CVRW/OCB  
90 MAR 17 PM 2:25

RECORDING REQUESTED BY:

DONALD E. REEVE

P.O. Box 5202

Stockton, CA 95205

WHEN RECORDED, MAIL TO:

California Regional Water  
Quality Control Board  
Central Valley Region  
3443 Routier Road  
Sacramento, CA 95827

INSTRUMENT NO  
RECORDED BY  
First American Title Co. of Stockton  
RECORDED 3-16-99  
INST 99036001  
GRANTOR  
SAN JOAQUIN COUNTY  
JAMES R. HENNINGSON, COUNTY CLERK

WE HEREBY CERTIFY THAT THE ABOVE IS  
A TRUE AND CORRECT COPY OF THE ORIGINAL  
First American Title Co. of Stockton  
BY C Jensen

COVENANT AND ENVIRONMENTAL RESTRICTION ON PROPERTY  
5050 Carpenter Road  
City of Stockton, San Joaquin County

This Covenant and Agreement ("Covenant") is made as of  
this 12th day of March, 1999, by DONALD E. REEVE  
AND LORI J. REEVE ("Covenantor"), who is the fee owner of  
record of certain property situated in the City of Stockton,  
County of San Joaquin, State of California, commonly known as  
5050 Carpenter Road as of the date hereof, as more particularly  
described in Exhibit "A" attached hereto and incorporated herein  
by this reference ("the Property") and by the CALIFORNIA REGIONAL  
WATER QUALITY CONTROL BOARD, CENTRAL VALLEY REGION (the "Board"),  
with reference to the following facts:

A. Covenantor owns the Property which is at  
5050 Carpenter Road, Parcel Nos. 17906003 and 17905015. The  
Property was formerly owned by Ripon Pacific, Inc. and San Joaquin  
Vegetable Growers Association, Inc. The site was operated by these  
companies as a vegetable brining facility from 1963 to 1987.  
Significant quantities of salt and brine solutions were spilled  
onto the ground surface during brining operations and demolition  
of the facility. Brine solutions were also discharged to unlined  
ponds at the site. Soil and groundwater contamination resulted  
from these discharges.

B. Portions of the Property have contained and  
currently contain designated waste as that term is defined in the

Water Code, including salt, salt water, and brine water. This waste constitutes hazardous materials as that term is defined in section 25260 of the Health and Safety Code. Analytical results of soil and groundwater samples indicated the presence of elevated salt concentrations in the soils or groundwater or both, in and under various portions of the Property.

C. Pursuant to section 13304 of the Water Code, the Board issued Site Cleanup Requirements Order No. 88-002, which was amended by Order No. 90-725. The Board entered into a settlement agreement with the previous owners in 1992. The settlement agreement provided for a partial cleanup of the site and provision of an alternative water supply for residents living downgradient of the site. All provisions of the settlement agreement were met.

D. This agreement is an enforceable agreement pursuant to the Water Code and Civil Code section 1471.

E. The primary and potential exposure routes for brining waste and salt located at the Property is through the drinking of impacted groundwater and ingestion of salty soils.

F. Covenantor desires and intends that in order to protect the present or future public health and safety the Property shall be used in such a manner as to avoid potential harm to persons or property which may result from hazardous substances/materials as specified in Section 25260 of the Health and Safety Code and designated wastes as specified in Section 13173 of the Water Code which have been deposited on portion(s) of the Property.

## ARTICLE 1

### GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, restrictions and conditions (collectively referred to as the "Restrictions") upon and subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and all of the Restrictions are imposed upon the entire Property and are reasonably necessary to protect present and future human health and safety as a result of

the presence on and under the land of contaminated materials. Each and all of the Restrictions are imposed pursuant to sections 13304 and 13267 of the Water Code and run with the land pursuant to section 1471 of the Civil Code and shall be enforceable solely by the Board. This Covenant shall not create any private rights of action against Covenantor.

1.2 Concurrence of Owners Presumed. All purchasers, lessees, sublessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such Property to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees that the Restrictions as herein established shall be adhered to for the benefit of future Owners and Occupants and that their interest in the Property shall be subject to the Restrictions contained herein.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated in each and all deeds and leases of any portion of the Property, provided, however, that the right to enforce the Restrictions shall exist only in the Board. Recordation of this Covenant shall be deemed binding on all successors, assigns, lessees, and sublessees, regardless of whether a copy of this Covenant has been attached to any given deed or lease.

## ARTICLE II

### DEFINITIONS

2.1 Board. "Board" shall mean the California Regional Water Quality Control Board, Central Valley Region, and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, roads, driveways, regradings, and paved parking areas, constructed or placed upon any portion of the Property.

2.3 Occupants. "Occupants" shall mean those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to occupy any portion of the Property.

2.4 Owner. "Owner" shall mean the Covenantor or its successors in interest, including heirs and assigns, who hold fee title to all or any portion of the Property.

2.5 Shallow Wells. "Shallow Wells" shall mean any well, boring, or excavation that allows extraction of water from any water bearing zone above a depth of approximately 100 feet below ground surface.

### ARTICLE III

#### DEVELOPMENT, USE AND CONVEYANCE OF THE PROPERTY

3.1 Restrictions on Use. Covenantor promises to restrict the use of the Property as follows:

(1) No Owner or Occupant of the Property shall willfully act in any manner that will aggravate or contribute to the existing environmental conditions at the Property or interfere with the implementation of any remedial action at the Property.

(2) No Owner or Occupant of the Property or any portion thereof shall drill, bore, excavate or otherwise construct a Shallow Well for the purpose of extracting water for domestic and potable uses. Covenantor and the Board agree that it shall be permissible to construct Shallow Wells and to use water extracted from such wells for any purpose other than for domestic and potable uses. Except as specified above, this Covenant shall not restrict drilling, boring, or excavation for any purpose including, but not limited to: borings for the purpose of testing soils; excavation for foundations or underground utilities; wells for monitoring the quality of water; borings to define the geology; or borings, wells or extraction of oil, petroleum or other mineral sources. All borings and excavations shall be performed and all wells constructed in conformance with the standards of the San Joaquin County Public Health Services, Environmental Health Division and shall incorporate practicable efforts to minimize any significant threat to humans.

(3) Owner shall endeavor to minimize exposure of workers at or about the Property to impacted groundwaters.

3.2 Conveyance of Property.

(a) If Owner proposes to sell, ground lease or otherwise convey (other than pursuant to a space lease, as described in Paragraph 3.2(b) below) the Property, or any portion thereof, Owner shall provide advance written notice to the Board

at the address specified in Paragraph 5.2 below. Such notice shall be provided thirty (30) days prior to the proposed sale, ground lease, or other conveyance or upon Owner's first knowledge of the proposed closing date or date of ground lease, whichever is shorter. The notice required in this Paragraph shall consist of the proposed date of ground lease or conveyance. Within thirty (30) days after the closing date or date of ground lease, Owner shall supply notice to the Board of the completion of the transaction, containing a description of the property to be ground leased or conveyed, the name or names of the ground lessee(s) or buyer(s) and, if known to the Owner, the general purpose for which the property to be ground leased or conveyed will be used. Notice is required hereunder for the purposes of maintaining a current record of the Owners and ground leases of the Property and to enable the Board to ensure that the requirements of this covenant are being met.

(b) Within thirty (30) days after Covenantor enters into any space lease of a portion of the Property, Covenantor shall supply notice to the Board of the completion of such lease transaction, containing a description of the premises leased, the name of the tenant and, if known to the Covenantor, the general purpose for which such premises will be used. Additionally, within ten (10) days of request from the Board, Covenantor shall deliver to the Board a list setting forth the current tenants of the Property. Notice is required hereunder for the purposes of maintaining a current record of the tenants of the Property and to enable the Board to ensure that the requirements of this covenant are being met.

3.3 Enforcement. Failure of the Owner to comply with any of the requirements set forth in this Covenant shall be grounds for the Board to file civil and criminal actions against the Owner to the extent provided by law, as well as to compel closure or modification of any wells or similar structures used in violation of the Restrictions. The Board shall not by reason of the Covenant have the authority to approve, disapprove, or otherwise affect any sale, lease, or other conveyance of the Property or any portion of the Property, unless provided otherwise by statute. This Covenant shall not create any private right of action against Covenantor or any Owner or Occupant of the Property or any portion thereof.

3.4 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements

or leases relating to the Property. Owner shall provide a copy of the written instrument to the Board within thirty (30) days after the closing date or date that Owner enters into a lease. Owner and current occupants shall execute a written instrument and submit a copy to the Board within thirty (30) days of recording of this covenant. Any such instrument shall contain the following statement:

The land described herein contains designated waste as defined in Water Code section 13173, including brining waste and salt in the soils and ground water in and under the property, and is subject to a deed restriction dated as of \_\_\_\_\_, 199\_, and recorded on \_\_\_\_\_, 199\_, in the Official Records of San Joaquin County, California, as Document No. \_\_\_\_\_, which Covenant and Agreement imposes certain covenants, conditions, and restrictions on usage of the property described herein. The provisions of the Covenant and Agreement are incorporated herein and made a part hereof as if set forth in full.

3.5 Limitation of Covenantor's Obligations Upon Conveyance of Ownership. Upon conveyance of ownership of the Property, or any portion thereof, by deed, ground lease, or other appropriate conveyance instrument, which instrument contains the provisions of Paragraph 3.4 above, Covenantor shall be released from any and all obligations under this Covenant as to that portion of the Property which has been conveyed that arise or occur on or after the date of such conveyance.

#### ARTICLE IV

#### VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's consent, any Occupant of the Property or any portion thereof may apply to the Board for a written variance from the provisions of this Covenant. Such application shall contain (1) a statement of who is applying for the variance, (2) the proposed variance, (3) a statement of reasons in support of the granting of the variance, and (4) such other information as may be reasonably required by the Board. Any applicant seeking a variance of the Restrictions shall pay the Board all costs incurred by the Board in processing the application.

4.2 Termination. Any Owner or, with the Owner's consent, any Occupant of the Property or a portion thereof may apply to the Board for a termination of the Restrictions as they apply to all or any portion of the Property. Any applicant seeking termination of the Restrictions shall pay the Board all costs incurred by the Board in processing the application.

4.3 Term. Unless terminated in accordance with Paragraph 4.2 above, by law, or otherwise, this Covenant shall continue in effect in perpetuity.

## ARTICLE V

### MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property or any portion thereof to the general public or for any purposes whatsoever.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (1) when delivered to all other parties, if personally delivered to the person being served or to an officer of a corporate party being served or an official of a government agency being served or (2) three (3) business days after deposit in the mail to all other parties if sent by United States mail, postage paid certified, return receipt requested:

If To Covenantor:

DONALD E. REEVE

P.O. Box 5202

Stockton, CA 95205

If To the Board:

CA Regional Water Quality Control Board

Central Valley Region

3443 Routier Road, Suite A

Sacramento, CA 95827

Attention: Executive Officer

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be invalid

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.5 Recordation. This instrument shall be executed by the Covenantor and by the Board. This instrument shall be recorded by the Owners in the County of San Joaquin within ten (10) days of the date of execution.

5.6 References. All References to Code sections include successors provisions.

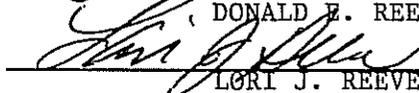
IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

By: Covenantor

~~By:~~

  
\_\_\_\_\_  
DONALD E. REEVE

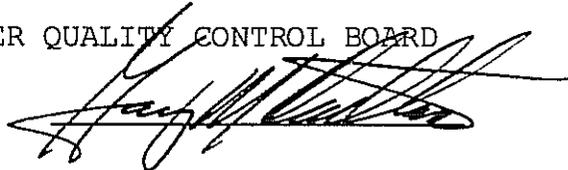
~~By:~~

  
\_\_\_\_\_  
LORI J. REEVE

Date: March 15, 1999

REGIONAL WATER QUALITY CONTROL BOARD

By:

  
\_\_\_\_\_

Title: Executive Officer

Date: 12 March 1999

EXHIBIT "A"

LEGAL DESCRIPTION

THAT CERTAIN REAL PROPERTY SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN, DESCRIBED AS FOLLOWS:

PARCEL B AS SHOWN AND DELINEATED ON THAT CERTAIN PARCEL MAP OF LOTS 6 THROUGH 17 INCLUSIVE OF TRACT 397 CARPENTER ROAD HOMESITES; AND LOT 5 OF CLARKADOTA FIG PLANTATIONS FILED FOR AUGUST 7, 1978 IN BOOK OF PARCEL MAPS, BOOK 6, PAGE 95, SAN JOAQUIN COUNTY RECORDS; AND BEING ALSO SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED MAY 4, 1993 IN BOOK OF SURVEYS, BOOK 32, PAGE 137, SAN JOAQUIN COUNTY RECORDS.

EXCEPT THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET IN THAT PORTION OF THE ABOVE DESCRIBED LAND LYING WITHIN LOT 5 OF CLARKADOTA FIG PLANTATIONS AS RESERVED IN DEED RECORDED SEPTEMBER 20, 1966 IN BOOK OF OFFICIAL RECORDS, BOOK 3076, PAGE 578, SAN JOAQUIN COUNTY RECORDS.

FIRST AMERICAN TITLE

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Sacramento } SS.

On March 12, 99, before me, Michelle Scott, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Gary M. Carlton  
Name(s) of Signer(s)

personally known to me  
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

Michelle Scott  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

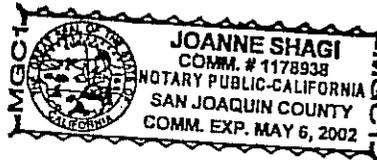
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STATE OF CALIFORNIA  
COUNTY OF San Joaquin

On March 15, 1999  
before me, Joanne Shagi  
a Notary Public in and for said State, personally appeared  
Donald E. Reeve and Lori J. Reeve

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature

Joanne Shagi  
Joanne Shagi

(This area for official notarial seal)

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

On \_\_\_\_\_  
before me, \_\_\_\_\_  
a Notary Public in and for said State, personally appeared

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(This area for official notarial seal)