



2011-0030870

Environmental Restriction, Former Chacon's Auto Clinic Property

Recorded	REC FEE	0.00
Official Records		
County of		
Shasta		
Leslie Morgan		
Assessor-Recorder		
10:23AM 17-Oct-2011	Page 1 of 11	

RECORDING REQUESTED BY:
 City of Shasta Lake Redevelopment Agency
 P.O. Box 777
 Shasta Lake, CA 96019

WHEN RECORDED, MAIL TO:
 California Regional Water Quality Control Board
 Central Valley Region
 415 Knollcrest Drive, Suite 100
 Redding, CA 96002

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

ENVIRONMENTAL RESTRICTION

Re: County of Shasta Assessor's Parcel Numbers 005-250-063 and 005-250-064

This Covenant and Agreement ("Covenant") is made by and between the City of Shasta Lake Redevelopment Agency (the "Covenantor"), the current owner of property situated in the County of Shasta, State of California, described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Property"), and the California Regional Water Quality Control Board, Central Valley Region (the "Central Valley Water Board"). Pursuant to Civil Code section 1471, the Central Valley Water Board has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the possible presence on the land of residual petroleum contamination or hazardous materials as defined in Health & Safety Code section 25260. The Covenantor and Central Valley Water Board, collectively referred to as the "Parties", hereby agree that the use of the Property be restricted as set forth in this Covenant.

ARTICLE 1
STATEMENT OF FACTS

1.01. The Property, totaling approximately 0.37 acres, is more particularly described and depicted in Exhibit "A", attached hereto and incorporated herein by this reference. The

Environmental Restriction, Former Chacon's Auto Clinic Property

Property is located at 4657 Shasta Dam Boulevard, Shasta Lake, County of Shasta, State of California in Section 30, T33N, R4W, MDB&M. The Property is also generally described as Shasta County Assessor's Parcel Nos. 005-250-063 and 005-250-064.

Over the years, the Property has been used as a gas station, an auto repair shop, a car wash, and/or for boat sales and repair; the Property currently is used as a parking lot. In 1987, three underground storage tanks (USTs), formerly containing gasoline or diesel, were abandoned in place under Shasta County Public Health Department ("SCPHD") supervision by filling with concrete. No sampling or testing was performed at this time. The site still has its dispenser islands in place, so it is presumed that all UST-related piping is still in place. In 1991-1992, a waste oil tank was removed, soil contamination was encountered, including gasoline, diesel, and oil & grease contaminants in soil, and drums of solvent stored onsite were identified. In 1994, SCDPH requested the Central Valley Water Board become lead agency responsible for further oversight of site investigation and cleanup.

Beginning in 2000, the first groundwater monitoring wells were installed. Periodic monitoring of the wells has detected gasoline and solvent pollutants. On 25 June 2007, due to insufficient site cleanup, the Central Valley Water Board issued Cleanup and Abatement Order R5-2007-0717 to former Property owners. To facilitate site cleanup, the Covenantor has acquired title to the Property. On 23 September 2010, the Central Valley Water Board authorized its Executive Officer to enter into a Mutual Release and Covenant Not to Sue with the Covenantor, Resolution R5-2010-0106. On 12 October 2010, the executed Mutual Release and Covenant Not to Sue was transmitted to the Covenantor.

Because the shallowest water-bearing soils at the Property are largely clays and clayey silts, with limited permeability, polluted groundwater is generally limited to the Property. The solvent tetrachloroethene has migrated southeast in groundwater, and is above its Primary Maximum Contaminant Level beyond the Property. However, the total predicted volume of groundwater with impaired beneficial use as a drinking water source is largely beneath Grand River Avenue and Shasta Dam Boulevard.

Environmental Restriction, Former Chacon's Auto Clinic Property

Risk assessment as presented in *Human Health and Ecological Risk Assessment, Former Chacon's Auto Clinic, 4657 Shasta Dam Boulevard, Shasta Lake, California, Case No. 450122, July 23, 2010*, prepared by Lawrence & Associates and submitted to the Central Valley Water Board, indicated that residual contaminant levels at the Property are either: (1) below published health risk screening levels, or (2) shown to attenuate within short distances of the project site source area, so that no known receptors would be adversely affected by the residual contaminants. This assessment is based on the premise that the Property will be used in the future as a parking lot. However, if use of the Property is to change in the future with the construction of a building, the residual contaminant levels in subsurface soil vapor could potentially affect indoor air for inhalation exposure. It is because of this potential future indoor air exposure, along with potential exposure of contaminated subsurface soils to construction workers involved with Property grading, trenching, or other earth disturbance, that this environmental restriction is recorded.

ARTICLE 2

DEFINITIONS

2.01. Central Valley Water Board. "Central Valley Water Board" means the California Regional Water Quality Control Board, Central Valley Region and includes its successor agencies, if any.

2.02. Environmental Restrictions. "Environmental Restrictions" means all protective provisions, covenants, restrictions, prohibitions, and terms and conditions as set forth in any section of this Covenant.

2.03. Improvements. "Improvements" includes, but is not limited to: buildings, structures, roads, driveways, improved parking areas, wells, pipelines, or other utilities.

2.04. Lease. "Lease" means lease, rental agreement, or any other document that creates a right to use or occupy any portion of the Property.

Environmental Restriction, Former Chacon's Auto Clinic Property

2.05. Occupant. "Occupant" means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

2.06. Owner. "Owner" means the Covenantor, its successors in interest, and their successors in interest, including heirs and assigns, who at any time hold title to all or any portion of the Property.

2.07. Qualified Individual. "Qualified Individual" means Professional Geologist, Professional Civil Engineer, Certified Soil Scientist, Industrial Hygienist, or other individual approved in writing by the Central Valley Water Board after a written request for approval has been made.

ARTICLE 3

GENERAL PROVISIONS

3.01. Runs with the Land. This Covenant sets forth Environmental Restrictions, that apply to and encumber the Property and every portion thereof no matter how it is improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. This Covenant: (a) runs with the land pursuant to Civil Code section 1471; (b) inures to the benefit of and passes with each and every portion of the Property, (c) is for the benefit of, and is enforceable by the Central Valley Water Board, and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof. Each and all of the Restrictions are enforceable by the Central Valley Water Board and by the Owner.

3.02. Binding upon Owners/Occupants. This Covenant binds all owners of the Property, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471(b), all successive owners of the Property are expressly bound hereby for the benefit of the Central Valley Water Board and Owner.

Environmental Restriction, Former Chacon's Auto Clinic Property

3.03. Written Notice of the Presence of Hazardous Substances. Prior to the sale, lease or sublease of the Property, or any portion thereof, the owner, lessor, or sublessor shall give the buyer, lessee, or sublessee written notice of the existence of this Covenant and its Environmental Restrictions. Furnishing a copy of this Covenant to each buyer or lessee would satisfy the notice requirements of this Section 3.03.

3.04. Incorporation into Deeds and Leases. This Covenant and its Environmental Restrictions shall be incorporated by reference in each and every deed and Lease for any portion of the Property, which are entered into on or after the date this Covenant is recorded into the Official Records of Shasta County, California.

3.05. Conveyance of Property. Not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding leases, and mortgages, liens, and other non-possessory encumbrances, and excluding transfers to affiliated parties), the new owner of such interest shall provide to the Central Valley Water Board notice of such conveyance. The written notice shall include the name and mailing address of the new owner of the Property and shall reference the site name and site code as listed on page one of this Covenant. The notice shall also include the Assessor's Parcel Numbers (APNs) noted on page one. If the new owner's property has been assigned a different APN, each such APN that covers the Property must be provided. The Central Valley Water Board shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect proposed conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

Environmental Restriction, Former Chacon's Auto Clinic Property

A R T I C L E 4

RESTRICTIONS

4.01 Prohibited Uses. The Property shall not be used for any of the following purposes:

- (a) A hospital for humans.
- (b) A public or private school for persons under 21 years of age.
- (c) A day care center for children.
- (d) A site for a potable water supply well.

4.02. Change of Property Use from Parking Lot to Building.

- (a) If the Property use changes from that of a parking lot or open space to that which includes a permanent or temporary building, then the Property will require further assessment of subsurface soil vapors to determine if a health risk to indoor air by inhalation exists. This assessment can include retesting of subsurface soil vapors and assessing retest data for health risk, or other means acceptable to the Central Valley Water Board, by a Qualified Individual. If no significant health risk to indoor air by inhalation is determined from retest data, the building may be constructed without additional mitigations. If significant health risk to indoor air by inhalation is determined from retest data, mitigation measures such as a vapor barrier, subfloor venting, and/or other system will implemented as approved by the Central Valley Water Board.

4.03. Soil Management

- (a) No activities that will disturb the soil at the Property Unit deeper than 12 inches below grade (e.g., excavation, grading, removal, trenching, filling, earth movement or mining) shall be allowed on the Property without a Soil Management Plan and Health and Safety Plan completed by a Qualified Individual. This plan should address, at a minimum, prevention of worker and public contact with the soil.
- (b) Any contaminated soil brought to the surface by grading, excavation,

Environmental Restriction, Former Chacon's Auto Clinic Property

trenching or backfilling shall be managed in accordance with all applicable provisions of state and federal law.

- (c) Owner shall provide the Central Valley Water Board written notice of at least fourteen (14) days prior to any building, grading, mining, or excavating in the Property.

4.03. Access for the Central Valley Water Board. The Central Valley Water Board shall have reasonable right of entry and access to the Property for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by the Central Valley Water Board in order to protect the public health or safety, or the environment.

A R T I C L E 5

ENFORCEMENT

5.01. Enforcement. Failure of the Covenantor, Owner, or Occupant to comply with this Covenant shall be grounds for the Central Valley Water Board to require modification or removal of any improvements constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant shall be grounds for the Central Valley Water Board to pursue administrative, civil, or criminal actions.

A R T I C L E 6

VARIANCE, TERMINATION, AND TERM

6.01. Variance. Covenantor, or any other aggrieved person, may apply to the Central Valley Water Board for a written variance from the provisions of this Covenant as they apply to all or any portion of the Property.

6.02 Termination or Modification. Owner, or any other aggrieved person,

Environmental Restriction, Former Chacon's Auto Clinic Property

may apply to the Central Valley Water Board for a termination or modification of one or more terms of this Covenant as they apply to all or any portion of the Property. Justification for termination of this Covenant should include demonstration that any remaining residual subsurface contamination will have no significant health risk to all receptors under any potential future land use or activity.

6.03 Term. Unless ended in accordance with paragraph 6.02, by law, or by the Central Valley Water Board in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

A R T I C L E 7

MISCELLANEOUS

7.01. No Dedication Intended. Nothing set forth in this Covenant 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 anyone else for any purpose whatsoever.

7.02. Central Valley Water Board References. All references to the Central Valley Water Board include successor agencies/departments or other successor entity.

7.03. Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Shasta within ten (10) days of the Covenantor's receipt of a fully executed original.

7.04. Notices. Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested.

Environmental Restriction, Former Chacon's Auto Clinic Property

To Owner: City of Shasta Lake Redevelopment Agency
P.O. Box 777
Shasta Lake, CA 96019

and

To: Central Valley Water Board:
California Regional Water Quality Control Board,
Central Valley Region
Attn: Mr. Eric Rapport
415 Knollcrest Drive, Suite 100
Redding, CA 96002

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.05. Partial Invalidity. If this Covenant or any of its terms are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.06 Statutory References. All statutory references include successor provisions.

IN WITNESS WHEREOF, the Parties execute this Covenant.

Central Valley Water Board

By: Robert A. Crandall
Title: Assistant Executive Officer
Date: October 4, 2011

Covenantor: City of Shasta Lake Redevelopment Agency

By: Carol Martin
Title: City Manager/Executive Director
Date: October 7, 2011

Environmental Restriction, Former Chacon's Auto Clinic Property

**EXHIBIT A
PROPERTY DESCRIPTION**

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA,
COUNTY OF SHASTA, CITY OF SHASTA LAKE, AND IS DESCRIBED AS FOLLOWS:

LOTS 13, 14, 15, 16, 17, 18, 19, AND 20 OF BLOCK 8, AS SHOWN IN THE MAP OF
BOOMTOWN SUBDIVISION, UNIT #8 FILED SEPTEMBER 14, 1938 IN BOOK 5 OF
MAPS AT PAGE 33, SHASTA COUNTY RECORDS.

EXCEPTING THEREFROM THAT PORTION OF LOTS 13, 14, 15, AND 16 DESCRIBED
IN THE DEED TO THE STATE OF CALIFORNIA RECORDED OCTOBER 19, 1967 IN
BOOK 932 OF OFFICIAL RECORDS, AT PAGE 542.

A.P.N. 005-250-063 AND 005-250-064

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

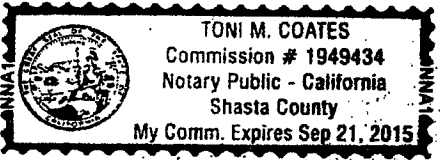
State of California

County of Shasta

On Oct 7, 2011 before me, Toni M. Coates, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Carol Martin
Name(s) of Signer(s)

who 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.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Toni M. Coates
Signature of Notary Public

Place Notary Seal Above

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: Environmental Deed Restriction

Document Date: _____ Number of Pages: 10

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

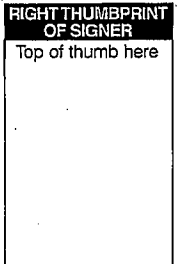
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

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



Signer Is Representing: _____