

This page is part of your document - DO NOT DISCARD

2007 MAY -9 PM 1:42

CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
LOS ANGELES REGION

20070584740

Pages:
0011



Recorded/Filed in Official Records
Recorder's Office, Los Angeles County,
California

Fees: \$36.00

Taxes: \$0.00

Other: \$0.00

Paid: \$36.00

03/15/07 AT 03:22PM

0000384992

200703150010106

Mail

TITLE(S) :



L E A D S H E E T

Assessor's Identification Number (AIN)

To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

				-					-				
--	--	--	--	---	--	--	--	--	---	--	--	--	--

--	--	--	--

03/15/07



20070584740

2

Recording Requested By:

Connie J. Beck, Trustee
3900 Longridge Avenue
Sherman Oaks, California 91423-4924

When Recorded, Mail To:

Jonathan Bishop, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, California 90013

**COVENANT AND ENVIRONMENTAL RESTRICTION
ON PROPERTY**

Autozone Facility
3751-3757 East Slauson Avenue
Maywood, California 90270
LARWQCB SLIC Case No. 749B

This Covenant and Environmental Restriction on Property ("Covenant") is made as of the 23rd day of February, 2007 by Connie J. Beck as Trustee of the Roy L. Beck and Connie J. Beck Living Trust ("Covenantor") who is the Owner of record of that certain property situated at 3751-3757 East Slauson Avenue in the City of Maywood, County of Los Angeles, State of California, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (hereinafter referred to as the "Burdened Property"), for the benefit of the California Regional Water Quality Control Board, Los Angeles Region ("Board"), with reference to the following facts:

A. Nature of Covenant. This Covenant is an environmental covenant provided for by Civil Code section 1471 and required by the Board pursuant to Water Code section 13307.1, because the Burdened Property is contaminated by hazardous materials as defined in section 25260 of the Health and Safety Code.

B. Contamination of the Burdened Property. The soil, soil vapor, and groundwater at the Burdened Property were contaminated by gasoline service station and auto repair operations conducted by former tenants. The known contamination consists of organic chemicals including 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, acetone, di-octyl phthalate, ethylbenzene, isopropylbenzene, methyl ethyl ketone, methylene chloride, methyl-tert butyl ether, naphthalene, -butylbenzene, -propylbenzene, p-isopropyltoluene, sec-butylbenzene, t-butanol, tetrachloroethylene (PCE), toluene, trichloroethene, and xylene, which constitute hazardous materials. Prior to grading the site, approximately 28 tons of petroleum hydrocarbon contaminated soil was excavated and removed from the Burdened Property. The verification

sampling and analyses across the Burdened Property did not detect any hazardous materials above a depth of 10.5 feet below ground surface. The maximum depth of the Improvements is 5 feet below ground surface.

C. Exposure Pathways. The contaminants addressed in this Covenant are present in the soil, soil vapor, or groundwater at the Burdened Property. Exposure assumptions were compiled from standard U.S. Environmental Protection Agency and California Environmental Protection Agency sources to evaluate the reasonable maximum exposure scenario. Exposure point concentrations used in the Baseline Risk Assessment were based on the maximum detected residual concentrations of all constituents. The assumptions and protocols used in the Baseline Risk Assessment were summarized in a Baseline Risk Assessment Work Plan submitted to and approved by the Office of Environmental Health Hazard Assessment (OEHHA) and the Board prior to the completion of the Baseline Risk Assessment.

Based on the Baseline Risk Assessment, the Board, as recommended by OEHHA, concluded that use of the Burdened Property as a residence, hospital, school for persons under 21 years of age, or care or community centers for children and senior citizens would entail unacceptable adverse impacts to human health. The Board and OEHHA concluded that the Burdened Property under no further action, and subject to the restrictions of this Covenant, does not present an unacceptable threat to human health or the environment, if use of the Burdened Property is limited to commercial and/or industrial land use.

D. Land Uses and Population Potentially Affected. The Burdened Property is currently used for an auto parts store and is adjacent to commercial and residential land uses.

E. Disclosure and Sampling. Disclosure of the presence of hazardous materials on the Burdened Property has been made to the Board and extensive sampling of the Burdened Property has been conducted.

F. Use of Burdened Property. Covenantor desires and intends that in order to benefit the Board, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that might result from any hazardous materials that might remain deposited on portions of the Burdened Property.

ARTICLE I GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions, and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. These Restrictions are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof for the benefit of the Board and all Owners and Occupants. Each and all of the Restrictions: (a) are imposed upon

the entire Burdened Property, unless expressly stated as applicable to a specific portion of the Burdened Property; (b) run with the land pursuant to section 1471 of the Civil Code; and (c) are enforceable by the Board.

4

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, and possessors of all or any portion of the Burdened Property shall become Owners or Occupants as defined herein and shall be deemed by their purchase, lease, or possession of the Burdened Property to be bound by the Restrictions 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 herein established must be adhered to for the benefit of the Board and all Owners and Occupants, and that the interest of all Owners and Occupants of the Burdened Property shall be subject to the Restrictions.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions shall be incorporated in and attached to each and all deeds and leases of all or any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the Board real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

ARTICLE II DEFINITIONS

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

2.2 Improvements. "Improvements" shall mean all buildings, structures, roads, driveways, gradings, re-gradings, and paved areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupant or Occupants. "Occupant" or "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the right to use and/or occupy all or any portion of the Burdened Property.

2.4 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and Covenantor's successors in interest who hold title to all or any portion of the Burdened Property.

ARTICLE III DEVELOPMENT, USE, AND CONVEYANCE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the

5

Burdened Property as follows:

- a. Development and use of the Burdened Property shall be restricted to industrial, commercial, or office space;
- b. No residence for human habitation shall be authorized on the Burdened Property;
- c. No hospitals shall be authorized on the Burdened Property;
- d. No schools for persons under 21 years of age shall be authorized on the Burdened Property;
- e. No care or community centers for children or senior citizens, or other uses that would involve the regular congregation of children or senior citizens, shall be authorized on the Burdened Property;
- f. No Owner or Occupant shall conduct or authorize any excavation work on the Burdened Property unless expressly authorized in writing by the Board, except when necessary to address an emergency or to repair any Improvement. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by the Owner, Owner's agent, Occupant, or Occupant's agent in accordance with all applicable provisions of local, state, and federal law. If the excavation work resulted from an emergency, the Owner or Occupant shall notify the Board by registered mail within ten (10) working days of both the date of commencement of such excavation and after the date of completion;
- g. Any excavation conducted on the Burdened Property shall be performed pursuant to an appropriate and fully implemented Health and Safety Plan approved by the Board, unless the excavation is necessary to address an emergency or to repair any Improvement;
- h. All uses and development of the Burdened Property shall be consistent with any applicable Board Order or Risk Management Plan, each of which is hereby incorporated herein by reference, and including future amendments thereto. All uses and development shall preserve the integrity of any cap, any remedial measures taken or remedial equipment installed, and any groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board, unless otherwise expressly authorized in writing by the Board;
- i. No Owner or Occupant shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly authorized in writing by the Board; nor shall the Owner or Occupant authorize or engage any third party to do such acts;
- j. The Owner and Occupant shall notify the Board of each of the following: (1) the type, cause, location, and date of any disturbance to any cap, any remedial measures taken

6
or remedial equipment installed, and any groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board, which could affect the ability of such cap or remedial measures, remedial equipment, or monitoring system to perform their respective functions; and (2) the type and date of repair of such disturbance. Notifications to the Board shall be made by registered mail within ten (10) working days of both the date of discovery of such disturbance and the date of completion of repairs;

k. The Covenantor agrees that the Board, and any persons acting pursuant to Board orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring as provided in Division 7 of the Water Code; and

l. No Owner or Occupant shall act in any manner that threatens or is likely to aggravate or contribute to the existing contaminated conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped areas.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the Restrictions set forth in Paragraph 3.1 shall be grounds for the Board, by the authority of this Covenant, to require that the Owner or Occupant modify or remove, or cause to be modified or removed, any Improvements constructed in violation of that Paragraph. Violation of this Covenant shall also be grounds for the Board to file civil actions against the Owner or Occupant as provided by law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument that shall accompany all purchase agreements or leases relating to all or any portion of the Burdened Property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils and in the groundwater under the property, and is subject to a Covenant and Environmental Restriction on Property dated as of _____, 2007, and recorded on _____, 20____, in the Official Records of Los Angeles County, California, as Document No. _____, which Covenant and Environmental Restriction on Use of Property imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

ARTICLE IV VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's written consent, any Occupant may apply to the Board for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner or, with the Owner's written consent, any Occupant may apply to the Board for a termination of the Restrictions as they apply to all or any portion of the

Burdened Property.

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 Burdened Property or any portion thereof to the general public.

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: (a) when delivered, if personally delivered to the person being served or an official of a government agency being served; or (b) three (3) business days after deposit in the mail if mailed by U.S. mail, postage paid certified, return receipt requested, addressed:

If To: "Covenantor"
Connie J. Beck, Trustee
3900 Longridge Avenue
Sherman Oaks, CA 91423-4924

If To: "Board"
Regional Water Quality Control Board
Los Angeles Region
Attention: Executive Officer
320 W. 4th Street, Suite 200
Los Angeles, California 90013

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined by a court having jurisdiction 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 part of the Covenant.

5.5 Recordation. This instrument shall be executed by the Covenantor and by the Executive Officer of the Board. This instrument shall be recorded by the Covenantor in the County of Los Angeles within ten (10) days of the date of execution.

5.6 References. All references to Code sections include successor provisions.

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this

8

instrument shall be liberally construed in favor of the Covenant to preserve and implement the purpose of this instrument and the policies and purposes of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

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

Covenantor: CONNIE J BECK, TRUSTEE of the ROY L. BECK, CONNIE J BECK LIVING TRUST
By: Connie J Beck
Title: TRUSTEE
Date: Feb. 23, 2007

California Regional Water Quality Control Board,
Los Angeles Region

By: [Signature]
Title: Executive Officer
Date: 3/7/07

9

STATE OF CALIFORNIA) Acknowledgment as to Covenantor

COUNTY OF Los Angeles)

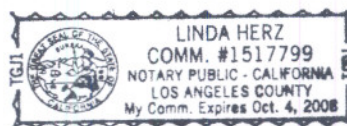
On Feb 23, 2007 before me, Linda Herz Notary Public,
[insert date] [insert name and title of officer]

the undersigned, personally appeared Connie G. Beck,
[insert Covenantor's or Covenantor's agent's name]

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.

Linda Herz
Notary Public in and for said
County and State
Los Angeles Calif



STATE OF CALIFORNIA) Acknowledgment as to California Regional Water

COUNTY OF Los Angeles) Quality Control Board, Los Angeles Region

On MARCH 7, 2007 before me, CARLOS M. URRUNAGA, Notary Public,
[insert date] [insert name and title of officer]

the undersigned, personally appeared JONATHAN S. BISHOP, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as Executive Officer, and that by his signature on the instrument the California Regional Water Quality Control Board, Los Angeles Region executed the instrument.

WITNESS my hand and official seal.

Carlos M. Urrunaga
Notary Public in and for said
County and State

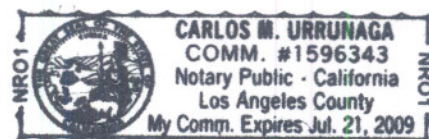


EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

10

11

LOT 991 IN TRACT 3544, IN THE CITY OF MAYWOOD, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 38 PAGE(S) 58 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 6311-008-008

07 0584740