

Recording Requested By:

Mr. Mike Sweeney, California Chief Operating Officer
The Nature Conservancy
201 Mission Street, 4th Floor
San Francisco, CA 94105

Mr. Samuel Schuchat, Executive Officer
California State Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, CA 94612-2530

When Recorded, Mail To:

Mr. Jonathan S. Bishop, Executive Officer
California Regional Water Quality Control Board-
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, California 90013-2343



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CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
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**ENVIRONMENTAL RESTRICTION,
MUTUAL RELEASE AND COVENANT NOT TO SUE
FOR ORMOND BEACH PROPERTIES, CALIFORNIA**

I. INTRODUCTION

THIS ENVIRONMENTAL RESTRICTION, MUTUAL RELEASE AND COVENANT NOT TO SUE (the "Mutual Release") is provided in response to a request by the California State Coastal Conservancy, an agency of the State of California ("SCC"), and The Nature Conservancy, a District of Columbia nonprofit corporation ("TNC"), and pursuant to Los Angeles Regional Water Quality Control Board ("Regional Board") Resolution No. 05-005 ("Resolution") authorizing its Executive Officer to negotiate and sign the Mutual Release concerning the real property located at Ormond Beach in Oxnard, California, which consists of approximately 277 acres and which is more particularly described in Attachment 2 to the Resolution and in Exhibit A to this Mutual Release (the "Property") and which SCC and TNC will protect, preserve, and potentially restore for wetland and wildlife habitat and appropriate public access uses. This Mutual Release is consistent with the State Water Resources Control Board ("State Board") Executive Director's memorandum dated July 9, 1996, regarding prospective purchaser agreements.

The Regional Board understands that TNC intends to purchase this Property using a grant of funds from SCC, that TNC will preserve the Property for open space and wildlife habitat purposes, and that SCC and TNC intend to restore wetlands and wildlife habitat at, and provide

appropriate public access to, the Property consistent with the preservation of natural resources. SCC has initiated and is currently funding a restoration feasibility study potentially applicable to 750 acres of historic wetlands at Ormond Beach, including the Property. TNC intends to ultimately transfer the Property to a public agency or other qualified entity acceptable to SCC for permanent natural resource protection. SCC and TNC desire a commitment that they, as well as all of their respective directors, officers, managers, employees, partners, members, agents, and contractors (individually a "Released Party" and collectively the "Released Parties"), and their respective successors in interest and assigns (but only as to those Released Parties, successors and assigns who did not cause or contribute to contamination on the Property, and only if the successors' interests or assigns' interests are taken, held and used solely for open space, wetlands restoration, wildlife habitat and/or appropriate public access consistent therewith), will not be subject to liability for, or the subject of any actions, claims, orders, demands, enforcement actions or other civil or administrative proceedings, including without limitation, any investigation, monitoring or remediation requirements arising from the Known Conditions as of the date this Mutual Release is fully executed ("Effective Date").

II. DEFINITIONS

For purposes of this Mutual Release, "Known Conditions" means all conditions of pollution at, under, or migrating to the Property, or any portion thereof, that were known to the Regional Board prior to the Effective Date. The phrase "known to the Regional Board" means all information regarding all pollution at, under, or migrating to (whether before or after the Effective Date) the Property, or any portion thereof, that is reasonably discernible from the reports noted in the Resolution, or from the investigations, workplans, reports, or any other information in the records of the Regional Board prior to the Effective Date (including without limitation those documents referenced in Exhibit C). With respect to any claim, cause of action, investigation, or enforcement action asserted or required by the Regional Board, the Released Parties (or their successor(s) or assign(s), as applicable) shall bear the burden of proving that any condition of pollution at, under, or migrating to the Property is a Known Condition.

III. FINDINGS OF FACT

1. The Property is within the jurisdiction of the Regional Board due to the Known Conditions. The Regional Board enters into this Mutual Release pursuant to California Water Code section 13300 et seq. The Regional Board has authority to release and covenant not to sue or assert claims for environmental investigation or remediation or other related claims against prospective or actual purchasers of environmentally impacted properties, where, as here, the agreement is sufficiently in the public interest.
2. A portion of the Property is currently used for farming. Investigation of the Property indicates that past uses included farming and disposal of dredged spoils from the Port of Hueneme by the Oxnard Harbor District. Investigations of the Property also indicate the possible use of portions of the Property for paint storage; property records indicate that a permit was issued in 1970 to A.L. Johnson & Co., as lessee, to construct a concrete pad and 1000-gallon tanks for purposes related to A.L. Johnson's aluminum castings business in the

area of the Property identified as having been used for "paint storage." The current owners of the Property include the Metropolitan Water District of Southern California and the Oxnard Community Development Commission as tenants in common, with respect to approximately 276 acres described as Parcel 1 in Exhibit A, and Gloria M. Rossen, Angela Wilkins and Theo-Alice J. Gordon, with respect to the 0.94 acres described as Parcel 2 in Exhibit A. The Property is adjacent to the Halaco Site (more particularly described in Exhibit B); the Halaco Site was used for waste disposal and secondary aluminum and magnesium production. The owner/operator of the Site is Halaco Engineering Co. Phase II sampling has occurred on the Property and various investigative and remedial activities have been undertaken on the Halaco Site.

3. The Regional Board did not name TNC or SCC as a responsible party for the Known Conditions. Neither TNC nor SCC is affiliated with any responsible party for the Known Conditions. The sole interest of TNC in the Property has been to purchase and preserve natural resources on the Property. The sole interest of SCC in the Property has been to provide funding for TNC to purchase and preserve natural resources on the Property, to provide for the preservation of natural resources on the Property in perpetuity, and to provide for the restoration and enhancement of wetlands and wildlife habitat and for appropriate public access on the Property consistent therewith.
4. Environmental organizations consider Ormond Beach to be one of the most important, and threatened, wetlands areas in California. The City of Oxnard has created an Ormond Beach Project Area with the stated mission of creating a "high-quality community in Ormond Beach, consisting of a balanced blending of developed areas and restored wetlands/habitat areas....". Acquisition of the Property by TNC and SCC will protect and potentially restore wetlands, as well as preserve wildlife habitat, thereby providing important public benefits.
5. This Mutual Release is consistent with the goals and purposes of the Porter-Cologne Act and the Federal Clean Water Act.
6. The Property is not the subject of an active enforcement action (other than in connection with the Halaco Site) or agreement with another agency to address remediation of the Property or the Halaco Site.
7. Conservation of the Property (including without limitation future wetland restoration activities), with the exercise of due care, will not aggravate, contribute to, or create a condition of pollution as a result of the Known Conditions. Any restoration, development or other intrusive activities such as grading or excavation (it being understood that normal property management and maintenance activities, such as removal of rubbish, trash, or non-native vegetation, installation of fencing and signage, and continuance of the existing agricultural operations in compliance with law shall not be deemed intrusive) conducted by SCC or by TNC and its successors and assigns at the Property must be in compliance with the requirements of law and subject to Regional Board oversight.

IV. AGREEMENT

1. In consideration of the agreement by SCC and TNC to protect and preserve natural resources on the Property and in accordance with the Resolution, and the findings of the Regional Board staff, the Regional Board expressly finds that the Released Parties shall not be liable or otherwise responsible for Known Conditions, and hereby covenants and agrees not to initiate, bring, or support any claim, order, demand, enforcement action or other civil or administrative proceeding against the Released Parties arising out of such Known Conditions under any local, state or federal statute or the common law, including but not limited to, in their entirety, the United States Code, the various California Codes, or other applicable laws, regulations, ordinances, or civil, judicial or administrative authorities, having application to the handling, release, presence, migration, investigation, monitoring, cleanup, containment or maintenance of the Known Conditions at, on, under, or migrating to the Property, or any portion thereof. This Mutual Release shall inure to the benefit of, and pass with each and every portion of the Property, and shall benefit any respective successors and assigns of the Released Parties so long as the Property is taken, held and used solely for purposes of open space, wetlands restoration, wildlife habitat and/or appropriate public access consistent therewith and subject to the deed restrictions provided for in this Mutual Release, unless such successors and assigns caused or contributed to the Known Conditions. Prior to transfer of all or any portion of the Property as provided herein, the successor/ assign/transferee shall execute and provide to the Board a Written Instrument of Release and Transfer Document in substantially the form of the attached Exhibit D, and all references to Released Parties in this Mutual Release shall thereafter apply and pertain to that successor/assign/transferee.
2. Section 113(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9613(f)(2) ("CERCLA") provides that: "A person who has resolved its liability to the United States or a State in an administrative or judicially approved settlement shall not be liable for claims for contribution regarding matters addressed in the settlement." Accordingly, the Regional Board affirms that this Mutual Release and Covenant Not To Sue resolves the Released Parties' liability to the Regional Board with regard to any claims related to the matters included herein and in the Resolution, including all claims regarding the handling, storage, presence, migration, cleanup, or disposal of the Known Conditions at, under, or migrating to the Property.
3. This mutual release shall remain effective notwithstanding the revocation or modification of Resolution No. 05-005 and shall be without prejudice to the ability of the Regional Board to take action against any party other than the Released Parties, relating to the investigation, cleanup, or cost of investigation or cleanup of the Known Conditions. TNC and SCC shall cooperate with the Regional Board in investigating the Known Conditions and will provide a chain of title report identifying the prior owners and occupiers of the Property.
4. Notwithstanding any other provisions of this Mutual Release, the Regional Board reserves the right to assert any claims, enforcement actions or other civil or administrative proceedings against the respective Released Parties relating to the acts or

omissions of the Released Parties arising after the Effective Date and which are based on the failure of the respective Released Parties, to the extent they have control over the Property, to (i) exercise due care at the Property with respect to the Known Conditions, (ii) comply with the requirements and conditions of this Mutual Release, and (iii) comply with any deed restrictions and/or institutional constraints currently imposed by the Regional Board or that the Regional Board may subsequently impose. If a Released Party has failed to comply with any of these three enumerated requirements, and the Regional Board elects to proceed against said Released Party, then this Mutual Release shall be null and void as to said Released Party, and the Regional Board and said Released Party shall then have any rights or defenses they would have had if this Mutual Release and Covenant Not to Sue had not existed.

5. This reservation by the Regional Board shall be separately and distinctly applied with respect to each of the Released Parties, the intent being that failure by a particular Released Party to comply with any applicable requirement shall not render the Regional Board's covenant inapplicable to any other Released Party. Nothing contained in this Mutual Release shall be deemed a waiver of, or a release by, any Released Party of any defense, cross-claim, counter claim, offset or other rights available to such Released Party in response to any claim, order, demand, enforcement action or other civil or administrative proceeding by the Regional Board, as specifically reserved hereunder.
6. In partial consideration for this Mutual Release, the Released Parties, on behalf of themselves and their respective successors in interest and assigns, (1) hereby release and covenant not to sue the Regional Board, its authorized officers, employees or representatives, with respect to any and all liability or claims associated with or arising out of the Known Conditions, and (2) agree to complete the following tasks:
 - a) Sign and record a deed restriction acceptable to the Executive Officer and pursuant to Civil Code section 1471 in substantially the form attached hereto as Exhibit E, which prohibits use of the Property for purposes other than open space, wetlands restoration, wildlife habitat and/or appropriate public access consistent therewith; and which provides for Regional Board review and approval of wetland restoration, development or other intrusive activity such as grading or excavation (it being understood that normal property management and maintenance activities, such as removal of rubbish, trash, or non-native vegetation, installation of fencing and signage, and continuance of the existing agricultural operations in compliance with law shall not be deemed intrusive) which the Released Parties may undertake on the Property.
 - b) Cooperate with the Regional Board in its review and oversight of the response activities conducted by parties responsible for contamination at the Halaco Site in accordance with Resolution No. 70-63 adopted by the Regional Board on September 23, 1970 and amended by Order No. 80-58 on September 17, 1981; Cease and Desist Order No. R4-2002-0064 issued to Halaco Engineering Co. by the Regional Board on March 7, 2002

("CDO"); and Cleanup and Abatement Order No. R42003-0135, issued to Halaco Engineering Co. by the Regional Board on October 30, 2003 ("CAO"), and such other orders as the Regional Board may pursuant to its lawful authority issue against Halaco Engineering Co., its successors, assigns, or other parties responsible for contamination of the Halaco Site or of the Property.

- c) Exercise due care with regard to the restoration and management of the Property upon acquisition by TNC by taking reasonable actions to limit exposure, and not interfere with the investigation of the extent, source, and nature of the contamination/pollution releases or with the implementation of remedial or removal actions by the Regional Board or parties responsible for contamination of the Property and the Halaco Site. Upon request, the Regional Board shall review and provide TNC and SCC with written comments on any actions proposed or undertaken by TNC, SCC or either of them, on the Property with respect to the impacts of these activities on Known Conditions or on efforts by the Regional Board or the responsible parties to investigate the extent, source and nature of contamination or pollution releases on the Property or to implement remedial or removal actions.
 - d) Prior to commencing any wetland restoration, development or other intrusive activity such as grading or excavation (it being understood that normal property management and maintenance activities, such as removal of rubbish, trash, or non-native vegetation, installation of fencing and signage, and continuance of the existing agricultural operations in compliance with law shall not be deemed intrusive) which the Released Parties may undertake on the Property, consult with Regional Board staff and obtain any and all necessary Regional Board approvals, and comply with all conditions thereof, as necessary to the protection of human health and the environment from contamination on the Property.
7. This Mutual Release shall be in full force and effect from the Effective Date. TNC shall have ten (10) days from the date upon which TNC takes title to the Property (or to each portion thereof, with respect to that portion) to provide a copy of the recorded deed restriction to the Regional Board. If TNC fails to record the deed restriction within the time frame set forth above, which may be extended by the Regional Board at its discretion, this Mutual Release shall automatically terminate.
8. This Mutual Release shall not prohibit the Regional Board from asserting any claim or taking any enforcement action or other civil or administrative proceeding against the Released Parties related to any condition of pollution at or under the Property prior to or after the Effective Date that is not arising from the Known Conditions.


9. This Mutual Release is entered into in view of the unique circumstances existing with respect to the Property, including but not limited to current actions of the Regional Board relating to the Halaco Site as such Regional Board actions concerning the Halaco Site affect the Property; the information provided to the Regional Board by TNC and SCC with regard to the Property; the ability and willingness of TNC and SCC to cooperate and collaborate with the Regional Board to identify and address contamination of the Property; the magnitude of the public benefits to be achieved through the reservation, protection, conservation and possible future restoration of natural resources on the Property by TNC and SCC consistent with the *Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties*; the intention and the capability of SCC and TNC to undertake the restoration project on the Property, as demonstrated by SCC's current commitment of funding to a restoration feasibility study and acquisition of various properties necessary to the restoration of as much as 750 acres of historic wetlands at Ormond Beach, and by SCC's record of experience in implementing wetland restoration projects throughout coastal California; and the likelihood that, without the assurances and protections provided by this Mutual Release, the Property would be developed in a manner inconsistent with these purposes. It is not intended and shall not be construed as precedent for other public acquisitions.
10. TNC shall record this Mutual Release in the County of Ventura within thirty (30) days of the date hereof. A copy of the recording shall be provided to the Regional Board within ten (10) days of the recording date.
11. The Regional Board shall cooperate, to the extent consistent with its responsibilities under applicable law, to use reasonable efforts to assure that any response action undertaken in connection with the Halaco Site or Property is undertaken in a manner that minimizes any interference with conservation of the Property.
12. This Mutual Release may be executed in one or more counterparts, each such counterpart being deemed an original but all counterparts constituting a single instrument. Execution of this Mutual Release by the undersigned parties shall make the Mutual Release effective and shall confer the benefits of the Mutual Release upon all Released Parties, except as otherwise specified herein.

Each of the persons signing this Mutual Release on behalf of an undersigned party hereby certifies, and warrants that he or she is authorized to bind his or her agency or entity to the continuing obligations described herein, and that the foregoing is a full, true and correct copy of Attachment 1 to Resolution No. 05-005, Mutual Release and Covenant Not to Sue adopted by the California Regional Water Quality Control Board, Los Angeles Region, on April 7, 2005.

The Nature Conservancy,
a District of Columbia nonprofit corporation

By: Mike Sweeney
By: Mike Sweeney
Date: 7/26/05

ATTEST:

State of California) County of San Francisco)	
On <u>July 26, 2005</u> , before me, <u>Kevin P. Jewell</u> , personally appeared Mike Sweeney, 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.	
<u>Kevin P. Jewell</u> Notary Public	
Attention Notary: The information requested below is optional, but could prevent fraudulent attachment of this certificate to unauthorized documents.	
Signer purports to represent: The Nature Conservancy	Certificate must be attached to document described below:
Capacity Claimed by Signer: Chief Operating Officer -- California	Title or Type of Document: <u>Environmental Restrictions Mutual Release and Covenant Not to Sue for Ormond Beach Property, California</u> Date Signed: <u>July 26, 2005</u> # of pages: <u>11 (including notarizations), plus exhibits</u>
	Other parties whose signature(s) is/are not notarized here: <u>California Regional Water Quality Control Board</u> <u>California State Coastal Conservancy</u>

California State Coastal Conservancy,
an agency of the State of California

By: [Signature]
By: _____
Date: Steve Horn, Deputy Executive Officer

ATTEST:

STATE OF California)
) S.S.
COUNTY OF Alameda)

On July 26th, 2005, before me, HONG LE TRUONG, a notary public in and
for such County and State, personally appeared STEVE HORN and
_____, 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 entity upon behalf of which the person(s) acted, executed
the instrument.

WITNESS my hand and official seal.

HongLeTruong
Notary Public



List of Exhibits

- A. Legal Description of Ormond Beach Property
- B. Description of Halaco Site
- C. Documents and information submitted to Regional Board regarding the Property
- D. Written Instrument of Release and Transfer Document
- E. Board Deed Restriction

EXHIBIT A

Legal Description of Ormond Beach Property

PARCEL 1 (MWD/CDC Property)

That certain parcel of land in the City of Oxnard, County of Ventura, State of California, as conveyed to the Metropolitan Water District of Southern California and Oxnard Community Development Commission by grant deed recorded August 4, 1998 as Document No. 98-129325 of Official Records in the Office of the County Recorder of said County.

EXCEPTING THEREFROM Parcel 1 of Lot Line Adjustment 04-310-7, in the City of Oxnard, County of Ventura, State of California, recorded November 16, 2004 as Document No. 20041116-0306859 of Official Records, in the Office of the County Recorder of said County.

ALSO EXCEPTING THEREFROM Parcel C3 as conveyed to the Metropolitan Water District of Southern California and Oxnard Community Development Commission by grant deed recorded August 4, 1998 as Document No. 98-129325 of Official Records in the Office of the County Recorder of said County.

PARCEL 2 (Gordon Property)

A portion of Lot 8 of Subdivision 84 of the Rancho El Rio de Santa Clara o'la Colonia, in the City of Oxnard, County of Ventura, State of California, as per Map recorded in Book 3, page 14 of Maps, in the office of the County Recorder of said County.

Beginning at the intersection of the center line of Perkins Road (abandoned) with the Southeasterly boundary of a parcel known as the Oxnard City Shoestring as described in Parcel 13 in a deed recorded in Book 787, page 149 of official Records, in the office of the County Recorder of said County; thence,

1st: South 204.34 feet along the said center line of Perkins Road (abandoned); thence

2nd: South 43 degrees 01 minute 30 seconds West 142.58 feet to a point in the center line of a 100 foot right of way described as Parcel "C" of 577/207; thence

3rd: Northwesterly along said center line to the intersection with the Southeasterly boundary of said Oxnard Shoestring; thence

4th: North 43 degrees 37 minutes East along said Southeasterly boundary to the point of beginning.

EXHIBIT B

Description of Halaco Site

The Halaco Site is located at 6200 Perkins Road, Oxnard, California (Section 27, T1N, R22W, San Bernardino Baseline and Meridian, within the Oxnard Hydrologic Subarea). It totals approximately 43 acres and is divided into two separate land units by the Oxnard Industrial Drain. The 15-acre western side was used for Halaco Engineering Co. smelting processes, and the 28-acre eastern side contains the surface impoundment and waste disposal area.

EXHIBIT C

Documents and Information Submitted to Regional Board
Regarding Environmental Conditions on the Property

SECOR International Incorporated, Phase I Environmental Site Assessment: 309-Acre Ormond Beach Property, McWane Boulevard, Oxnard, California, July 2, 2001 (SECOR PN 037,20314.001)

SECOR International Incorporated, Phase 2 Environmental Site Assessment Report: Ormond Beach, Metropolitan Water District/City of Oxnard Property, McWane Boulevard, Oxnard, California, September 17, 2004 (SECOR Job. No. 370T.20314.01)

SECOR International Incorporated, "Contaminant Comparison", dated 10/13/04, and sources cited therein (E&E 1992; N&M 1997; WCC 1988; HLA 1988)

EXHIBIT D

**California Regional Water Quality Control Board
Los Angeles Region**

**Attachment 4 to Resolution No. 05-005
Written Instrument of Release and Transfer Document**

_____ [name of transferee] (hereinafter "Released Party"), by signing below verifies and warrants as follows:

Released Party has read the Mutual Release and Covenant Not to Sue ("Mutual Release") document, for the Ormond Beach Property in the City of Oxnard, County of Ventura, California as identified in Attachment 2 to Resolution No. 05-005.

Released Party understands and agrees that the Mutual Release contains a release by the Regional Water Quality Control Board ("Regional Board") and a covenant not to bring or support any action or order against The Nature Conservancy, a District of Columbia nonprofit corporation ("TNC") or the California State Coastal Conservancy, an agency of the State of California including their directors, officers, employees, members, agents, and contractors, related to the Known Conditions (as defined in the Mutual Release), including contamination at, under, or migrating to the Property (as defined in the Mutual Release), and to extend the benefits of that release and covenant to a public agency or nonprofit organization succeeding to TNC's interest in the Property, but only if said successors' interests or assigns' interests are taken, held and used solely for open space, wetlands restoration, wildlife habitat and/or appropriate public access consistent therewith and only if said successors or assigns did not cause or contribute to the Known Conditions.

Released Party is a public agency or nonprofit organization existing under the provisions of section 501(c)(3) of the United States Internal Revenue Code, which proposes to accept title to the Property for purposes of open space, wetlands restoration, wildlife habitat and/or appropriate public access and subject to recorded restrictions limiting the use of the Property to these purposes. Released Party understands and agrees that it may enjoy the benefits of the Mutual Release only if it releases and covenants not to sue the Regional Board as set forth in the Mutual Release, and that by executing this Release, Released Party releases and covenants not to sue the Regional Board in accordance with the terms of the Mutual Release.

Released Party understands and agrees that its right to rely on the benefits of the Mutual Release is subject to and conditioned on its own, but only its own, compliance with its obligations under the terms of the Mutual Release.

Released Party accepts and agrees to abide by all provisions of the Mutual Release.

This Release and Transfer Document shall be effective upon execution by the Released Party. As soon as practical after execution, Released Party agrees to mail the executed Release to: Executive Officer, Regional Water Quality Control Board, Los Angeles Region).

EXHIBIT E

REGIONAL BOARD DEED RESTRICTION

Recording Requested By:

Mr. Mike Sweeney, California Chief Operating Officer
The Nature Conservancy
201 Mission Street, 4th Floor
San Francisco, CA 94105

California State Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, CA 94612-2530
Att: Legal Counsel (MG)

When Recorded, Mail To:

Mr. Jonathan S. Bishop, Executive Officer
California Regional Water Quality Control Board-
Los Angeles Region
320st 4th Street, Suite 200
321 Los Angeles, California 90013-2343

COVENANT AND ENVIRONMENTAL RESTRICTION
ON PROPERTY

*Real Property consisting of approximately 277 acres located
at Ormond Beach in the City of Oxnard, Ventura County*

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the ____ day of _____, 2005 by The Nature Conservancy, a District of Columbia nonprofit corporation ("TNC") and the California State Coastal Conservancy, an agency of the State of California ("SCC") (TNC and SCC are collectively referred to herein as the "Covenantor") who are, respectively, the Owner (as defined below) of record of, and holder of certain rights and executory interests in, that certain real property consisting of approximately 277 acres located at Ormond Beach in the City of Oxnard, Ventura County, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (hereinafter referred to as the "Property"), for the benefit of the Board (as defined below), with reference to the following facts:

A. Hazardous Materials. Environmental site assessments have detected contamination on the Property, including metals, pesticides, PCBs, VOCs, and SVOCs, which constitute hazardous materials as that term is defined in Section 25260 of the Health and Safety Code.

B. Past Uses of the Property. Past uses of the Property have included agriculture, disposal of dredged spoils, and paint storage.

C. Adjacent Land Use and Population Potentially Affected. At present a portion of the Property is being farmed, and several industrial facilities are located in the vicinity. Immediately adjacent to the Property is a site that has been used for waste disposal and for secondary production of aluminum and magnesium and which site is the subject of waste discharge requirements and various orders issued by the Board with reference to identified wastes generated on the adjacent site, including some that have impacted the Property.

D. Proposed Redevelopment. The Property will be used for purposes of open space and wildlife habitat preservation, potential wetlands restoration, and appropriate public access (including related facilities) consistent with the preservation and restoration of the Property. Under terms of the SCC grant to TNC, and pursuant to SCC's enabling legislation, Division 21 of the Public Resources Code, the Property will be permanently dedicated to these intended uses.

E. Mutual Release and Covenant Not to Sue. On April 7, 2005 the Board adopted Resolution No. 05-005 (the "**Resolution**"), authorizing its Executive Officer to enter into a Mutual Release and Covenant Not to Sue with TNC and SCC for the Property which requires, among other things, that as a condition of the Mutual Release, a deed restriction be recorded that prescribes limitations on future development of the Property. The Mutual Release has been executed and this Covenant is being executed and recorded pursuant to the Resolution.

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 Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. The restrictions set forth in Article III are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the Property of hazardous materials. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the 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 are imposed upon the entire Property unless expressly stated as applicable to a specific portion of the Property. Each and all of the Restrictions run with the land pursuant to section 1471 of the Civil Code. Each and all of the Restrictions are enforceable by the Board.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, 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 must be adhered to for the benefit of the Board and the Owners and Occupants of the Property and that the interest of the Owners and Occupants of 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 and attached to each and all deeds and leases of any portion of the Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement 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 for the Los Angeles Region and shall include its successor agencies, if any.

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

2.3 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor or, upon Covenantor's conveyance of the Property, the successors in interest to Covenantor who hold title to all or any portion of the Property.

ARTICLE III DEVELOPMENT, USE AND CONVEYANCE OF THE PROPERTY

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

a. There shall be no development of the Property except for the purpose of open space and wildlife habitat preservation, potential wetlands restoration, and appropriate public access (including related facilities) consistent with the preservation and restoration of the Property. Continuance of the existing agricultural operation is acknowledged as consistent with preservation of the Property;

b. No Owners or Occupants of the Property or any portion thereof shall conduct any wetland restoration or public access development activities without Board oversight. Any contaminated soils brought to the surface by grading, excavation, trenching, backfilling, preservation or restoration activity shall be managed by Covenantor or any Owner-successor to Covenantor in accordance with all applicable provisions of local, state and federal law;

c. No Owners or Occupants of the Property or any portion thereof 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 permitted in writing by the Board; provided however, the Board hereby consents to the continued agricultural use of a well on the Property in the approximate location shown on the map attached hereto as Exhibit B and incorporated herein by this reference, which well is currently used by Oceanview Produce Company, a California corporation ("Oceanview") for Oceanview's agricultural operation. The well shall not be used to provide drinking water. If such well becomes inoperable, Owners and/or Occupants of the Property have the right to repair and/or to replace the well;

d. The Covenantor, and all Owner-successors to the Covenantor, agree that the Board, and/or any persons acting pursuant to Board orders, shall have reasonable access to the Property for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the Water Code;

e. All Owners or Occupants of the Property shall exercise due care with respect to the existing contamination of the Property.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the restrictions, as set forth in paragraph 3.1, shall be grounds for the Board, by reason of this Covenant, to have the authority to require that the Owner modify or remove any development constructed in violation of that paragraph. Violation of the Covenant shall be grounds for the Board to file civil actions against the Owner as provided by law.

3.3 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. 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 dated as of _____, 2005, and recorded on _____, 2005, in the Official Records of Ventura County, California, as Document No. _____, which Covenant and Environmental Restriction on 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 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.

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 contained in this Covenant as such restrictions apply to all or any portion of the 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 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 (1) when delivered, if personally delivered to the person being served or official of a government agency being served, (2) the next business day after being deposited with the delivery service as long as the next business day service is requested by the sender, if mailed by Federal Express or other reputable overnight delivery service, or (3) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

If To: "Covenantor"
The Nature Conservancy
201 Mission Street, 4th Floor
San Francisco, CA 94105
Attn: Legal Department

Mr. Samuel Schuchat, Executive Officer
California State Coastal Conservancy
1330 Broadway, 11th Floor
Oakland, CA 94612-2530

If To: "Board"
Regional Water Quality Control Board
Los Angeles Region

Attention: Executive Officer
320 West 4th Street, Suite 200
Los Angeles, CA 90013-2343

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 Executive Officer of the Board. This instrument shall be recorded by the Covenantor in the County of Ventura within ten (10) days of the date upon which TNC take title to the Property (or each portion thereof, with respect to that portion).

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

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose 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: The Nature Conservancy and California State Coastal Conservancy.

The Nature Conservancy:

By: _____

Date

State Coastal Conservancy:

By: _____

Date

Agency: California Regional Water Quality Control Board for the Los Angeles Region

By: _____
Jonathan S. Bishop, Executive Officer

_____ Date