



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
Alan Weaver, DIRECTOR

December 6, 2007

Mr. Peter Bailey  
Department of toxics Substance Control  
Permit Renewal Team  
8800 Cal Center Drive  
Sacramento, CA 95826

Dear Mr. Bailey:

RE: Transmittal – Recorded Land Use Restrictions Covenant and Survey Plat, Blue Hills Disposal Facility, Fresno County, EPA ID CAT080010606

Enclosed with this letter is one copy of the Recorded Blue Hills Disposal Facility Land Use Restrictions Covenant and Survey Plat. The documents were recorded by the Fresno County Recorder on November 15, 2007. The recordation of these documents fulfills a condition of the Blue Hills Disposal Facility Post Closure Permit as stated in a September 7, 2007 letter to Marion L. Miller from the California Department of Toxic Substance Control.

If you have any questions regarding fulfillment of this permit condition, please contact Daniel Carlson at (559) 262-4259.

Sincerely,

*//Original signed by//*

Marion L Miller  
Resources Manager

MLM:TC:ef  
G:\4360Resources\COCKRUMLETTERS\BH\_DTSC Trans Recorded LUC.doc  
11/6/07

Enclosure

c: Shelton Gray, California Regional Water Quality Control Board  
Daniel Carlson, Fresno County (less enclosure)

311

1 Recording requested by

2 COUNTY OF FRESNO

3 After recording, please return to:

4 Marion L. Miller  
5 Resources Manager  
6 Resources Division  
7 Department of Public Works  
8 and Planning



FRESNO County Recorder  
Robert C. Werner  
DOC- 2007-0206986  
Thursday, NOV 15, 2007 10:43:45  
Ttl Pd \$0.00 Nbr-0002645998  
DJG/R6/1-31

8 **NOTICE OF ENVIRONMENTAL RESTRICTIONS ON USE OF PROPERTY**

9 Notice is hereby given, pursuant to California Civil Code Section 1471, of  
10 environmental restrictions on the use of the real property that is described in Exhibit "1"  
11 hereto, which restrictions are imposed by means of County Agreement No. 07-454,  
12 "Covenant and Agreement to Restrict Use of Property" (a true and correct copy of which  
13 is attached hereto as Exhibit "2" and incorporated by this reference) between the  
14 County of Fresno, as Owner of said property, and the California Department of Toxic  
15 Substances Control, the recording of which is in accordance with the directive of the  
16 Fresno County Board of Supervisors in Resolution No. 05-572, a true and correct  
17 copy of which is attached hereto as Exhibit "3."  
18

19 Dated: November 15, 2007

COUNTY OF FRESNO

21 //Original signed by//  
22 Alar Weaver, Director  
23 Department of Public Works and Planning

EXHIBIT 1

Township 19 South, Range 15 East, M. D. B. & M.

Section 3: Commencing at the Northeast corner of said Section 3; thence South along the East line of said Section 3 a distance of 1524.80 feet to a point, said point being the true point of beginning; thence continuing South along the East line of said Section 3 to a distance of 1086.89 feet; thence West a distance of 1272.62 feet; thence North a distance of 1086.89 feet; thence East a distance of 1272.62 feet to the True Beginning Point.



Linda S. Adams  
Secretary for  
Environmental Protection

## Department of Toxic Substances Control

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Maureen F. Gorsen, Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200



Arnold Schwarzenegger  
Governor

### COVENANT TO RESTRICT USE OF PROPERTY

#### ENVIRONMENTAL RESTRICTION

**Re: Blue Hills Hazardous Waste Disposal Facility, APN# 058-180-32ST**

This Covenant and Agreement ("Covenant") is made by and between County of Fresno (the "Covenanter"), the current owner of certain property situated in County of Fresno approximately 9 miles northeast of the City of Coalinga, California, described in Exhibit "A," which is attached and incorporated by this reference (the "Property"), and the Department of Toxic Substances Control (the "Department"). Pursuant to Civil Code section 1471(c), the Department 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 presence on the land of hazardous materials as defined in Health and Safety Code section 25260. The Covenanter and the Department (collectively referred to as the "Parties") therefore intend that the use of the Property be restricted as set forth in this Covenant, in order to protect human health and safety and the environment.

## ARTICLE I

### STATEMENT OF FACTS

**1.01.** The Property, totaling approximately 32 acres is more particularly described and depicted in Exhibit "A," attached hereto. The Property is located in the area generally bounded by the Northeast Quarter of Section 3, Township 19 South, Range 15 East, Mount Diablo Base and Meridian in the County of Fresno, State of California. This property is more specifically described as Fresno County Assessor's Parcel Number(s): 058-180-32ST (the "Capped Property"). A "Property location Map" depicting the Property in relation to its surrounding area is attached hereto as "Exhibit B."

**1.02.** In 1973, the Department's predecessor in interest (California Department of Health Services) authorized this disposal facility ("Facility") pursuant to an interim status document. Under this authorization the Property was a hazardous waste facility, regulated by the Department, subject to the requirements of the Hazardous Waste Control Law of Health and Safety Code section 25100 et seq. The deed restrictions provided for herein are being required by the Department as a condition of issuance of the Post-Closure Permit, pursuant to the applicable post-closure provisions of Title 22 of the California Code of Regulations (CCR), including but not limited to 22 CCR Section 66264.119(b).

The Department is requiring this Covenant as part of the facility post-closure permitting process. Because hazardous wastes, which are also hazardous materials as defined in Health and Safety Code sections 25117 and 25260, including the herbicide known as Dicamba, remain in the groundwater at the Property, the Closure

Plan and Waste Discharge Requirements (Order No. 99-087) provided that a deed restriction would be required as part of the facility closure. The Department approved the Closure Plan together with the Negative Declaration on September 18, 1988.

Hazardous wastes as defined in Health and Safety Code sections 25117 and 25260, including those listed in "Exhibit C", remain in the fill on the Property. Closure included installing and maintaining a cover ("Cap"). The Cap consists of a low permeability clay layer over the hazardous wastes, as more particularly described in the engineering drawing as described in the approved Closure Plan. The Property also includes groundwater monitoring wells ("Monitoring Wells"), the location of which is shown on the map attached hereto as Exhibit "D". The operation and maintenance of the Cap and Monitoring Wells shall be carried out pursuant to the Post-Closure Maintenance Plan and Waste Discharge Requirements (Order No. 99-087).

## ARTICLE II

### DEFINITIONS

**2.01. Department.** "Department" means the California Department of Toxic Substances Control and its successor agencies, if any.

**2.02. Owner.** "Owner" means the Covenanter, 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.

**2.03. Occupant.** "Occupant" means Owners and any persons or entities entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

## ARTICLE III

### GENERAL PROVISIONS

**3.01. Restrictions to Run with the Land.** This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively referred to as "Restrictions"), upon and subject to which the Blue Hills Hazardous Waste Disposal Facility and every portion of it shall be improved, held, used, occupied, leased, sold, hypothecated, hereby encumbered, and/or conveyed. Each and every one of the Restrictions: (a) shall run with the land pursuant to Health and Safety Code sections 25202.5 and 25202.6 and Civil Code section 1471; (b) shall inure to the benefit of and pass with each and every portion of the Property; (c) shall apply to and bind the respective successors in interest to the Property; (d) are for the benefit of, and shall be enforceable by the Department; and (e) are imposed upon the entire Property unless expressly stated as applicable only to a specific portion.

**3.02. Binding upon Owners/Occupants.** Pursuant to Health and Safety Code section 25202.5(b), this Covenant shall be binding upon the covenantor and all of the owners of the land, 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 by this covenant for the benefit of the Department.

**3.03. Written Notice of Hazardous Substances Release.** The Owner shall, prior to the sale, lease, or rental of the Property, give written notice, pursuant to Health and Safety Code section 25359.7, that a release of hazardous substances has come to be located on or beneath the Property, and shall advise any such prospective buyer or

tenant of any ongoing monitoring and/or remediation obligations, and shall provide any such prospective buyer or tenant with a copy of this Covenant.

#### **ARTICLE IV**

#### **RESTRICTIONS**

**4.01. Prohibited Uses.** The Property shall not be used for any purpose with the exception of Property maintenance and groundwater monitoring. Due to the prior use of the Property as a hazardous waste landfill, land use options for the Property are restricted in accordance with the post-closure land uses set forth in the post-closure plan and in waste discharge requirements for the landfill.

**4.02. Post-Closure Plan.** The Post-Closure Plan provides that the post-closure end use of the landfill Property shall be consistent with surrounding uses and zoning, and that the Property shall be maintained as non-irrigated open space, closed to the public. The Post-Closure Plan further provides that no use of the Property shall be allowed that might disturb the integrity of the final cover, or components of the containment system, or the functioning of the monitoring system. No agricultural or range use of the Property shall be allowed, nor shall any facilities or deep-rooted vegetation be allowed on filled areas.

**4.03. Notice to Prospective Purchasers.** In the event the Covenanter defaults on implementation of the Post-Closure Maintenance Plan or any monitoring activities specified in the Post-Closure Maintenance Plan, including groundwater monitoring, leachate monitoring, and ambient air monitoring, or any corrective action hereafter required in order to address a release, the responsibility for carrying out such work may fall to a successor owner of the Property.

**4.04. Non-Interference with Cap.** Covenanter shall notify the Department of each of the following: (i) The type, cause, location, and date of any disturbance to the Cap that could affect the ability of the Cap to contain subsurface hazardous wastes or hazardous materials in the Capped Property, and (ii) the type and date of repair of such disturbance. Notification to the Department shall be made as provided below within ten (10) working days of the discovery of any such disturbance and the completion of any repairs. Timely and accurate notification by any Owner or Occupant shall satisfy this requirement on behalf of all other Owners and Occupants.

**4.05. Access for Implementing Operation and Maintenance.** The Owner, or any person or entity authorized by contract to perform any required maintenance and/or monitoring, shall have reasonable right of entry and access to the Property for implementing maintenance and/or monitoring, until such time as the Department determines that no further operation and maintenance shall be required.

## **ARTICLE V**

### **ENFORCEMENT**

**5.01. Enforcement.** Failure of the Covenanter and/or Owner to comply with any of the Restrictions specifically applicable to it shall be grounds for the Department, by reason of this Covenant, to require that the Covenanter and/or Owner modify or remove any improvements constructed in violation of the Restrictions. "Improvements" means all buildings, roads, driveways, and paved parking areas, constructed or placed upon any portion of the Property. Violation of this Covenant shall be grounds for the Department to file civil and/or criminal actions against the Covenanter and/or Owner as provided by law.

## ARTICLE VI

### VARIANCE, TERMINATION, AND TERM

**6.01. Variance.** Any Owner, or with the Owner's written consent, any Occupant of the Property or any portion of the Property may apply to the Department for a written variance from the provisions of this Covenant. The application shall be made in accordance with Health and Safety Code section 25202.6.

**6.02. Termination.** Any Owner, or with the Owner's written consent, any Occupant of the Property or any portion of the Property, may apply to the Department for a termination of the Restrictions or other terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with Health and Safety Code section 25202.6.

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

## ARTICLE VII

### 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 of it to the general public or anyone else for any purpose.

**7.02. Department References.** All references to the Department include successor agencies or other successor entity.

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

**7.04. Notices.** Whenever any person gives or serves any notice ("Notice" means 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 business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

**To Owner:** County of Fresno  
2220 Tulare St., Sixth Floor  
Fresno, California 93721  
Marion Miller  
Manager, Resources Division

**To Department:** Department of Toxic Substance Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200  
James M. Pappas, P.E., Chief  
Northern California Permitting  
and Corrective Action Branch

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. Access for Department.** The Department 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 Department in order to protect the public health and safety and the environment.

**7.06. Partial Invalidity.** If any portion of the Restrictions or other term set forth in this document is 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.

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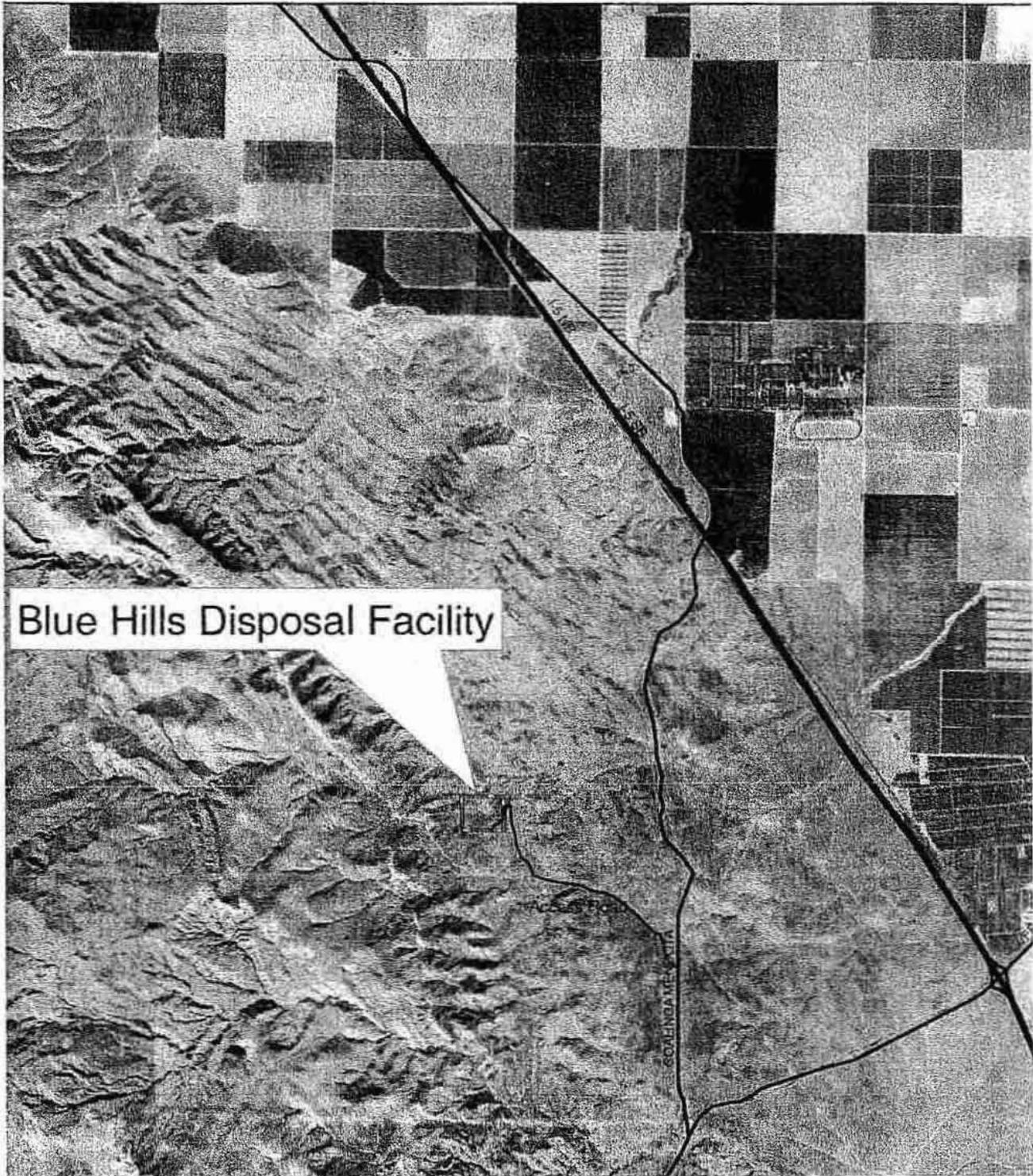
**EXHIBIT A**

**Township 19 South, Range 15 East, M. D. B. & M.**

Section 3: Commencing at the Northeast corner of said Section 3; thence South along the East line of said Section 3 a distance of 1524.80 feet to a point, said point being the true point of beginning; thence continuing South along the East line of said Section 3 to a distance of 1086.89 feet; thence West a distance of 1272.62 feet; thence North a distance of 1086.89 feet; thence East a distance of 1272.62 feet to the True Beginning Point.

EXHIBIT B

Site Location Map



## EXHIBIT C

### Waste Disposal List Blue Hills Disposal Facility

Botran	Captan	Sulfur
Thiodan	Parathion	Paraquat
Phosdrin	2,4-D	DiSystin
organic phosphates	Kepone	Dimate
Lindane	Orthothide 50	Capitah 50
B.H.C. 10	Diazinon	Tedion
Dieldrin	Aramite	Bluestone
Botran/Aramite mix	Glacron	Kelthane
TOK WP-50	Clordane	Eptam
Thoricide	By Gon	Cyanamid
Berban	Sevin	Kromad
VPM	Acti-Dione	2,4,5-T
Dowpon	Maximul	lead aromate
silver (Kuran)	DDT	zinz phosphide
Dithane Z-78	Ryamicide 100	Chloropicrin
cycloheximide	DDVP	Zineb 75
Malathion 25	Dacthol G-5	Flit -NLO
Dibrom/Sevin mix	Thiodan	Cushion
copper sulfate	TDE	methyl bromide
standard lead (91lbs.)	Phosphamidon	Treflan
Methylurea	maleic hydrazide	Sinbar
Dinitro-o-sec-butylphenol	Sequestriene	Maneb
Cyprex	Nemagon	Diacelosypropene
CH <sub>3</sub> Br	Check-Turf	Gro-Tard
Endrin	Terrachlor	Pyrethrins
Sinox	Strychnine	Tetracthyl pyrophosphate
sludge acid	Supracide	Curacron
Galecron	Metasystox	Lorsilan 4E
Nemacur	Azodrin	Round-up
Folex	Monitor	Chloropyrifos
Fenthion	Phytar	Brominal
Ethylene Dibromide	Sonalan	Rubigan
Balan	Timik	Endothal96
Altosid	Baytex	Endosulphan Tech
Killmaster #2	Nitrophenal	

EXHIBIT D

