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November 2004

RECORDING REQUESTED BY:  
ChevronTexaco Exploration and Production Company  
9525 Camino Media  
Bakersfield, California 93311

Kings County Clerk Recorder  
George J. Misner

04/19/2005  
09:34:12

r01:

WHEN RECORDED, MAIL TO:  
Branch Chief  
Northern California Permitting and  
Corrective Action Branch  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

COVENANT TO RESTRICT USE OF PROPERTY  
ENVIRONMENTAL RESTRICTION  
FOR THE CHEVRONTEXACO 35Q SITE  
HAZARDOUS WASTE MANAGEMENT FACILITY

This Covenant and Agreement ("Covenant") is made by and between ChevronTexaco <sup>U.S.A. Inc. RMB JAP</sup>  
~~Exploration and Production Company~~ (the "Covenantor"), the current owner of certain property  
situated southwest of Kettleman City, County of Kings, State of California, described in Exhibit  
A, attached hereto and incorporated herein by this reference (the "Property"), and the Department  
of Toxic Substances Control (the "Department"). Pursuant to Civil Code section 1471, 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 Covenantor 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 twenty acres is more particularly described  
and depicted in Exhibit A, attached hereto and incorporated herein by this reference. The  
Property is located in the central portion of the eastern half of Section 35, Township 32 south,  
Range 18 east, on Bull Wheel Ridge Road approximately four miles southwest of Kettleman City  
in the County of Kings, State of California. This property is more specifically described as <sup>Kerr</sup>  
County Assessor's Parcel Number: 038-320-011 and 038-320-012. <sub>KINGS RMB JAP</sub>

1.02. On December 14, 1979 the Department's predecessor agency, California  
Department of Health Services, issued a permit to authorized the use of the Property as a land

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treatment facility ("Facility"). Under this authorization, the Property was a hazardous waste facility regulated by the Department, subject to the requirements of the California Hazardous Waste Control Law ("HWCL"), Health and Safety Code section 25100 et seq., and the federal Resource Conservation and Recovery Act 42 U.S.C. section 6901 et seq.

1.03. Pursuant to the closure requirements of the HWCL, including Health and Safety Code section 25246 and the California Code of Regulations, Title 22, Section 66264.110 et seq., the Department circulated the Closure Plan, which referenced a Final Health Risk Assessment, together with a draft Negative Declaration pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq., for public review and comment from June 15, 1994 to July 15, 1994. The Department approved the Closure Plan together with the Negative Declaration on September 8, 1994. Because hazardous wastes, which are also hazardous materials as defined in Health and Safety Code sections 25117 and 25260, remain in the soil at the Property, the approved Closure Plan provides that a land use restriction is required as part of the closure of the Facility.

1.04. The closure of the Facility involved the installation of a permanent vegetative cover to control soil erosion and to prevent water and wind borne erosion and off-site transport of soil or waste material. The vegetative cover consists of drought tolerant native grass and shrub varieties chosen for adaptability to the area.

1.05. As stated in the Final Health Risk Assessment as approved by the Department on June 8, 1994, the surface and subsurface soils of the Property contain hazardous wastes and hazardous materials, which include the following contaminants of concern: barium, boron, chloride, sodium, sulfate and petroleum hydrocarbons. Based on the Final Health Risk Assessment, the Department concluded that use of the Property as a residence, hospital, school for persons under the age of 21, or day care center would entail an unacceptable cancer risk. The Department further concluded that the Property, as remediated and as its use is limited by this Covenant, does not present an unacceptable threat to human health or safety or the environment.

## 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 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.

2.03. 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 Property and every portion of it shall be improved, held, used, occupied, leased, sold, hypothecated, 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) is for the benefit of, and shall be enforceable by the Department; and (e) is 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, all successive owners of the Property are expressly bound by this covenant for the benefit of the Department.

3.03. Written Notice of Hazardous Substance Release. The Owner shall, prior to the sale, lease, or rental of the Property, give written notice that a release of hazardous substances has come to be located on or beneath the Property, pursuant to Health and Safety Code section 25359.7. Such written notice shall include a copy of this covenant.

3.04. Conveyance of Property. Covenantor agrees that the Owner shall provide notice to the Department not later than 30 days after conveyance of any ownership interest in the Property (excluding mortgages, liens, and other non-possessory encumbrances). The Department shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect such proposed conveyance, except as otherwise provided by law, administrative order, or specific provision of this Covenant.

ARTICLE IV  
RESTRICTIONS

4.01. Prohibited Uses. The use of the Property shall be restricted for commercial and industrial purposes only. The Property shall not be used for any of the following purposes:

- (a) A residence, including any mobile home or factory-built housing, constructed or installed for use as residential human habitation.
- (b) A hospital for humans.
- (c) A public or private school for persons under 21 years of age.
- (d) A day care center for children.

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4.02. Soil Management.

- (a) No activities that will disturb the soil, such as excavation, grading, removal, trenching, filling, earth movement, or mining, shall be permitted on the Property without a Soil Management Plan and a Health and Safety Plan approved by the Department .
- (b) Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed in accordance with all applicable provisions of state and federal law.

4.03. Prohibited Activities. The following activities are prohibited at the Property:

- (a) Raising of livestock, food crops, or agricultural products.
- (b) Drilling for drinking water, oil or gas.
- (c) Extraction of groundwater for purposes other than site remediation or construction dewatering

4.04. Non-Interference with Vegetative Cover

- (a) No activities that will disturb the vegetative cover, such as excavation, grading, removal, trenching, filling, earth movement, or mining, shall be permitted on the Property without prior review and written approval by the Department.
- (b) Any proposed alteration of the vegetative cover requires prior written approval by the Department.

ARTICLE V  
ENFORCEMENT

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

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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 terminated 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, whatsoever.

7.02. Department References. All references to the Department 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 Kings within ten days of the Covenantor's receipt of a fully executed original from the Department.

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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: ChevronTexaco Exploration and Production Company  
James M. Waldron  
Staff Hydrogeologist, RG, C Hg  
9525 Camino Media  
Bakersfield, CA 93311

To Department: Branch Chief  
Northern California Permitting and  
Corrective Action Branch  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, CA 95826-3200

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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IN WITNESS WHEREOF, the Parties execute this Covenant.

Chevron U.S.A. Inc., "Covenantor"

By: RM Buelow Date: 1-27-05

Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by \_\_\_\_\_ on behalf of ChevronTexaco Exploration and Production Company.

Please see attached.

\_\_\_\_\_  
Notary Public

DEPARTMENT OF TOXIC SUBSTANCES CONTROL, "Department"

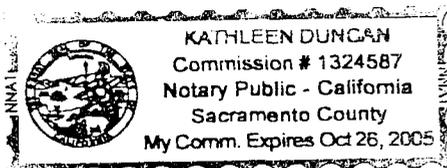
By: James M. Pappas Date: 2/10/05

James M. Pappas, P.E., Chief  
Northern California Permitting and  
Corrective Action Branch

STATE OF CALIFORNIA )  
 )  
COUNTY OF Sacramento )

This instrument was acknowledged before me this 10<sup>th</sup> day of February, 2004, by James M. Pappas on behalf of Department of Toxic Substances Control.

Kathleen Dungan  
Notary Public



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

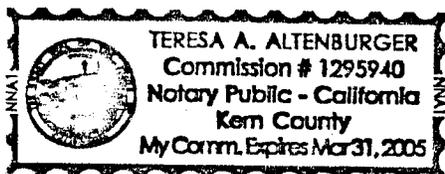
State of California

County of Kern

On January 28, 2005 before me, Teresa A. Altenburger, Notary Public,  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared R. M. Buelow,  
NAME(S) OF SIGNER(S)

XX 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.

Teresa A. Altenburger  
SIGNATURE OF NOTARY

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

INDIVIDUAL(S)  
 CORPORATE OFFICER

DESCRIPTION OF ATTACHED DOCUMENT

Assistant Secretary  
ChevronTexaco 35Q Site Hazardous Waste Management Facility  
TITLE(S)

Covenant to Restrict Use of Property Environmental Restriction for the  
TITLE OR TYPE OF DOCUMENT

PARTNER(S)  LIMITED  
 GENERAL

9  
NUMBER OF PAGES

ATTORNEY-IN-FACT  
 TRUSTEE(S)  
 GUARDIAN/CONSERVATOR  
 OTHER: \_\_\_\_\_  
\_\_\_\_\_

January 27, 2005  
DATE OF DOCUMENT

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)  
Chevron U.S.A. Inc.

\_\_\_\_\_  
SIGNER(S) OTHER THAN NAMED ABOVE

T-1'S PLAT IS BASED CCS83, ZONE 4, USING CSRC PUBLISHED (2004.0 EPOCH) VALUES FOR CSRS-H ESTABLISHED CORS STATIONS. ALL BEARINGS ARE GRID. ALL COORDINATES AND DISTANCES ARE GRID (U.S. SURVEY FEET). ALL ELEVATIONS ARE BASED ON NAVD88, USING THE NGS GEOID03 MODEL.

THIS PLAT CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION DURING DECEMBER, 2004

MICHAEL S. BERRY

LS 4504

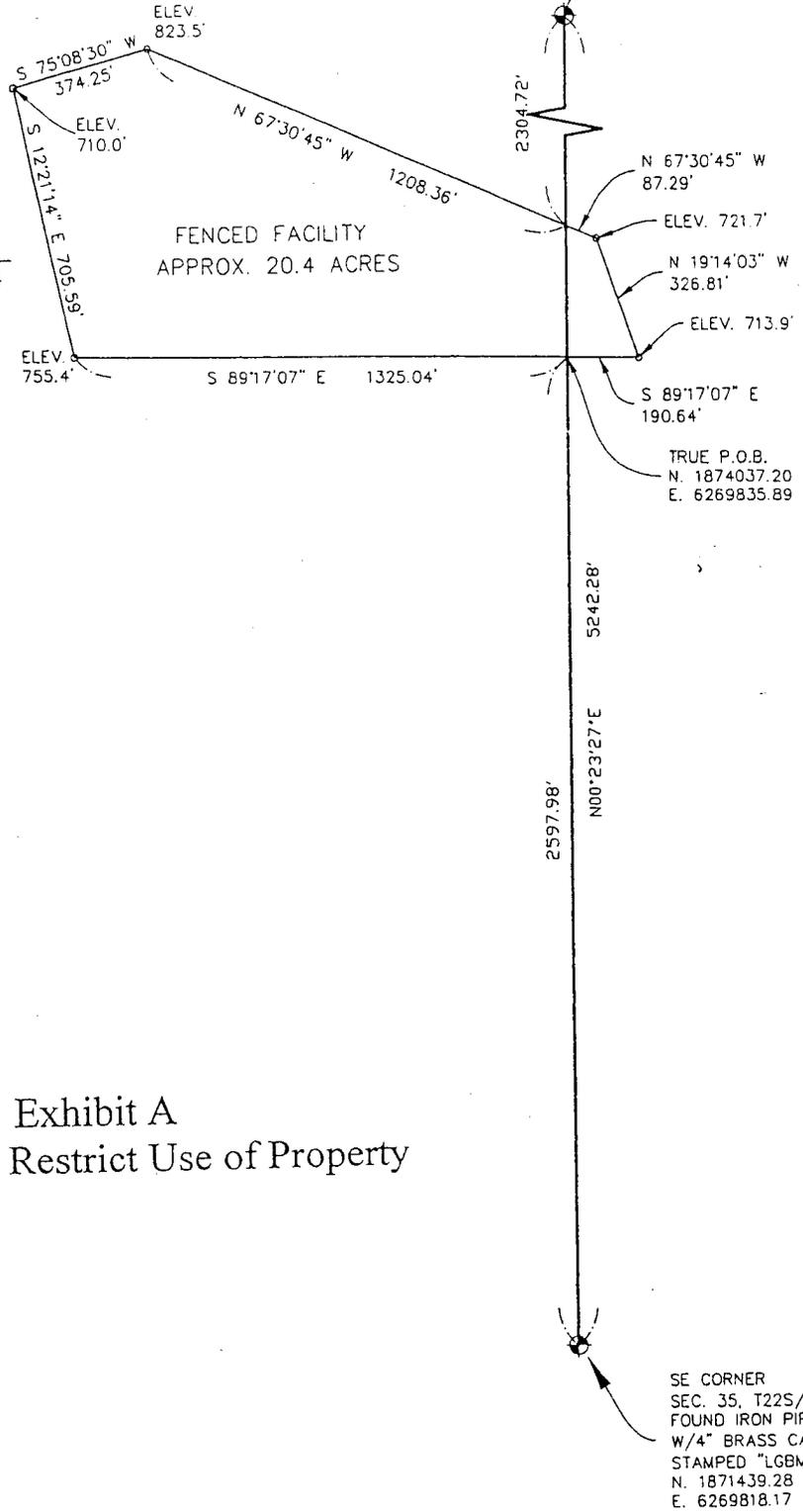


Exhibit A  
Covenant To Restrict Use of Property

**Berry & Associates**  
Land Surveying  
5401 BUSINESS PARK SOUTH  
SUITE 114  
BAKERSFIELD, CA 93309  
(661) 325-1235

CHEVRONTEXACO  
KETTLEMAN  
HAZARDOUS WASTE NOTICE  
SECTIONS 35 & 36, T. 22 S., R. 18 E., M.D.M.  
KINGS COUNTY, CALIFORNIA

DRAWN BY: JJW  
CHECKED BY: MSB  
JOB NO.: 04-150  
DWG.: 04150t.dwg  
PLAT NO.: 4150--(HWN)-2  
DATE: 12/17/04  
SHEET 1 OF 1

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Exhibit A  
Covenant To Restrict Use of Property

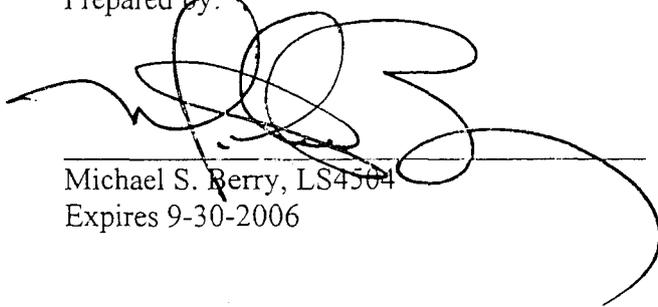
Kettleman Treatment Facility

That portion of Sections 35 and 36, Township 22 South, Range 18 East, Mount Diablo Meridian, near Kettleman City, in the County of Kings, State of California, described as follows:

Commencing at the Southeast corner of said Section 35, marked by a 4" brass cap on iron pipe projecting 4" above ground, marked for corner and stamped "LGBM" and "GEN. PET. CORP. LAND DEPT.", having coordinates of (N) 1871439.28 feet, (E) 6269818.17 feet;  
Thence N 00° 23' 27" E along the East line of said Section 35 a distance of 2597.98 feet to the True Point of Beginning, having coordinates of (N) 1874037.20 feet, (E) 6269835.89 feet, from which the Northeast corner of said Section 35, marked by a 4" brass cap on iron pipe projecting 9" above ground, marked for corner and stamped "LGBM", having coordinates of (N) 1876681.43 feet, (E) 6269853.93 feet, bears N 00° 23' 27" E a distance of 2644.30 feet;  
Thence S 89° 17' 07" E a distance of 190.64 feet;  
Thence N 19° 14' 03" W a distance of 326.81 feet;  
Thence N 67° 30' 45" W a distance of 87.29 feet to a point on said East line, from which the Northeast corner of said Section 35 bears N 00° 23' 27" E a distance of 2304.72 feet;  
Thence N 67° 30' 45" W a distance of 1208.36 feet;  
Thence S 75° 08' 30" W a distance of 374.25 feet;  
Thence S 12° 21' 14" E a distance of 705.59 feet;  
Thence S 89° 17' 07" E a distance of 1325.04 feet to the Point of Beginning, containing 20.4 acres, more or less.

This description is based on CCS83, Zone 4, using CSRC published (2004.0 epoch) values for CSRS-H established CORS stations. All bearings are GRID. All coordinates and distances are GRID (U.S. Survey feet). To convert to GROUND distance, multiply GRID distances by an average combined scale factor of 1.000025.

Prepared by:



Michael S. Berry, LS4504  
Expires 9-30-2006

