

June 15, 2025

Dear Supervisors,

Please consider, for the following reasons, that the vote by the BOS on the appeal to the use permit 23-05 be postponed until the State DWR has completed their investigation into the status of this parcel located at 755 E Hwy 20 Upper Lake (#040-010-004).

1. Please see the attached letter from DWR agent Elizabeth Bryson to Lake Co. Water Dept director Pawan Upadhyad stating that more time is needed to refer this issue to State Controller's Office, which likely won't be able to look at it until late in the summer. The status of this lease and other issues of noncompliance with the funding grant contract, such as the lack of Conservation Easement (see attachment), will likely need to be addressed before this project can move forward.
2. The public is confused. Putting this matter on the agenda each month before the investigation is complete causes confusion for those who wish to attend the hearing of the actual appeal. We have many people asking us if they should be attending these continuation votes, and we are not sure what the answer is. It is a hardship for those that have children or need to take time off of work.
3. Our lawyer, Marsha Burch, must attend these continuation votes by Zoom. This is an unnecessary use of her time and an added expense for Larry Kahn and me.
4. Having to prepare and vote for a continuation each month is a waste of the Board of Supervisors time.

Please consider postponing this item, if possible, until there is a clear understanding of what we are dealing with.

Thank you,  
Barbara Morris

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**From:** Bryson, Elizabeth@DWR  
**Sent:** Wednesday, June 4, 2025 6:41 AM  
**To:** Upadhyay.Pawan@LC  
**Cc:** Madankar, Nahideh@DWR; Herink, James@DWR; Nicole Johnson; Linda Rosas-Bill  
**Subject:** FCP Middle Creek Project Lease Agreement

Pawan,

Thank you for meeting with us on Monday (June 2) to discuss the proposed biomass facility and related lease agreement with Scott's Valley Energy Corporation. As you know, DWR reimbursed Lake Co. for the purchase of parcel APN 004-010-04 under the Flood Corridor Program using bond funds. The lease of this property to a private entity is likely not compatible with the bond source language and may create a tax issue. DWR needs to coordinate with the State Controller's Office (SCO) on this. Given the time of year and the fact that SCO is focused on the FY 2026-27 Budget, DWR will likely not receive clarification or direction from SCO until later this summer.

Per the Lake County Board of Supervisors Meeting Agenda from May 20, 2025 (linked here: [AGENDA](#)) this item was continued to June 17, 2025. Given that SCO will likely not provide clarification or direction until after this continuation date, DWR will require additional time to research this matter further.

Thank you. Liz



**Elizabeth Bryson, P.E.**

Manager, Flood Financial Assistance Section

Division of Flood Planning and Improvements

C: (916) 699-8379

3464 El Camino Avenue, Suite 200, Sacramento, CA 95821



<https://saveourwater.com/>

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**From:** Madankar, Nahideh@DWR  
**Sent:** Wednesday, May 21, 2025 12:25 PM  
**To:** Upadhyay.Pawan@LC  
**Cc:** Bryson, Elizabeth@DWR  
**Subject:** 2008 Conservation Easement Deed  
**Attachments:** Conservation Easement 10-07-2008.pdf

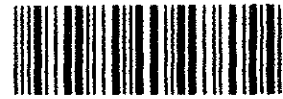
Pawan,

Thanks for today's call. Attached is an example of a signed conservation easement deed for one of the purchased project properties.

Regards,

**Nahideh Madankar, P.E.**

Department of Water Resources  
3464 El Camino Avenue, Suite 200  
Sacramento, CA 95821  
Phone: (916) 820-7550  
[Nahideh.Madankar@water.ca.gov](mailto:Nahideh.Madankar@water.ca.gov)



RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

State of California  
Wildlife Conservation Board  
1807 13<sup>th</sup> Street, Suite 103  
Sacramento, CA 95811  
Attn: Rob Kane

Doc # 2010006093  
Page 1 of 17  
Date: 4/27/2010 10:33A  
Filed by: NO FEE DOCUMENT  
Filed & Recorded in Official Records  
of COUNTY OF LAKE  
DOUGLAS W. WACKER  
COUNTY RECORDER  
Fee: \$0.00

Space Above Line for Recorder's Use Only

### CONSERVATION EASEMENT DEED

THIS CONSERVATION EASEMENT DEED is made this 7<sup>th</sup> day of  
October, 2008, by Lake County Watershed Protection District ("Grantor"), in  
favor of THE STATE OF CALIFORNIA ("Grantee"), acting by and through its Department of  
Fish and Game, Wildlife Conservation Board, with reference to the following facts:

#### RECITALS

A. Grantor is the sole owner in fee simple of certain real property containing approximately 102 acres, located in the County of Lake, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. Grantor acquired fee title to the Property through grants of funding provided by the State of California, specifically, the California Department of Water Resources ("DWR"). DWR awarded State Proposition 13 funds to Grantor to acquire the Property and to carry out stewardship and management activities on the Property, including maintenance, monitoring, and ecosystem restoration. DWR determined the Property acquisition and/or easement conveyance would implement the purposes of the Grantor and DWR by (1) reducing potential flood damages; (2) providing opportunities to restore riparian habitat; (3) protecting the floodplain from potential inappropriate and incompatible development; and (4) providing a potential role in future flood management and water management improvements.

C. DWR awarded California Proposition 13 funds to Grantor to contribute to the cost of Grantor acquiring fee title to the Property. In awarding the funds to Grantor, it was DWR's intent that the project conserve wildlife and complimentary agricultural values while maintaining the availability of the property for floodwater conveyance and transitory storage purposes. DWR determined that acquisition of the Property by Grantor, Grantor's continued management and use of the Property as a flood corridor for floodwater overflow or conveyance from Clear Lake as well as for wildlife habitat preservation purposes, and Grantor's intention to integrate the Property into the Grantor's holdings encompassing the Middle Creek Flood Damage Reduction and Ecosystem Restoration Project area will preserve land, protect wildlife habitat and protect its floodplain area from inappropriate or incompatible development and maintain its availability for flood management purposes consistent with the purposes of the Flood Protection Corridor Program described in Water Code section 79035 et seq.

D. The contractual agreement which provides for the transfer of grant funds by DWR to Grantor for Grantor's acquisition of the Property acknowledges the multiple and complementary benefits the Property provides to the State of California for: (1) reducing potential flood damages; (2) providing opportunities to restore riparian habitat; (3) protecting the floodplain from potential inappropriate and incompatible development; and (4) providing a potential role in future flood management and water management improvements (hereafter "Multiple and Complementary Benefits").

E. Grantor and DWR acknowledge that the Grantor is evaluating the need for floodway improvements in the Clear Lake watershed. The Grantor's evaluation of alternatives for such floodway improvements in the Clear Lake area may include use of all or a portion of the Conservation Area for future flood management projects or activities.

F. It is the intent of the Grantee and Grantor, as parties to this Conservation Easement Deed, to protect each of the existing Multiple and Complementary Benefits of the Property and to cooperate in the implementation of any flood management project or activity on the Property that may evolve from the Grantor's flood management planning efforts.

G. Because this Conservation Easement was purchased with funds provided by the DWR Division of Flood Management, this Conservation Easement shall be consistent with any present or future flood management project or activity implemented on the Property, and any flood control easement recorded against the Property, that may evolve from the County's flood management planning efforts. Therefore, any such flood management project or activity, whether it involves non-structural flood management improvements or incidental structural modifications to support non-structural flood management improvements, or future flood control easement shall be a permitted use of the Property pursuant to the terms of this Conservation Easement.

H. It is the desire of the Department of Fish and Game to protect lands near the Clear Lake Wildlife Area for the purposes of wildlife and habitat protection and enhancement through such means as the existing Conceptual Area Acquisition Plan which supports protection through conservation easements or acquisitions.

I. The Department of Fish and Game has jurisdiction, pursuant to Fish and Game Code Section 1802, over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of those species, and the Department of Fish and Game is authorized to hold easements for these purposes pursuant to Civil Code Section 815.3, Fish and Game Code Section 1348, and other provisions of California law.

#### COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to California law, including Civil Code Section 815, *et seq.*, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property.

1. Purposes. The Property possesses significant wildlife, ecological and habitat values (collectively, "conservation values"). These natural resources are of aesthetic, ecological,

educational, historical, recreational, and scientific value to the people of the State of California. These natural resources are of great importance to both Grantor and Grantee. The purposes of this Conservation Easement are to preserve and protect each of the Multiple and Complementary Benefits of the Property. In so doing, it is also the purpose of this Conservation Easement to encourage and promote management and enhancement of wildlife habitats and wetlands, transitory storage of floodwaters, and wildlife-friendly practices on the Property.

2. Grantee's Rights. To accomplish the purposes of this Conservation Easement, Grantor hereby grants and conveys the following rights to Grantee:

- a. To preserve and protect the conservation values of the Property;
- b. To enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Conservation Easement, and for scientific research and interpretive purposes by Grantee or its designees, provided that Grantee shall not unreasonably interfere with Grantor's authorized use of the Property;
- c. To prevent any activity on or use of the Property that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Property that may be damaged by any act, failure to act, or any use that is inconsistent with the purposes of this Conservation Easement;
- d. All mineral, air and water rights necessary to protect and to sustain the biological resources of the Property.

In furtherance of the Multiple and Complementary Benefits, Grantee shall exercise the above-described rights in a manner which is in harmony with, and does not materially interfere with, any of the Multiple and Complementary Benefits.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purposes of this Conservation Easement is prohibited. Except as provided in Section 5.a and without limiting the generality of the foregoing, the following uses and activities by Grantor, Grantor's agents, and third parties, are expressly prohibited:

- a. Unseasonal watering; use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals; grazing; or weed abatement activities unless these activities are used for the management of native communities; farming; incompatible fire protection activities; and any and all other activities and uses which may adversely affect the purposes of this Conservation Easement;
- b. Use of off-road vehicles and use of any other motorized vehicles except on existing roadways or as necessary for the management, operation and maintenance of the property or in connection with any permitted flood control activities conducted on the Property by Grantor or permitted wildlife habitat enhancement activities on the Property conducted by Grantor;
- c. Commercial or industrial uses;

- d. Any legal or de facto division, subdivision or partitioning of the Property;
- e. Construction, reconstruction or placement of any building, billboard or sign, or any other structure or improvement of any kind except as necessary for the management, operation and maintenance of the property or in connection with any permitted flood control activities conducted on the Property by Grantor or permitted wildlife habitat enhancement or interpretive activities on the Property conducted by Grantor;
- f. Depositing or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials;
- g. Planting, introduction or dispersal of non-native or exotic plant or animal species;
- h. Filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extraction of minerals, loam, soil, sands, gravel, rocks or other material on or below the surface of the Property;
- i. Altering the surface or general topography of the Property, including building of roads except in connection with any permitted flood control activities conducted on the Property by Grantor or permitted wildlife habitat enhancement activities on the Property conducted by Grantor;
- j. Removing, destroying, or cutting of trees, shrubs or other vegetation, except as required (1) by law for fire breaks, (2) maintenance of existing foot trails or roads, (3) prevention or treatment of disease, (4) as necessary for the removal of existing buildings, or (5) in connection with any permitted flood control activities conducted on the Property by Grantor or permitted wildlife habitat enhancement activities on the Property conducted by Grantor; and
- k. Manipulating, impounding or altering any natural water course, body of water or water circulation on the Property, and activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or sub-surface waters except in connection with any permitted flood control activities conducted on the Property by Grantor or permitted wildlife habitat enhancement activities on the Property conducted by Grantor.

4. **Grantor's Duties.** Grantor shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the conservation values of the Property. In addition, Grantor shall undertake all necessary actions to perfect Grantee's rights under Section 2 of this Conservation Easement, including but not limited to, Grantee's water rights.

a. Grantor shall comply with all applicable federal, State and local laws, statutes, rules, regulations and ordinances (collectively, the "Laws") that apply to Grantor respecting Grantor's acquisition, ownership and operation of the Property and obtain any other permits, approvals, and licenses that Grantor is required to obtain under any Law that is applicable to Grantor respecting Grantor's acquisition, ownership and operation of the Property.

b. Grantor shall assume all management, operation and maintenance costs associated with its ownership of the Property, including the costs of ordinary repairs and replacements of a recurring nature and costs associated with Grantor's compliance with any and all laws that are applicable to Grantor in connection with Grantor's ownership and operation of the Property. DWR, Lake County, the Flood Management Agency and the Grantee shall not be liable for any costs associated with the management, operation and maintenance of the Property, including flood management, except and to the extent of those costs associated with any flood management project or activity that is undertaken on the property in the future by DWR, County, or the Flood Management Agency.

5. Reserved Rights. Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Property, including the right to engage in or to permit or invite others to engage in all uses of the Property that are not expressly prohibited or limited by, and are consistent with the purposes of, this Conservation Easement.

a. Notwithstanding anything stated to the contrary herein, Grantor also reserves the right to lease the property for agricultural purposes if the property was being used for that purpose at the time of the acquisition, and only in those areas in which agricultural activities were being conducted. Agricultural use may include activities necessary for and associated with the harvesting of various crops, including the use of harvesting equipment or machinery, the use of agricultural chemicals in accordance with all applicable laws and regulations, and the use of vehicles off roadways for agricultural purposes. Grantor further reserves the right to lease the property for livestock grazing for fuel reduction purposes. Said grazing shall be conducted according to best management practices. These rights shall terminate upon the implementation of the Middle Creek Flood Damage Reduction and Ecosystem Restoration Project or on December 31, 2025, whichever occurs first unless extended by the prior written approval of the Grantee.

b. Grantor shall be permitted to conduct habitat development and passive recreation on the Property in a manner consistent with the preservation or enhancement of the Multiple and Complimentary Benefits as set forth in Section 1. Hunting and fishing consistent with applicable state and federal regulations shall be considered passive recreations.

6. Grantee's Remedies. If Grantee determines that a violation of the terms of this Conservation Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand in writing the cure of such violation. If Grantor fails to cure the violation within fifteen (15) days after receipt of written notice and demand from Grantee, or if the cure reasonably requires more than fifteen (15) days to complete and Grantor fails to begin the cure within the fifteen (15) day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to recover any damages to which Grantee may be entitled for violation of the terms of this Conservation Easement or for any injury to the conservation values of the Property, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for other equitable relief, including, but not limited to, the restoration of the Property to the condition in which it existed

prior to any such violation or injury. Without limiting Grantor's liability therefor, Grantee may apply any damages recovered to the cost of undertaking any corrective action on the Property.

If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damage to the conservation values of the Property, Grantee may pursue its remedies under this Section 6 without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this section apply equally to actual or threatened violations of the terms of this Conservation Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to, the remedies set forth in Civil Code Section 815, *et seq.*, inclusive. The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from taking such action at a later time.

If at any time in the future Grantor or any subsequent transferee uses or threatens to use the Property for purposes inconsistent with this Conservation Easement then, notwithstanding Civil Code Section 815.7, the California Attorney General or any entity or individual with a justiciable interest in the preservation of this Conservation Easement has standing as interested parties in any proceeding affecting this Conservation Easement.

6.1. Costs of Enforcement. Any costs incurred by Grantee, where Grantee is the prevailing party, in enforcing the terms of this Conservation Easement against Grantor, including, but not limited to, costs of suit and attorneys' and experts' fees, and any costs of restoration necessitated by Grantor's negligence or breach of this Conservation Easement shall be borne by Grantor.

6.2. Grantee's Discretion. Enforcement of the terms of this Conservation Easement by Grantee shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

6.3. Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from (i) any natural cause beyond Grantor's control, including, without limitation, fire not caused by Grantor, flood, storm, and earth movement, or any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; or (ii) acts by Grantee or its employees.

6.4. Department of Fish and Game Right of Enforcement. All rights and remedies conveyed to Grantee under this Conservation Easement Deed shall extend to and are enforceable by the Department of Fish and Game.

7. Fence Installation and Maintenance. Grantor shall install and maintain a fence reasonably satisfactory to Grantee around the Conservation Easement area to protect the conservation values of the Property, including but not limited to wildlife corridors.

8. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property. Grantor agrees that Grantee shall have no duty or responsibility for the operation, upkeep or maintenance of the Property, the monitoring of hazardous conditions thereon, or the protection of Grantor, the public or any third parties from risks relating to conditions on the Property. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any activity or use permitted by this Conservation Easement Deed, and any activity or use shall be undertaken in accordance with all applicable federal, state, local and administrative agency statutes, ordinances, rules, regulations, orders and requirements.

8.1. Taxes; No Liens. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantor shall keep the Property free from any liens, including those arising out of any obligations incurred by Grantor for any labor or materials furnished or alleged to have been furnished to or for Grantor at or for use on the Property.

8.2. Hold Harmless. Grantor shall hold harmless, protect and indemnify Grantee and its directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each an "Indemnified Party" and, collectively, "Indemnified Parties") from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation, reasonable attorneys' fees and experts' fees), causes of action, claims, demands, orders, liens or judgments (each a "Claim" and, collectively, "Claims"), arising from or in any way connected with: (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of Grantee or any of its employees; (ii) the obligations specified in Sections 4, 8, and 8.1; and (iii) the existence or administration of this Conservation Easement. If any action or proceeding is brought against any of the Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from Grantee, defend such action or proceeding by counsel reasonably acceptable to the Indemnified Party or reimburse Grantee for all charges incurred for services of the Attorney General in defending the action or proceeding.

8.3. Extinguishment. If circumstances arise in the future that render the purposes of this Conservation Easement impossible to accomplish, this Conservation Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction.

8.4. Condemnation. This Conservation Easement is a "wildlife conservation easement" acquired by a State agency, the condemnation of which is prohibited except as provided by Fish and Game Code Section 1348.3.

9. Transfer of Easement. This Conservation Easement is transferable by Grantee, but Grantee may assign this Conservation Easement only to an entity or organization authorized to acquire and hold conservation easements pursuant to Civil Code Section 815.3 (or any successor provision then applicable) or the laws of the United States. Grantee shall require the assignee to record the assignment in the county where the Property is located.

10. Transfer of Property. Grantor agrees to incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which Grantor divests itself of any interest in all or any portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the intent to transfer any interest at least thirty (30) days prior to the date of such transfer. Grantee shall have the right to prevent subsequent transfers in which prospective subsequent claimants or transferees are not given notice of the covenants, terms, conditions and restrictions of this Conservation Easement. The failure of Grantor or Grantee to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

11. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage fully prepaid, addressed as follows:

To Grantor: Lake County Watershed Protection District  
255 North Forbes Street  
Lakeport, CA 95453  
Attn: Director

To Grantee: Department of Fish and Game  
North Central Region  
1701 Nimbus Road Suite A  
Rancho Cordova, CA 95670  
Attn: Regional Manager

With additional  
copies to: Department of Fish and Game  
Office of the General Counsel  
1416 Ninth Street, 12th Floor  
Sacramento, California 95814-2090  
Attn: General Counsel

Department of Water Resources  
Division of Engineering  
Real Estate Branch  
1416 Ninth Street, Room 421  
Sacramento, CA 95814

Department of Water Resources  
Office of the Chief Counsel  
1416 Ninth Street, Room 1118  
Sacramento, CA 95814

or to such other address as either party shall designate by written notice to the other. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) days after deposit into the United States mail.

12. Amendment. This Conservation Easement may be amended by Grantor and Grantee only by mutual written agreement. Any such amendment shall be consistent with the purposes of this Conservation Easement and California law governing conservation easements and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of Lake County, State of California.

13. General Provisions.

a. Controlling Law. The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of California, disregarding the conflicts of law principles of such state.

b. Liberal Construction. Despite any general rule of construction to the contrary, this Conservation Easement shall be liberally construed to effect the purposes of this Conservation Easement and the policy and purpose of Civil Code Section 815, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

c. Severability. If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement Deed, such action shall not affect the remainder of this Conservation Easement Deed. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement Deed to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.

d. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with Section 12.

e. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f. Successors. The covenants, terms, conditions, and restrictions of this Conservation Easement Deed shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall constitute a servitude running in perpetuity with the Property.

g. Termination of Rights and Obligations. A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

h. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.

i. No Hazardous Materials Liability. Grantor represents and warrants that it has no knowledge or notice of any Hazardous Materials (defined below) or underground storage tanks existing, generated, treated, stored, used, released, disposed of, deposited or abandoned in, on, under, or from the Property, or transported to or from or affecting the Property. Without limiting the obligations of Grantor under Section 8.2, Grantor hereby releases and agrees to indemnify, protect and hold harmless the Indemnified Parties (defined in Section 8.2) from and against any and all Claims (defined in Section 8.2) arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, or otherwise associated with the Property at any time, except any Hazardous Materials placed, disposed or released by Grantee, its employees or agents. This release and indemnification includes, without limitation, Claims for (i) injury to or death of any person or physical damage to any property; and (ii) the violation or alleged violation of, or other failure to comply with, any Environmental Laws (defined below). If any action or proceeding is brought against any of the Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from Grantee, defend such action or proceeding by counsel reasonably acceptable to the Indemnified Party or reimburse Grantee for all charges incurred for services of the Attorney General in defending the action or proceeding.

Despite any contrary provision of this Conservation Easement Deed, the parties do not intend this Conservation Easement to be, and this Conservation Easement shall not be, construed such that it creates in or gives to Grantee any of the following:

(1) The obligations or liability of an "owner" or "operator," as those terms are defined and used in Environmental Laws (defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 *et seq.*; hereinafter, "CERCLA"); or

(2) The obligations or liabilities of a person described in 42 U.S.C. Section 9607(a)(3) or (4); or

(3) The obligations of a responsible person under any applicable Environmental Laws; or

(4) The right to investigate and remediate any Hazardous Materials associated with the Property; or

(5) Any control over Grantor's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Property.

The term "Hazardous Materials" includes, without limitation, (a) material that is flammable, explosive or radioactive; (b) petroleum products, including by-products and fractions thereof; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 *et seq.*; hereinafter "RCRA"); the Hazardous Materials Transportation Act (49 U.S.C. Section 6901 *et seq.*; hereinafter "HTA"); the Hazardous Waste Control Law (California Health & Safety Code Section 25100 *et seq.*; hereinafter "HCL"); the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code Section 25300 *et seq.*; hereinafter "HSA"), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable Environmental Laws now in effect or enacted after the date of this Conservation Easement Deed.

The term "Environmental Laws" includes, without limitation, CERCLA, RCRA, HTA, HCL, HSA, and any other federal, state, local or administrative agency statute, ordinance, rule, regulation, order or requirement relating to pollution, protection of human health or safety, the environment or Hazardous Materials. Grantor represents, warrants and covenants to Grantee that activities upon and use of the Property by Grantor, its agents, employees, invitees and contractors will comply with all Environmental Laws.

j. Warranty. Grantor represents and warrants that there are no outstanding mortgages, liens, encumbrances or other interests in the Property (including, without limitation, mineral interests) which have not been expressly subordinated to this Conservation Easement Deed, and that the Property is not subject to any other conservation easement.

k. Additional Easements. Grantor shall not grant any additional easements, rights of way or other interests in the Property (other than a security interest that is subordinate to this Conservation Easement Deed), or grant or otherwise abandon or relinquish any water agreement relating to the Property, without first obtaining the written consent of Grantee. Grantee may withhold such consent if it determines that the proposed interest or transfer is inconsistent with the purposes of this Conservation Easement or will impair or interfere with the conservation values of the Property. This Section 13.k shall not prohibit transfer of a fee or leasehold interest in the Property that is subject to this Conservation Easement Deed and complies with Section 10.

l. Recording. Grantee shall record this Conservation Easement Deed in the Official Records of Lake County, California, and may re-record it at any time as Grantee deems necessary to preserve its rights in this Conservation Easement.

IN WITNESS WHEREOF Grantor has executed this Conservation Easement Deed the day and year first above written.

GRANTOR:

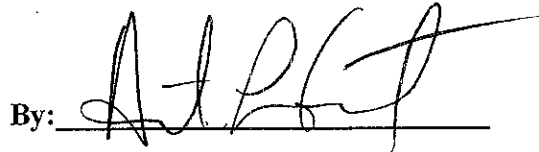
LAKE COUNTY WATERSHED  
PROTECTION DISTRICT

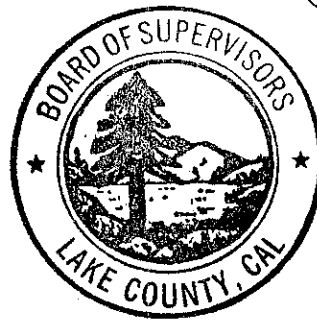
  
Chair, Board of Directors

ATTEST: Kelly F. Cox  
Clerk of the Board

By: 

APPROVED AS TO FORM:  
Anita L. Grant, County Counsel

By: 



GRANTEE:

State of California  
Department of Fish and Game  
Wildlife Conservation Board

BY: 


NAME: John Donnelly

TITLE: Executive Director

DATE: 4/15/2010

Approved as to form:

General Counsel  
State of California  
Department of Fish and Game

BY:   
~~Ann S. Malcolm~~ Thomas Gibson  
Acty General Counsel

**EXHIBIT "A"**

**PROPERTY**

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA, COUNTY OF LAKE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:**

**APN: 004-022-240-000**

**PARCEL ONE:**

Lots 55, 56, 57, 58, 59, 60 and 61, as shown on that certain map entitled "EDMANDS RECLAIMED LAND CO. SUBDIVISION", filed in the office of the County Recorder of said Lake County on May 12, 1925, in Book 4 of Town Maps at Pages 52 to 56, inclusive.

EXCEPTING THEREFROM that portion thereof as described in Parcel 12 and 13 in the Deed from Essential Products Company, a Nevada Corporation, et al., to Reclamation District No. 2070, recorded June 13, 1930 in Book 67 of Official Records at Page 18.

(Affects lots 57, 58 and 59)

ALSO EXCEPTING THEREFROM that portion of Lots 55 and 56 as set forth in the Deed from Benjamin F. Modglin, et ux., to the County of Lake, recorded May 11, 1962 in Book 374 of Official Records at Page 536, Lake County Records.

**PARCEL TWO:**

**Tract One:**

BEGINNING at a point on the North line of Lot 62, as shown on that certain map entitled "EDMANDS RECLAIMED LAND CO. SUBDIVISION," filed in the office of the County Recorder of said Lake County on May 12, 1925, in Book 4 of Town Maps at Pages 52 to 56, inclusive, in the center line of Main Drainage Ditch as conveyed to Reclamation District No 2070, said point of beginning being 1251 feet East of the East line of Polk Avenue No. 5, as shown on said map, and running thence South 00°41' East, along the center line of said ditch, 521 feet; thence South 00°41' East, crossing said ditch, 25 feet, more or less, to the South line of said Lot 62; thence East, along the South line of said Lot 62, 679 feet, more or less, to the Westerly line Edmands Boulevard No. 1, as shown on said Map; thence along the Westerly line of said Boulevard, North 25°15' west 601.6 feet to the North line of said Lot 62; and thence West, along the North line of said Lot 62, 423.2 feet to the point of beginning.

ALSO, BEGINNING at the Southwest corner of Lot 60 of said "EDMANDS RECLAIMED LAND CO. SUBDIVISION", and running thence North 78° East 250 feet to the center line of Hammond Slough, being the old channel of Middle Creek; thence Southerly down the centerline of Hammond Slough, to the North line of

Section 29, Township 15 North, Range 9 west, M.D.M.; thence West 518.2 feet, along the said Section line, to the Easterly line of Edmands Boulevard No. 1, as shown on said subdivision map; and thence, along the Easterly line of said Edmands Boulevard No. 1, as follows: North 25°15' West 601.6 feet, and North 25°15' West 188.4 feet to the point of beginning.

**Tract Two:**

That portion of Lot 62 of said "EDMANDS RECLAIMED LAND CO. SUBDIVISION", described as BEGINNING at the Northwest corner of Lot 62, and running thence East 582 feet, more or less, to the West line of that certain drainage ditch running North and South through said Lot 62; thence South 564 feet, more or less, along the West line of said drainage ditch, to the South line of said Lot 62; thence West 582 feet, more or less, to the West line of said Lot 62; thence North 564 feet, more or less, to the point of beginning.

**Tract Three:**

BEGINNING at the Southeast corner of Lot 62, as shown on that certain map entitled "EDMANDS RECLAIMED LAND CO. SUBDIVISION", filed in the office of the County Recorder of said Lake County on May 12, 1925, in Book 4 of Town Maps at Pages 52 to 56, inclusive, thence South 48 feet to the toe of the levee; thence West 1980 feet; thence North 48 feet to the Southwest corner of Lot 61 of said Subdivision, thence East 1980, along the South line of said Lots 61 and 62 to the point of beginning.

EXCEPTING THEREFROM that portion of land heretofore conveyed to C.B. Burress by Deed dated July 3, 1933, executed by the Essential Products Co., a Nevada Corporation; Glen A. Younggreen and Lora L. Younggreen, his wife, Marion Y. Bucknell, formerly Marion A. Younggreen and Roy Bucknell, her husband, recorded July 14, 1933, in Book 87 of Official Records of Lake County at Page 172.

**PARCEL THREE:**

BEGINNING at the Southwest corner of Parcel Two in Tract Two above and running thence South 33.2 feet; thence, East 679 feet to the East line of Sovereign Location No. 7 within Section 29, Township 15 North, Range 9 West, M.D.M.; thence, North along the East line of said Location, 33.2 feet to the North line of said Section 29, and thence, West, along the North line of said Section 29, and thence, West, along the North line of said Section 29, 679 feet to the place of beginning.

**PARCEL FOUR:**

BEGINNING at a point on the North line of Section 29, Township 15 North, Range 9 West, M.D.M., 300 feet East of the Northwest corner of Location No. 154, Swamp and Overflowed Lands; said point of beginning, being the Northeast corner of Parcel Two of those certain lands conveyed by Essential Products Co., et al., to Reclamation District No. 2070 by Deed dated June 1, 1930, of record in Book 67 of Official Records of Lake County at Page 18, and running thence South 39°06' East 465.2 feet along the Northeasterly line of said lands so conveyed to Reclamation

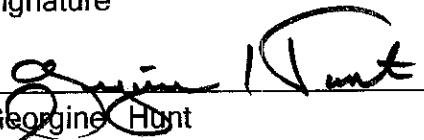
District No. 2070, to the center line of the old channel of Middle Creek, (being on the West line of Lot 333, as shown on that certain map entitled "CLEAR LAKE VILLAS", filed in the office of the County Recorder of said Lake County on July 1, 1922, in Book 3 of Town Maps at Pages 2 to 9, inclusive); thence Northerly up the center of the channel of said creek, and being along the Westerly line of said Lot 333, to the North line of said Section 29; and thence West 360 feet to the place of beginning.

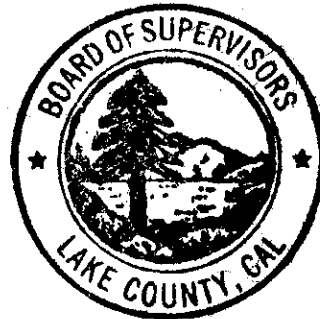
STATE OF CALIFORNIA )  
 )  
COUNTY OF LAKE )

On October 7, 2008, before me, Georgine Hunt, personally appeared Ed Robey, Chair of the Lake County Watershed Protection District, for the County of Lake, 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 acknowledge to me that she executed the same in her authorized capacity and that her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature

  
\_\_\_\_\_  
Georgine Hunt  
Assistant Clerk of the Board



Clear Lake Conservation Area  
Expansion 1  
Middle Creek Unit  
Lake County

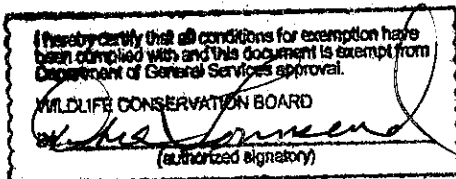
**CERTIFICATE OF ACCEPTANCE**

THIS IS TO CERTIFY that the interest in real property conveyed by the Conservation Easement Deed, dated October 7, 2008, from Lake County Watershed Protection District to the STATE OF CALIFORNIA, is hereby accepted by the undersigned officer on behalf of the State of California, pursuant to authority conferred by authorization of the Wildlife Conservation Board, Department of Fish and Game, Natural Resources Agency, State of California, adopted on February 25, 2010, and the grantee consents to the recordation thereof by its duly authorized officer.

STATE OF CALIFORNIA  
Natural Resources Agency  
Department of Fish and Game

By: 

John P. Donnelly  
Executive Director  
Wildlife Conservation Board



Date: 4/15/2010