First American Title Insurance

11 0449-TB

Recording requested by and return to:

State Coastal Conservancy
1330 Broadway Suite 1100
Oakland, CA 94612
Attn: Staff Counsel
Project: Victorine Ranch

Recorded at the Request of
FIRST AMERICAN TITLE CO.
DEC 22 1995
8:00 A.M.
MONTEREY COUNTY RECORDER

NO FEE

WATER RIGHT AGREEMENT AND GRANT OF EASEMENT

This Water Right Agreement and Grant of Easement (hereinafter "Agreement") is entered into this 11 day of December, 1995, by and between the State of California, acting by and through the State Coastal Conservancy ("State") and Helen Bibbero, a married woman as to her sole and separate property ("Bibbero").

RECITALS

This Agreement is entered into with reference to the following facts, understandings and intentions:

A. The State Coastal Conservancy (hereinafter the "Conservancy") is a state board within the Resources Agency of the State of California which is empowered to implement programs and projects designed to preserve, enhance and restore coastal resources.

B. The Conservancy specifically possesses the authority under Public Resources Code Sections 31200 et seq. to undertake projects where "scattered ownerships, poor lot layout, and inadequate park and open space, incompatible land uses, or other conditions are adversely affecting the coastal environment or are impeding orderly development." Pursuant to this authority the Conservancy may award grants or undertake projects for the assembly of parcels of land within designated restoration areas, the redesign of such areas, and the installation of public improvements required to serve such areas.

C. In March 1985 and in subsequent actions the Conservancy adopted the Big Sur Transfer of Development Credit Restoration Plan pursuant to Public Resources Code Sections 31200 et seq., and provided for the implementation of a transfer of development credits project pursuant to the Big Sur Local Coastal Program adopted by the County of Monterey and the California Coastal Commission within the area known as the Victorine Ranch in Monterey County.

D. Pursuant to Sections 31200 et seq. of the Public Resources Code, the State has acquired certain real property within the Victorine Ranch, which is more specifically described in Exhibit 1 of this Agreement, and which is referred to hereinafter as the "Craven/Nation Property".

E. The Conservancy's Big Sur Transfer of Development Credit Restoration Plan calls for the use of Transferable Development Credits to preserve critical viewshed parcels in the Big Sur area. The Craven/Nation Property has been identified as a potential receiver site for use of such development credits generated from other property in the Big Sur area. The Conservancy intends to transfer development credits to the Craven/Nation Property and to subdivide that property into four parcels for residential development.

F. Bibbero is the owner of that certain real property in the County of Monterey, State of California, described in the attached Exhibit 2 and hereinafter referred to as the "Bibbero Property."

G. In connection with the construction and development of a single-family residence on the Bibbero Property, Bibbero has developed a water well on the Bibbero Property that appears to have sufficient capacity to serve domestic needs of all of the parcels in the Victorine Ranch and has participated in the formation of the Victorine Ranch Mutual Water Company (hereinafter the "Company"), a California corporation, to provide water to its shareholders at cost. The Company's service area includes the Craven/Nation and Bibbero Properties, as well as other properties within the Victorine Ranch, and owners of property in this service area will be eligible to purchase shares in the Company upon substantial completion of its water supply and distribution system under specified terms and conditions.

H. Bibbero is willing to grant to the State or its successor(s) in interest in the Craven/Nation Property the right to participate in the use of the water well located on the Bibbero Property to coordinate water service with the Victorine Ranch and to reduce the proliferation of wells with the Victorine Ranch. State is willing to accept such grant to facilitate its development of the Craven/Nation Property.

I. Bibbero represents that she also has promised to share the use of the water well located on the Bibbero Property with the owners of two other properties within the Victorine Ranch. These other properties are owned, respectively, by Betsy Bell Hagar (hereinafter the "Hagar Property") and by Nancy B. Cherney (the "Cherney Property") and are described, respectively, in the attached Exhibits 3 and 4.

TERMS

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties and the further consideration set forth herein, Bibbero and State agree as follows:

1. Incorporation of Recitals, Definitions, and Exhibits. The understandings of the parties as set forth in the Recitals, the definitions provided therein, and the Exhibits referenced therein and in the Paragraphs below are hereby incorporated into the body of this Agreement.

2. Water Rights Transfer. Bibbero hereby agrees that State and/or its successor(s) in interest in the Craven/Nation Property shall be given the right to participate in the Victorine Ranch Mutual Water Company or other agreement(s) for the use of the water well located on the Bibbero Property to provide water service to four residences on the Craven/Nation Property at cost.

(a) Concurrently with the execution of this Agreement, State is entering into a Mutual Water Company Subscription Agreement (hereinafter "Subscription Agreement") with the Victorine Ranch Mutual Water Company (hereinafter "Company") for the purchase of up to four shares in the Company and provision of such water service to the Craven/Nation Property subject to certain conditions specified therein. Bibbero covenants and agrees to cooperate with State and the Company to implement the provisions of that Subscription Agreement, and to take no actions as a shareholder in the Company to prevent the acquisition of shares in the Company by State or State's successor(s) in interest as provided herein.

(b) Bibbero hereby grants and conveys to State the right to obtain water to serve up to four residences on the Craven/Nation Property from the well located on the Bibbero Property, together with all necessary easements therefor (including, without limitation, an easement to construct, reconstruct, maintain, operate, access, and repair pipelines and other infrastructure and equipment to extract and transport water from the well and across the Bibbero Property); provided, however, that

(i) State shall not exercise any right or easement provided in this sub-paragraph prior to April 1, 1997;

(ii) Bibbero shall have no obligation to construct or pay the costs of constructing necessary infrastructure for the transport of water from the well on the Bibbero Property to the Craven/Nation Property, and Bibbero by these agreements does not guarantee the continued availability of water in the event of circumstances beyond her control, such as acts of God or actions by regulatory authorities;

(iii) State shall have the sole responsibility to seek and obtain any permits or approvals from the County of Monterey necessary to exercise its rights under this sub-paragraph 2(b);

(iv) If on or before April 1, 1997, State and/or its successor(s) in interest to the Craven/Nation Property are able to acquire shares in the Company for delivery of water to four residences on the Craven/Nation Property, and if the Company has substantially completed construction of the water supply, distribution and fire protection system improvements necessary to deliver water to the property line of the Craven/Nation Property by that date, and has obtained all necessary permits and approvals therefor, then the right and grant of easements conveyed and granted in this sub-paragraph 2(b) shall be extinguished; and

(v) If within five (5) years after the State and/or its successor(s) in interest to the Craven/Nation Property commence to exercise their rights under this sub-paragraph 2(b), the Company completes construction of the water supply, distribution and fire protection system improvements necessary to deliver water to the property line of the Craven/Nation Property, and obtains all necessary permits and approvals therefor, and the State and/or its successor(s) in interest to the Craven/Nation Property are able to acquire shares in the Company for delivery of water to four residences on the Craven/Nation Property, then the right and grant of easement conveyed and granted in this sub-paragraph 2(b) shall be extinguished, provided that any costs expended by State and/or its successors in interest to the Craven/Nation Property for improvements (including rights of access for improvements) have been credited against the cost of each share in the Company purchased by State and/or such successors in interest.

(c) The owners of the Bibbero Property, the Craven/Nation Property, the Hagar Property and the Cherney Property shall be entitled to reasonable use of water from the well located on the Bibbero Property. In the event of a shortage of the water supply from the well, the rights of the owners of the Bibbero Property, Craven/Nation Property, Hagar Property and Cherney Property to use water from the well shall be of equal priority as to the first 250 gallons/day for each parcel (including up to four

parcels within the Craven/Nation Property, should that property be subdivided). After the initial 250 gallons/day, per parcel, is satisfied, Bibbero shall have first priority to any water from the well put to reasonable use on the Bibbero Property. The owners of parcels on the Craven/Nation Property, and the owners of the Hagar Property and the Cherney Property, shall have equal second priority to water from the well put to reasonable use on their respective property. Bibbero confirms that the provisions of this Paragraph are consistent with any agreements between Bibbero, Hagar and Cherney regarding use of water from the well on the Bibbero Property. Further, Bibbero agrees not to grant or convey the right to use water from the well on the Bibbero Property to any other person, except to the Company as provided in the Subscription Agreement without the consent of State and/or its successors in interest to the Craven/Nation Property, unless such right is expressly subordinate to the rights of the owners of the Craven/Nation Property. Nothing in this sub-paragraph shall control the respective amounts of water Bibbero and the owners of the Craven/Nation Property may obtain as shareholders of the Company.

3. Satisfaction. If and when the right and easement conveyed in sub-paragraph 2(b), above, is extinguished as provided therein, and upon Bibbero's written request, State shall record a quitclaim deed in a form acceptable to Bibbero relinquishing its right and easement, so as to remove this Agreement as an encumbrance on the Bibbero Property.

4. Miscellaneous.

(a) Except with respect to those agreements specifically referenced or provided for herein, this Agreement constitutes the entire agreement between the parties and supersedes all other agreements, representations, warranties, statements, promises and understandings, whether oral or written, with respect to the subject matter hereof, and no party hereto shall be bound by or charged with any oral or written agreements, representations, warranties, statements, promises or understandings not specifically set forth, referenced or provided for in this Agreement.

(b) Negotiated Agreement. It is agreed by the parties that this Agreement has been arrived at through negotiation and that neither party is to be deemed the party which prepared this Agreement for the purposes of interpretation under Civil Code Section 1654.

(c) Headings. The headings set forth in each respective Paragraph and sub-paragraph have been inserted for convenience purposes only and shall not be used to interpret the substantive context of this Agreement.

(d) Amendments. Except as provided in this Agreement, this Agreement may be amended in whole or in part only by a further written agreement executed by the parties.

(e) Covenants to Run. This Agreement shall run with the Bibbero Property and the Craven/Nation Property, binding and inuring to the benefit of the heirs, successors and assigns of each of the parties hereto.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date above.

HELEN BIBBERO

Helen P. Bibbero
Helen Bibbero, a married woman as to her sole and separate property

Dated: December 6th, 1995

STATE OF CALIFORNIA
STATE COASTAL CONSERVANCY

By: Michael Fisher
Executive Officer

Dated: December 11, 1995

Exhibit 1 - Craven/Nation Property
Exhibit 2 - Bibbero Property
Exhibit 3 - Hagar Property
Exhibit 4 - Cherney Property

REEL 3315 PAGE 566

STATE OF CALIFORNIA

COUNTY OF MARIN

On December 6, 1995, before me, the undersigned, AMIR FRIEDMAN Notary Public, personally appeared HOLEN P. (PUTZEL) BIBBERO, ~~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.

Amir Friedman

AMIR FRIEDMAN
Commission # 1073084
Notary Public — California
Marin County
My Comm. Expires Oct 1, 1999

5X

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT REEL 3315 PAGE 567

State of California

County of Alameda

On December 11, 1995 (DATE) before me, Lorenza G. Sandoval, Notary Public (NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC")

personally appeared Michael Ludwig Fischer (NAME(S) OF SIGNER(S))

☐ 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.

LORENZA G. SANDOVAL
COMM. #[illegible]
Notary Public — California
SAN FRANCISCO COUNTY
My Comm. Exp. JAN 25, 1996

WITNESS my hand and official seal.

Lorenza G. Sandoval
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
☒ CORPORATE OFFICER
Executive Officer
(TITLE(S))

☐ PARTNER(S) ☐ LIMITED ☐ GENERAL

☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

_____

DESCRIPTION OF ATTACHED DOCUMENT

Water Right Agreement and Grant of Easement
TITLE OR TYPE OF DOCUMENT

Six pages & Exhibits 1-4
NUMBER OF PAGES

December 11, 1995
DATE OF DOCUMENT

Helen Bibbero
SIGNER(S) OTHER THAN NAMED ABOVE

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