

1.2

8181128  
03/20/2002 04:28 PM 24.00  
Book - 8578 Pg - 5366-5372  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
FIRST AMERICAN TITLE  
BY: RDJ, DEPUTY - WL 7 P.

WHEN RECORDED MAIL TO:

Wingate Partners LLC  
633 South 500 West  
Bountiful Utah 84010

Space above this line for Recorder's use

FIRST AMERICAN TITLE  
INSURANCE CO.

### SPECIAL WARRANTY DEED

RE# 122865

CERTIFIED

**SALT LAKE CITY MOSQUITO ABATEMENT DISTRICT**, a mosquito abatement district created pursuant to Title 17A, Utah Code Annotated 1953, as amended, with its principal office at 2020 North Redwood Road, Salt Lake City, County of Salt Lake, State of Utah 84116,

Grantor,

hereby CONVEYS AND WARRANTS against all claiming by through or under it to

**WINGATE PARTNERS LLC, A UTAH LIMITED LIABILITY**

of

8805327  
A-B  
52 pgs

for the sum of TEN DOLLARS AND OTHER GOOD AND VALU the following described tract of land (the "Property") in Salt Lake C

See Exhibit "A" attached hereto and

\* There are some pages that the scanner may not pick up. They say: ~~EXHIBIT~~ Exhibit, B, Exhibit C, + Exhibit A

SUBJECT TO permitted exceptions on Exhibit "B" attached hereto

AND ALSO SUBJECT TO the easements and restrictive covenants attached here to as Exhibit "C" and made apart hereof.

The officer(s) who sign this deed hereby certifies that this deed and the transfer represented thereby was duly authorized under the policies and procedures of the grantor at a lawful meeting duly held and attended by a quorum.

In witness whereof, the grantor has its corporate name affixed hereto by its duly authorized officer this 20<sup>th</sup> day of March A.D., 2002.

Salt Lake City Mosquito Abatement District,

*Sammie Lee Dickson*

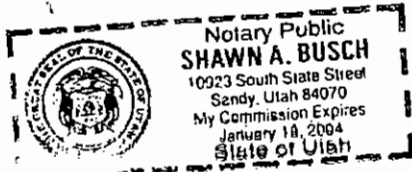
By: Sammie Lee Dickson

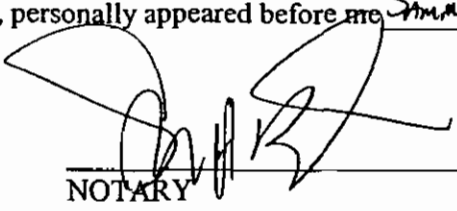
BK8578PG5366

545

STATE OF UTAH :  
: ss.  
County of Salt Lake :

On the 20<sup>th</sup> day of MARCH, 2002, personally appeared before me SAMUEL LEE DICKSON  
having duly been sworn.



  
\_\_\_\_\_  
NOTARY  
Residing at  
Expires: SJC  
1-18-04

\* COPY -  
CO. RECORDER

~~BK 8578 PG 5367~~

SLD

**Exhibit "A"**

**Legal Description**

A part of Section Thirty-Four (34) in Township One (1) North of Range One (1) West, Salt Lake Base & Meridian, and also being a part of Lot Ten (10) Block Three (3) of Jordan Plat "A", and particularly described as follows,

Beginning at a point fifty-six (56) rods North and six and one-half ( $6 \frac{1}{2}$ ) rods West of the center of said Section; running thence West five hundred seventy-four and two-tenths (574.2) feet; running thence North three hundred ninety-six (396) feet; running thence East one hundred (100) feet; and running thence South three hundred eighty-three (383) feet; running thence East four hundred seventy-four and two-tenths (474.2) feet; and running thence South thirteen (13) feet more or less to point of beginning.

Additionally, the Land described as:

Beginning Fifty-six (56) rods North and Six and one-half ( $6 \frac{1}{2}$ ) rods West of center of Section Thirty-four (34) T.1 N., R. 1 W. SLB & M; thence South Three (3) feet; thence West Four hundred seventy-four and two-tenths (474.2) feet; thence South Fifty (50) feet; thence west One hundred (100) feet; thence north Fifty-three (53) feet; thence East Five hundred seventy-four and two-tenths (574.2) feet; to point of beginning.

Except the Land described as:

A parcel of land in fee for a highway known as Project No. 0136 being part of an entire tract of property in Lot 10 of Block 3 Jordan Plat "A" a subdivision of Section 34, T. 1 N., R. 1 W., S.L.B. & M. The boundaries of said parcel of land are described as follows:

Beginning at the SE corner of said entire tract, which point is 921.0 ft. north and 6.5 rods (which equals 107.25 ft.) West from the center of said Section 34; thence North 16 ft.; thence West 38.08 ft.; thence  $8.0^{\circ} 11' 39''$  W. 16 ft; thence East 38.12 ft. to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation. The above described parcel of land contains 0.014 acre, more or less.

BK 8578 PG 5368

SLD

**Exhibit "B"**

**Permitted Exceptions**

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easements or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments and any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this commitment.
8. Taxes for the year 2001 were exempt. Tax ID No. 08-34-177-005-0000.
9. Said land is included within the incorporated city limits of Salt Lake City, a municipal corporation of the State of Utah, and is subject to any charges and assessments made thereby.
10. (Affects this and other property)  
Abstract of Findings and Order recorded July 23, 1996 as Entry No. 6411789 in Book 7449 at Page 524 of Official Records.

BK 8578 PG 5369

SLD

and Easements created hereby shall inure to the benefit of, and be binding upon, not only Grantor and Grantee but also their successors and assigns.

- c. **Not a Public Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property to the general public or for the general public or for any public purposes whatsoever, it being the intention of the Grantor and Grantee that this Agreement shall be strictly limited to and for the purposes herein expressed.
- d. **Severability.** Should any provision of this Agreement shall be held invalid or unenforceable, all remaining provisions shall remain in full force and effect.
- e. **Choice of Law.** This Agreement shall be construed and forced in accordance with the laws of this State of Utah, except its choice of law provisions.

CA:\dan\SLCMAD\Special Warranty Deed for SLCMAD

~~BK 8578 PG 5372~~

SRD

Exhibit C

Apr 11 03 01:40P

SLC Mosquito AD

(801) 355-9227

P. 2



Michael O. Leavitt  
Governor  
Dianne R. Nielson, Ph.D.  
Executive Director  
Dennis R. Downs  
Director

# State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY  
DIVISION OF SOLID AND HAZARDOUS WASTE

288 North 1460 West  
P.O. Box 144880  
Salt Lake City, Utah 84114-4880  
(801) 338-6170  
(801) 538-6715 Fax  
(801) 536-4414 T.D.D.  
[www.deq.state.ut.us Web](http://www.deq.state.ut.us/Web)

December 2, 1998

Sammie Lee Dickson, Manager  
Salt Lake City Mosquito Abatement District  
2020 North Redwood Road  
Salt Lake City, Utah 84116-1248

Dear Mr. Dickson:

Enclosed you will find a signed and dated original copy of the final Stipulation and Consent Order that was approved by the Utah Solid and Hazardous Waste Control Board in its meeting held on November 12, 1998. This is a copy for your records.

If you have any questions or concerns, please contact me at 538-6170

Sincerely,

A handwritten signature in black ink, appearing to read "T. Allan Moore".

T. Allan Moore, Manager  
Hazardous Waste Management Section  
Utah Division of Solid and Hazardous Waste

TAM/cb

Enclosures

BK 8877 PG 0818

BEFORE THE UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD

-- oo0oo --

In the Matter of: : STIPULATION AND CONSENT  
 Salt Lake City Mosquito Abatement District : AGREEMENT  
 : No. 9703001

-- oo0oo --

This STIPULATION AND CONSENT AGREEMENT (the Agreement) is issued by the UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD (the Board) pursuant to the Utah Solid and Hazardous Waste Act (The Act), 19-6-101, et seq., Utah Code Annotated 1953, as amended (the Code).

STIPULATIONS

1. Salt Lake City Mosquito Abatement District is the current owner of the land located at approximately 463 North Redwood Road, Salt Lake City, Utah ("Property"). Salt Lake City Mosquito Abatement District ("Mosquito Abatement") is currently located at 2020 North Redwood Road, Salt Lake City, Utah 84116.
2. Mosquito Abatement occupied the site from 1946-1993. Pesticides were stored, mixed, and transferred to spray trucks on the Property. Management and handling of pesticides at the site have impacted soils, road base material on the soil surface, and groundwater in the upper aquifer.
3. The parties wish to resolve this matter by entering into this Agreement to perform activities as outlined in the Site Management Plan (SMP) discussed in this document such that the pesticide contaminated soil and groundwater detected during environmental site investigations will not increase above risk-based closure remediation levels as required by R315-101 of the Utah Administrative Code ("the Rules").
4. Mosquito Abatement is subject to all applicable provisions of the Rules.
5. The parties agree that the Board has jurisdiction over this matter.

SXD



### CONCLUSIONS OF LAW

6. The organochloride pesticides are a "hazardous waste" as that term is defined in R315-2-3 of the Rules.
7. Under R315-1-1 of the Rules, a spill is defined as the accidental discharge, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes, into or on any land or water.
8. Under R315-9-1 of the Rules, in the event of a spill of hazardous waste or material which, when spilled, becomes hazardous waste, the person responsible for the material at the time of the spill shall immediately take appropriate action to minimize the threat to human health and the environment.
9. Under R315-9-3 of the Rules, the person responsible for the material at the time of the spill shall clean up all the spilled material and any residue or contaminated soil, water or other material resulting from the spill or take action as may be required by the Executive Secretary so that the spilled material, residue, or contaminated soil, water or other material no longer presents a hazard to human health or the environment. Such cleanup or other required actions shall be at the expense of the person responsible for the spill.
10. Mosquito Abatement was responsible for the hazardous waste or material (the "material") at the time of the spill. Mosquito Abatement will be financially responsible for all corrective action costs and for all costs related to environmental monitoring, inspecting, maintaining, and repairing any remedial systems, monitoring components, and corrective structures until project closure. Project Closure shall be thirty years after Closure Certification.

### AGREEMENT

Based on the foregoing Stipulations and Conclusions of Law, Mosquito Abatement, and the Board hereby agree as follows:

11. For the purpose of this Agreement, the parties agree and stipulate to the above stated Stipulations and Conclusions of Law. None of the stipulations except stipulation 5, concerning jurisdiction, related herein shall be considered admissions by any party and shall not be used by any person related or unrelated to this Agreement for purposes other than determining the basis of this Agreement.

12. Mosquito Abatement shall perform and submit a Risk Assessment to the Executive Secretary according to R315-101-5 of the rules for approval. The Executive Secretary will approve the Risk Assessment or notify Mosquito Abatement of deficiencies in writing.
13. A Site Management Plan (SMP) which is supported by the findings in the approved Risk Assessment shall be submitted to the Executive Secretary within 60 days of approval of the Risk Assessment report. This plan may be submitted along with the Risk Assessment and must include a schedule for implementation. The SMP must contain procedures for corrective action if the level of risk present at the site is greater than  $1 \times 10^4$  for carcinogens or a Hazard Index of greater than one for non-carcinogens based on a Risk Assessment conducted in accordance with R315-101-5.2(b)(2) of the rules.
14. Mosquito Abatement shall implement the approved SMP according to the specifications and schedule contained in the SMP. Based on information contained in the Risk Assessment, Mosquito Abatement will initiate remedial actions at the site as required and approved.
15. Within sixty (60) days of completing all remediation activities required by the approved SMP, Mosquito Abatement shall certify in writing to the Executive Secretary that all requirements of the approved SMP have been satisfied. The certification must be signed by Mosquito Abatement and an independent Utah registered professional engineer. Documentation supporting the certification shall include the results of all work conducted pursuant to the SMP and shall be compiled and presented in a report to the Executive Secretary. Upon review and acceptance of the information provided by Mosquito Abatement, within sixty (60) days, the Executive Secretary shall provide Mosquito Abatement with a letter indicating that the work completed meets the requirements of the SMP.
16. Within sixty (60) days after installation and sampling of any required groundwater monitor wells as approved in the SMP, Mosquito Abatement shall submit to the Executive Secretary for review, information which will include groundwater analysis data and groundwater flow direction interpretations. The groundwater samples shall be collected in accordance with the procedures and methods described in the SMP. All samples shall be delivered to a Utah-certified analytical laboratory under proper chain-of-custody. Mosquito Abatement shall submit to the Executive Secretary for review, a Groundwater Monitoring Report within sixty (60) days of receipt of the groundwater analysis results. Reporting shall continue until Project Closure which is defined as the date thirty years after Closure Certification.
17. If required by the SMP, within sixty (60) days of Closure Certification, Mosquito Abatement shall develop and record with the local zoning authority, a notation on the deed to the property - or on some other instrument which is normally examined during title search - that will in perpetuity notify any potential purchaser of the property that:

- (a) The land has been used to manage hazardous wastes; and
  - (b) Any remedial systems, monitoring components, and corrective structures installed pursuant to the SMP approved by the Executive Secretary shall not be removed, broken, disturbed or modified in any way without approval from the Executive Secretary; and
  - (c) A survey plat and record of the type, location, and approximate quantity of hazardous waste at the site has been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Executive Secretary; and
  - (d) Mosquito Abatement shall submit a signed certification that the deed notation specified above has been recorded and a copy of the document in which the notation has been placed, to the Executive Secretary.
18. Following completion of corrective action as required by the SMP, if a subsequent risk analysis as defined in the SMP, indicates that the level of risk present at the site is greater than  $1 \times 10^{-4}$  for carcinogens or a Hazard Index of greater than one for non-carcinogens based on a Risk Assessment conducted in accordance with R315-101-5.2(b)(2), a Site Remediation Plan (SRP) will be required to address the remediation of soil and groundwater. This SRP shall include at a minimum: a remediation proposal that includes a groundwater monitoring plan; a soil and groundwater clean up standard; a cost estimate; a quality control/quality assurance plan; a health and safety plan; and a schedule for completion. The SRP shall be submitted within sixty (60) days of submittal of the annual risk analysis indicating the risk present at the site is greater than  $1 \times 10^{-4}$  for carcinogens or a Hazard Index of greater than one for non-carcinogens.
19. The Executive Secretary shall approve or disapprove the SRP within ninety (90) days of submittal. If the Executive Secretary does not approve the SRP, he shall provide Mosquito Abatement with a detailed written statement of the reasons for disapproval. Mosquito Abatement shall then submit a revised SRP for approval within sixty (60) days after receiving such a statement. The Executive Secretary shall approve or modify this revised SRP within sixty (60) days. If the Executive Secretary modifies this SRP, this modified SRP shall become the approved SRP.
20. Within thirty (30) days of approval of the SRP, Mosquito Abatement shall implement the SRP according to the specifications and schedule approved therein.
21. Within sixty (60) days of completing all activities required by the approved SRP, Mosquito Abatement shall certify in writing to the Executive Secretary that all requirements and obligations in the approved SRP have been satisfied. The certification must be signed by Mosquito Abatement and an independent Utah registered professional engineer. Such certifications shall include the results of all work conducted pursuant to the SRP, including

analytical data, which shall be compiled, interpreted and presented in a final report to the Executive Secretary.

22. Mosquito Abatement shall provide at least seven (7) days prior notice to the State of any activities pertaining to field work, as required in this Agreement at the site. The State reserves the right to acquire splits of any samples collected for analysis as required in this Agreement by Mosquito Abatement at the site. Mosquito Abatement will be offered the opportunity to split any samples collected at the site by the State. Mosquito Abatement shall provide access to its site upon request by the Executive Secretary or any authorized representative(s) for the purpose of enforcing, monitoring, photographing, sampling, and observing activities conducted under this Agreement.
23. The State or any of its employees, or any member of the Board or the Executive Secretary shall not be liable for any injury or damage to persons, property, or natural resources which result from acts or omissions by Mosquito Abatement, their agents or contractors in carrying out activities pursuant to this Agreement. The Executive Secretary and his representatives shall comply with all reasonable requirements established by Mosquito Abatement for the protection of health, safety, and security while on its property or property under its control. Some of the activities conducted pursuant to this Agreement may pose certain health and safety risks. Mosquito Abatement shall be responsible for the health and safety of their own personnel or their own contractors.
24. Upon the occurrence of an unanticipated event which could not have been prevented or avoided by the exercise of due care or foresight, and which causes or may cause delay in achievement of any requirement under this Agreement, Mosquito Abatement shall notify the Executive Secretary in writing within twenty (20) days of the day Mosquito Abatement knew or reasonably should have known of the event, describing in detail the anticipated length of the delay, all of the anticipated consequences of the delay, the measures taken and to be taken by Mosquito Abatement to prevent or minimize the delay, and the timetable by which such measures will be implemented. Mosquito Abatement shall adopt all reasonable measures to avoid and minimize delays. Failure to comply with the notice provision of this paragraph shall be grounds for the Board to deny Mosquito Abatement an extension of time for performance. If the parties agree that the delay or anticipated delay in the achievement of any requirement of this Agreement has been or will be caused by circumstances beyond the control of Mosquito Abatement or its agents or contractors, the parties shall stipulate to the extension of the particular compliance requirement affected by a period not exceeding the delay caused by such circumstances, and they shall apply to the Board for an appropriate modification of this Agreement. In the event that Mosquito Abatement and the Executive Secretary cannot agree as to length or right of extension, then any party shall submit the matter to the Board for resolution. The burden of proving that any delay is caused by circumstances beyond the control of Mosquito Abatement shall rest with Mosquito Abatement. Decisions of the Board

under this paragraph are subject to judicial review as provided in the Utah Administrative Procedures Act.

25. Mosquito Abatement shall reimburse the Executive Secretary for all reasonable costs in overseeing compliance with this Agreement and in reviewing the SMP, Groundwater Monitoring Reports, Risk Analysis Reports, and SRP (if an SRP becomes necessary). The Executive Secretary shall submit periodic invoices to Mosquito Abatement identifying the oversight and review costs of State employees in accordance with the fee collection schedule in the Utah Appropriations Act. Within thirty (30) days of receipt of each such invoice, Mosquito Abatement shall remit a check to the State for the full amount of those costs, payable to the Utah Department of Environmental Quality, c/o Dennis R. Downs, Executive Secretary, Utah Solid and Hazardous Waste Control Board, State of Utah, Salt Lake City, Utah 84114-4880.
26. In the event of any disagreement by Mosquito Abatement regarding these costs, Mosquito Abatement may commence a proceeding before the Board under the Utah Administrative Procedures Act and applicable administrative rules of the Board to resolve this dispute.
27. At such time that the Executive Secretary has determined that Mosquito Abatement has fulfilled all requirements and obligations under provisions contained in the approved SMP and State invoices have been paid in full, Mosquito Abatement shall receive a written notice from the Executive Secretary that all provisions of this Agreement have been fulfilled. The Executive Secretary reserves the right to initiate further action against Mosquito Abatement in regard to added investigations, remediations, and cost recovery if and when any additional information becomes available pertaining to actual or potential contamination at the site.
28. This Agreement expressly contemplates submission of certain information, proposals and reports by Mosquito Abatement to the Executive Secretary. The Executive Secretary shall determine the adequacy and applicability of such submissions. In addition, Mosquito Abatement may petition the Executive Secretary to make decisions on certain technical requirements. If agreement by Mosquito Abatement and the Executive Secretary cannot be reached regarding submissions by Mosquito Abatement or the Executive Secretary's decision on any information, proposal or report, or part thereof, under this Agreement, Mosquito Abatement or the Executive Secretary may commence a proceeding under the Utah Administrative Procedures Act and applicable administrative rules of the Board to resolve any disputed decision or submission. Mosquito Abatement shall proceed with any undisputed elements of the proposed activity.
29. The Executive Secretary, the Board, or any entity of the State shall not be deemed to have waived any rights which it may otherwise exercise under applicable laws and administrative rules including, but not limited to, such actions as may be necessary to prevent pollution of groundwater, protect the public health and environment, protect and maintain its natural

resources, abate an imminent hazard or public nuisance, recover costs for State expenditures, and/or recover damages for loss, destruction or replacement of natural resources. Nor shall the Board be precluded from initiating enforcement action, including seeking civil penalties, for Mosquito Abatement noncompliance with this Agreement, the Utah Solid and Hazardous Waste Act, and applicable administrative rules not resolved by this Agreement. The State shall not be precluded in any way from taking appropriate action to abate an imminent endangerment to public health or the environment should such a situation arise at the facility.

- 30. This Agreement contains the entire agreement between the parties hereto concerning the subject matters treated herein and may not be amended, supplemented, or modified except through a writing executed by all parties hereto. This Agreement shall be binding on all parties, their respective successors and assigns and all persons or entities acting under, through or for them. Mosquito Abatement consents to entry of this Agreement and agrees to be bound thereby.
- 31. Data or information provided by Mosquito Abatement under this Agreement, upon request by Mosquito Abatement may be treated as confidential by the Board and the Executive Secretary to the extent and under the procedures set forth in Utah Code Annotated 63-2-101 et seq., and 19-1-306 (1953, as amended) and applicable administrative rules.
- 32. This Agreement shall become effective upon execution by Mosquito Abatement and the Executive Secretary of the Utah Solid and Hazardous Waste Control Board.

Dated this 30 day of November, 1998

By: Sammie Lee Dickson

Title: SECRETARY Manager  
Salt Lake City Mosquito Abatement District

By: Dennis R. Downs

Dennis R. Downs, Executive Secretary  
Utah Solid and Hazardous Waste Control Board

- COPY -  
CO. RECORDER

SKD

Exhibit D

CO. 1000000000  
- 0000000000