

Attachment G
Land Conservation Contract
No. 83-26-5.a

Sea Mist Farms LLC
Desert Mist LLC
Desert Mist Farms LLC
PLN120746

WHEN RECORDED MAIL TO:

Ann Anderson

Clerk to the Board of Supervisors

East Wing, Room 226

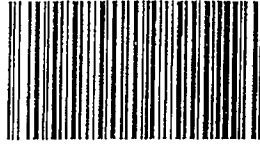
Salinas Courthouse

Stephen L. Vagnini
Monterey County Recorder
Recorded at the request of
County of Monterey

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11/24/2004
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Fees.....
Taxes...
Other...
AMT. PAID

THIS SPACE FOR RECORDER'S USE ONLY

LAND CONSERVATION CONTRACT NO. 83-26-5.a.

Between the County of Monterey and
TMV LANDS, a California General Partnership;
The Bengard Family Partnership I, L.P.,
a California Limited Partnership;
Tracy M. Pezzini; Thomas A. Bengard;
and, Bardin E. Bengard

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2. RESTRICTION ON USE OF PROPERTY.

During the term of this contract, and any and all renewals thereof, the property described in Exhibit A shall not be used by Owner, or Owner's successors in interest, for any purpose other than the production of food and fiber for commercial purposes and uses compatible thereto. A list of all such compatible uses is set forth in Exhibit B, attached hereto and by this reference incorporated herein. County, by uniform rule adopted by the Board of Supervisors of County, may from time to time during the term of this contract and all renewals thereof, add to the list of compatible uses which shall be uniform throughout the agricultural preserve in which the property in Exhibit A is located; provided, however, County may not during the term of this contract or any renewal thereof, without the prior written consent of Owner, remove any of the compatible uses for the subject property which are set forth in Exhibit B. The provisions of this contract and any uniform rule supplementing the list of compatible uses are not intended to limit or supersede the planning and zoning powers of County.

3. TERM OF CONTRACT.

This contract shall become effective on the date opposite the respective signatures and shall be recorded on or before the 31st day of December, in order to meet the January 1 property tax lien date and, shall remain in full force and effect for an initial term of twenty years. The initial term of twenty years shall be measured commencing as of the first day of January next succeeding the date of execution. Each succeeding first day of January shall be deemed to be the annual renewal date of this contract. This contract shall be automatically renewed on each succeeding January 1 and one additional year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in paragraph 4.

4. NOTICE OF NONRENEWAL.

(a) If either party desires in any year not to renew this contract, that party shall serve written notice of nonrenewal upon the other party in advance of the annual renewal date of this contract. Unless such written notice of nonrenewal is served by Owner at least 90 days prior to the renewal date, or by County at least 60 days prior to the renewal date, this contract shall be considered renewed as provided in paragraph 3 above.

(b) If either party serves written notice of nonrenewal in any year within the time limits of (a) above, this contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of this contract, as the case may be.

5. NO COMPENSATION.

Owner shall not receive any payment from County in consideration of the obligations imposed under this contract, it being recognized and agreed that the consideration for the execution of this contract is the substantial benefit to be derived therefrom, and the advantage that may accrue to Owner as a result of the effect upon the assessed value of the property on account of the restrictions on the use of the property contained herein.

(c) If after giving notice required under Government Code Sections 51291(b) and 51291 (c) and before the project is completed within the preserve, the public agency, person or agent proposes any significant change in the public improvement, it shall give notice of the changes to the Director and the local governing body responsible for administration of the preserve. Within 30 days thereafter, the Director or local governing body may forward to the public agency, person or agent their comments with respect to the effect of the change to the public improvement and the compliance of the changed public improvement with Article 6. Any action or proceeding regarding notices or findings required by Article 6 filed by the Director of Conservation or local governing body administering the preserve shall be governed by Government Code Section 51294 (Government Code Section 51291(e)).

9. CANCELLATION.

This contract may be canceled by the mutual agreement of the parties hereto in the manner provided in this paragraph. It is understood by the parties hereto that the existence of an opportunity for another use of the property shall not be sufficient reason for the cancellation of this contract. A potential alternative use of the property may be considered only if there is no proximate non-contracted land suitable for the use to which it is proposed that this property be put. The parties further understand that the uneconomic character of an existing agricultural use shall not be sufficient reason for cancellation of this contract, but may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

(a) Upon the written request of Owner to cancel this contract, the Board of Supervisors of the County of Monterey may adopt a resolution consenting to such request. When Owner petitions the Board for tentative cancellation of this contract pursuant to Government Code Section 51281 et seq, and when the Board accepts the application as complete pursuant to Government Code Section 65943, the Board shall immediately mail notice to the Director of Conservation pursuant to Government Code Section 51284.1. The notice shall include a copy of the petition, this contract, a general description in text or diagram, of the land that is subject to the proposed cancellation, the deadline for submitting comments regarding the proposed cancellation (consistent with the Permit Streamlining Act commencing with Government Code Section 65920), but in no case less than 30 days prior to the scheduled action by the Board. The Director shall review the proposed cancellation and submit comments by the deadline specified by the Board. Any comments submitted shall advise the Board on the findings required by Section 51282 with respect to the proposed cancellation. Prior to acting on the proposed cancellation, the Board shall consider the comments by the Director of Conservation, if submitted (Government Code Section 51284.1).

(b) Prior to the adoption of a resolution consenting to the request of the landowner to cancel this contract, the Board of Supervisors of County shall hold a public hearing on the matter. Notice of the hearing shall be mailed to each and every owner of property under contract within the agricultural preserve in which the property described in Exhibit A is located, and shall be published pursuant to Government Code Section 6061. In addition, at least 10 working days prior to the hearing, a notice of hearing and a copy of the landowner's petition shall be mailed to the Director of Conservation pursuant to Government Code Section 51284. At the hearing, or prior thereto, the owner of any property in which this agricultural preserve is situated may protest such cancellation to the Board of Supervisors.

11. NOTICES:

All notices required or permitted by this contract shall be given in writing and may be mailed or delivered in person. If mailed, the address of Owner shall be the last known address on the assessment records of County, and County's address shall be In Care of Board of Supervisors, Salinas Courthouse, 240 Church Street, East Wing, Suite 226, Salinas, California 93901, and deposit in the mail, postage prepaid, shall be deemed receipt thereof.

12. COSTS OF LITIGATION.

In case County shall, without any fault on its part, be made a party to any litigation commenced by or against Owner, then Owner shall and will pay all costs and reasonable attorneys fees incurred by or imposed upon County by or in connection with such litigation, and Owner shall and will pay all costs and reasonable attorneys fees which may be incurred or paid by County in enforcing the covenants and agreements of this contract.

13. ENFORCEMENT.

In the event of breach of this contract, including but not limited to: (1) incompatible use, or (2) failure of successors in interest to sign a contract similar to this one, or (3) failure to obtain the approval of the Board of Supervisors for a division of the land under contract, all the affected property under contract shall be reassessed at full cash value pursuant to Revenue and Taxation Code Section 110.1.

However, such reassessment for the period encompassed by the breach shall not terminate the contract. Reassessment shall be in addition to the other remedies available to the County including, but not limited to, an action to enforce the contract by specific enforcement or injunction under Government Code Section 51251:

If incompatible uses during the period of breach have diminished the ability of the property to contribute to the production of food and fiber on the lien date, the property shall be reassessed at full cash value.

The period of breach is the period commencing upon breach as set forth above, and ending upon cure of the breach. If the lien or assessment date falls within the period of the breach, all the property under this contract will be reassessed at full cash value pursuant to Revenue and Taxation Code Section 110.1.

OWNER/S:

TMV LANDS, a California General Partnership;

Dated: 11/23/04

By: [Signature]

Its: Pres - Owner

Dated: 11/23/04

& By: [Signature]

Its: Owner Partner

The Bengard Family Partnership I, L.P., a California Limited Partnership;

Dated: 11/23/04

By: [Signature]

Its: General Partner

Dated: 11/23/04

& By: [Signature]

Its: general partner

Tracy M. Pezzini;

Dated: 11-23-04

By: [Signature]

Thomas A. Bengard;

Dated: 11-23-04

By: [Signature]

and, Bardin E. Bengard

Dated: 11-23-04

By: [Signature]

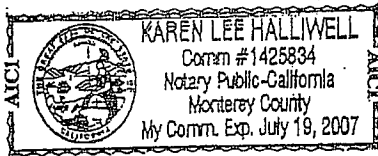
STATE OF CALIFORNIA
COUNTY OF MONTEREY

On November 23, 2004, before me, KAREN LEE HALLIWELL,
Notary Public, personally appeared THOMAS D. BENGARD, 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 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/ 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.

Karen Lee Halliwell
Notary Public

[SEAL]



STATE OF CALIFORNIA
COUNTY OF MONTEREY

On November 23, 2004, before me, KAREN LEE HALLIWELL,
Notary Public, personally appeared TERRY M. BENGARD, 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 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/ 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.

Karen Lee Halliwell
Notary Public

[SEAL]



STATE OF CALIFORNIA
COUNTY OF MONTEREY

On November 23, 2004, before me, KAREN LEE HALLIWELL,
Notary Public, personally appeared BARDIN E. BENGARD, 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 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/ 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.

Karen Lee Halliwell

Notary Public

[SEAL]

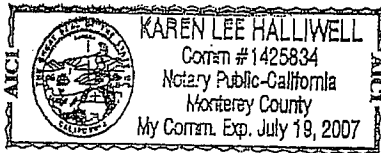


EXHIBIT B - LAND CONSERVATION CONTRACT: COMPATIBLE USES

The following is a list of land uses determined to be compatible with the agricultural use of the land subject to this agreement and planning and zoning restrictions:

1. The drying, packing or other processing of an agricultural commodity usually performed on the premises where it is produced.
2. Structures necessary and incidental to the agricultural use of the land.
3. Single family dwellings incidental to the agricultural use of the land for the residence of the owner, and the family of the owner. Single family dwellings incidental to the agricultural use of the land for the residence of the lessee of the land and the family of the lessee.
4. Dwelling for persons employed by owner or lessee and the family of employee or lessee incidental to the agricultural use of the land.
5. An aircraft landing strip incidental to the agricultural use of the land.
6. The erection, construction, alteration or maintenance of gas, electric, water or communication utility facilities.
7. The erection, construction, alteration or maintenance of radio, television or microwave antennas, transmitters and related facilities.
8. Public or private hunting of wildlife or fishing.
9. Public or private hunting clubs and accessory structures.
10. Public or private rifle and pistol practice range, trap or skeet field, archery range or other similar use.
11. Public or private riding or hiking trails.
12. Removal of natural materials.
13. Disposal site for oil field wastes, provided that any such use shall be made only in accordance with the use permit and other permits issued by the County of Monterey and the California Regional Water Quality Board and such other governmental authority as may have jurisdiction over this use. "Wastes received (discharged) at the site have been, and will continue to be, limited to petroleum and oil field wastes, such as muds, oily water, tank bottom wastes, and brine waters."

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