Box 36

0382033

IDENTIFICATION REFERENCE

97 DEC 18 PM 3:35

FELICIA [illegible] REGISTER
[illegible] TN.

BOOK 10728 PG 65

THIS DOCUMENT PREPARED BY:
R. Reed King, Esq.
BP Exploration & Oil Inc.
200 Public Square
Cleveland, Ohio 44114-2375

MAIL RECORDED DOCUMENT TO:
Craig C. Mitchell
First American Title
Insurance Company
114 E. Fifth Street
Santa Ana, California 92701

Map/Parcel 86-219.00

Name and Address of Property Owner and Person Responsible for Payment of Taxes: First B Realty, L.P., 6400 Imperial Drive, Waco, Texas 76714-8216.

(DIVVCNT) (141)

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That **BP EXPLORATION & OIL INC.**, an Ohio Corporation, with its principal office at 200 Public Square, Cleveland, Ohio 44114-2375 ("Grantor"), for Ten Dollars ($10.00) and other good and valuable consideration received to its full satisfaction from **FIRST B REALTY, L.P.**, a Texas limited partnership, whose tax mailing address is 6400 Imperial Drive, Waco, Texas 76714-8216 ("Grantee"), does hereby grant, bargain, sell and convey unto Grantee and its heirs, devisees, representatives, successors and assigns that certain real property more fully described in Exhibit "A" attached hereto and made a part hereof, together with Grantor's right, title and interest in and to all buildings, structures and other improvements located thereon, excluding any advertising, trade names, trade marks, trade dress, service marks, signs, sign poles, slogans, identifications, copyrights or copyrighted materials of Grantor located thereon ("Property").

1. **WARRANTY**. TO HAVE AND TO HOLD unto Grantee, and the heirs, devisees, representatives, successors and assigns of Grantee, as the case may be, forever subject, however, to: (a) taxes and assessments, both general and special, not now due and payable; (b) building and zoning ordinances, laws, regulations and restrictions by municipal or other governmental authority; (c) any and all leases, easements, rights-of-way, encumbrances, conditions, covenants, restrictions, reservations and exceptions of record; (d) any state of facts that an accurate survey or independent inspection of the Property by Grantee or its agents would disclose; and (e) the restrictions, covenants and representations set forth herein.

Grantor warrants and will defend its title to the Property against all lawful claims and demands made against said title by

all persons claiming by, from, through or under Grantor, and none other, except as noted herein.

2. **USE RESTRICTION**. This conveyance is made by Grantor and accepted by Grantee upon the express condition and subject to the restriction and covenant that the Property shall not be used in whole or in part, directly or indirectly for a period of twenty-five (25) years from the date this Deed is recorded, for automobile service station, convenience store, car wash, automobile repair purposes, or for the sale, offering for sale, storage or distribution of any gasoline, motor vehicle fuels, lubricants, tires, batteries, automotive parts and accessories, other petroleum products or convenience store items. Such restriction and covenant of Grantee shall run with the Property solely for the benefit and protection of any adjoining property of Grantor and/or other property of Grantor used and operated by Grantor or its representatives for such purposes within a distance of five (5) miles from the Property, whether owned or leased by Grantor or its representatives during said twenty-five (25) year period. Such restriction and covenant shall not, however, prohibit the storage of motor fuels, lubricants, other petroleum products or convenience store items on the Property solely for the use or consumption by Grantee or other occupants of the Property.

3. **ENVIRONMENTAL CONSIDERATIONS**.

a. **Prior Use**. Grantee acknowledges that the Property may have been used as a service station or for related purposes for the storage, sale, transfer and distribution of motor vehicle fuels, petroleum products or derivatives containing hydrocarbons ("Petroleum Products"). Grantee represents and warrants that it is familiar with the condition of the Property and that GRANTOR HAS NOT MADE AND MAKES NO WARRANTIES OR REPRESENTATIONS REGARDING THE PROPERTY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ITS HABITABILITY, CONDITION OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE. GRANTEE AGREES THAT THE PROPERTY IS HEREBY CONVEYED BY GRANTOR AND ACCEPTED BY GRANTEE IN AN "AS-IS, WHERE-IS" CONDITION.

b. **Hydrocarbons**. During Grantor's use and/or ownership of the Property and prior to the Effective Date, as hereinafter defined, Petroleum Products may have been spilled, leaked or otherwise discharged onto, into or from the Property ("Hydrocarbons"). As of the Effective Date Grantee hereby waives and releases Grantor, its parents, subsidiaries and affiliates, and their respective directors, officers, employees, contractors, agents, representatives, successors and assigns (the "Released Entities"), from and against any and all claims, demands, damages, costs and expenses, including attorneys' fees, court costs, awards, settlements, judgments, penalties, fines, liens or causes of action, at law or in equity ("Losses"), including without limitation actions under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq., as amended, the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq., and any other applicable environmental laws, statutes, ordinances, rules, regulations or orders ("Laws"),

arising out of or relating to the Hydrocarbons or other property abandoned thereon by Grantor.

c. **Other Contamination**. Grantee acknowledges that flammable explosives, hydrocarbons and/or petroleum products or fractions thereof, radioactive materials, hazardous or toxic wastes, substances or materials, including but not limited to those materials and substances defined as "hazardous substances", "hazardous materials", "hazardous wastes" or "toxic substances" in the Laws ("Hazardous Materials"), other than Hydrocarbons, may exist on the Property as of the Effective Date ("Other Contamination"). Grantee hereby waives and releases the Released Entities from all liability for the Other Contamination including any testing, investigation and/or remediation ("Remediation") thereof, Grantee hereby acknowledging that the Released Entities are not responsible for the Remediation of the Other Contamination and agreeing to seek recourse, if at all, for Losses against the parties who caused the same.

d. **Grantor's Access**. If after the Effective Date, any governmental agency, entity, body, instrumentality, department or representative ("Government") requires that Grantor undertake or pursue the Remediation of the Hydrocarbons and/or Other Contamination, then Grantor shall have the right and authority, but not the obligation, with reasonable advance notice, to enter the Property and to conduct the Remediation of the Hydrocarbons and/or Other Contamination, all without trespass. Grantor's entry on the Property and activities thereon shall not be deemed an admission of liability for the Hydrocarbons and/or Other Contamination. While on the Property, Grantor shall have the right to install, maintain, operate, store, use and remove equipment, including but not limited to monitoring wells, recovery wells and other assessment or Remediation equipment, to remove, remediate, store and test soils and groundwater therefrom and thereon and to otherwise take all actions required to comply with the Laws. Grantor shall exercise its right of entry onto the Property in a manner which does not unreasonably interfere with Grantee's use of the Property. Grantor shall provide Grantee, within thirty (30) days of its written request, copies of all correspondence between Grantor and the Government regarding Grantor's activities on the Property. Grantee shall not unreasonably interfere with Grantor's right of entry, or actions taken pursuant thereto, and shall reasonably cooperate with Grantor in obtaining any permits, consents or approvals necessary for Grantor's actions taken with respect to the Property, provided that Grantee shall not be required hereby to incur any unreimbursed out-of-pocket expense, or additional liability, in connection with such cooperation.

e. **Future Contamination**. Grantee acknowledges that Hazardous Materials may come to exist on the Property after the Effective Date ("Future Contamination"). Grantee hereby agrees to assume and hereby waives, releases, and agrees to indemnify, defend and hold harmless the Released Entities from and against any and all Losses arising out of or relating to Future Contamination and/or the Remediation thereof. Notwithstanding the foregoing, each

Grantee (the original Grantee, its heirs, devisees, representatives, successors and assigns) shall indemnify the Released Entities only for Future Contamination which occurs or exists on the Property during that Grantee's period of ownership, and which was not caused by any Released Entity. The Released Entity shall promptly notify the then current owner of the Property in writing of any Loss hereunder which requires a defense of the Released Entity. Promptly upon the Released Entity's receipt of written notice that the then current owner of the Property has assumed the handling and defense of such Loss (whether by itself or with another responsible Grantee), and for so long as such Loss is being diligently and effectively handled and defended, the Released Entity shall turn over handling and defense of such Loss.

4. **MISCELLANEOUS**. The provisions of this Deed shall be deemed effective as of the earlier of the recordation of this Deed or December 16, 1997 ("Effective Date"). The provisions of this Deed shall run with the land and shall be binding upon and inure to the benefit of the parties, their representatives, heirs, devisees, successors and assigns and any other person or entity expressly noted herein.

Sohio Oil Company became the successor to BP Oil Inc. by Agreement of Merger on July 31, 1986 and qualified to transact business in the State of Tennessee on August 12, 1986.

Sohio Oil Company changed its name to BP Oil Company by Amendment to its Articles of Incorporation on January 31, 1989.

On December 31, 1991, BP Exploration Inc. merged into BP Oil Company. As a result of the merger, the name of BP Oil Company was changed to BP Exploration & Oil Inc.

The Property is not all of the property owned by Grantor at this location. Grantor will be retaining a parcel at the northeast corner of Old Hickory Boulevard and Andrew Jackson Parkway ("Retained Parcel"), which Retained Parcel shares its northern and eastern boundary lines with the Property. A survey prepared for Grantee by Michael V. Holmes, H & H Land Surveying, Inc., Nashville, Tennessee, Job No. 97-671, dated November 19, 1997, reveals several encroachments of a car wash building, light poles, vent pipe, asphalt and curbs from the Retained Parcel onto the Property (collectively, "Encroachments"). The improvements which constitute the Encroachments are not conveyed to Grantee hereby, but shall remain the property of Grantor. Grantor hereby reserves the right to use and maintain the Encroachments on the Property for so long as they shall stand. Grantor agrees, however, that if any of the improvements which constitute the Encroachments are ever replaced, then such improvements shall be replaced entirely on the Retained Parcel. Grantor acknowledges that the Encroachments shall never be the basis for any claim of title by adverse possession of any portion of the Property, and Grantor hereby waives any such claim. The covenants contained in this paragraph shall be

covenants running with the land of the Property and Retained Parcel.

IN WITNESS WHEREOF, BP EXPLORATION & OIL INC. has hereunto set its hand and corporate seal, by its duly authorized representatives, this 11th day of December, 1997.

WITNESSES:

By: _____
Print: Ann M. Wachter

By: _____
Print: Sharon Dietz

By: _____
Print: Ann M. Wachter

By: _____
Print: Sharon Dietz

BP EXPLORATION & OIL INC.

By: _____
K. M. Sweda

Its: Manager, Real Estate Outsourcing

Attest: _____
J. Shoda

Its: Assistant Secretary

CORPORATE ACKNOWLEDGMENT

STATE OF OHIO)
) §:
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared K. M. Sweda and J. Shoda, with whom I am personally acquainted, and who upon oath, acknowledged themselves, respectively, to be the Manager, Real Estate Outsourcing, and Assistant Secretary of **BP EXPLORATION & OIL INC.**, the within named grantor, an Ohio corporation, and that they, as such representatives, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as such representatives.

WITNESS my hand and official seal at office in Cuyahoga County, Ohio this 11th day of December, 1997.

My Commission Expires:
BARBARA A. TILLINGHAST
Notary Public, State of Ohio, Cuy. Cty.
My Commission Expires Nov. 5, 2000

_____
Notary Public

BOOK 10728 PG 70

Intersection: CHANDLER & OLD HICKORY
City, State: HERMITAGE, TN
County: DAVIDSON
Site No.: 141

Prior Deed Recorded in:
Book 7436, Page 224

EXHIBIT A

LAND IN THE 2ND CIVIL DISTRICT OF DAVIDSON COUNTY, TENNESSEE, BEING PARCEL 219 ON THE PLAN OF A BOUNDARY PLAT AND PLAN OF SUBDIVISION OF LOT 1, PHASE 1, OF CHANDLER SQUARE GENERAL COMMERCIAL P.U.D., OF RECORD IN BOOK 7900, PAGE 96, REGISTER'S OFFICE FOR DAVIDSON COUNTY, TENNESSEE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHEASTERLY MARGIN OF ANDREW JACKSON PARKWAY (AS WIDENED), SAID POINT BEING THE NORTHWEST CORNER OF THE J. D. STEVENS PROPERTY, AS RECORD IN DEED BOOK 7408, PAGE 433, AND BEING THE NORTHEAST MOST CORNER OF HEREIN DESCRIBED TRACT;

(1) THENCE LEAVING SAID ANDREW JACKSON PARKWAY WITH THE BOUNDARY OF STEVENS, SOUTH 27°42'07" EAST, 199.75 FEET TO A POINT IN DRY FORK CREEK, THE NORTHWEST CORNER OF THE J. D. STEVENS PROPERTY, AS RECORDED IN DEED BOOK 7408, PAGE 436;
(2) THENCE WITH THE BOUNDARY OF SAID STEVENS, PASSING THE NORTHWEST CORNER OF THE J. D. STEVENS PROPERTY, AS RECORDED IN DEED BOOK 7408, PAGE 439, SOUTH 46°56'47" EAST, 227.66 FEET TO A POINT IN DRY CREEK, THE NORTHWEST CORNER OF THE ROY ALEXANDER PROPERTY, AS RECORDED IN DEED BOOK 5939, PAGE 473;
(3) THENCE WITH THE BOUNDARY OF SAID ALEXANDER, SOUTH 28°30'13" EAST, 146.34 FEET TO A POINT IN DRY CREEK, THE NORTHWEST CORNER OF THE EXXON CORPORATION PROPERTY, AS RECORDED IN DEED BOOK 7671, PAGE 964;
(4) THENCE WITH THE BOUNDARY OF SAID EXXON CORPORATION, PASSING A WITNESS IRON PIN AT 26.82' FEET, SOUTH 30°18'52" WEST, 202.94 FEET TO A STEEL PIPE IN THE NORTHERLY MARGIN OF OLD HICKORY BOULEVARD (AS RELOCATED);
(5) THENCE WITH SAID MARGIN, NORTH 71°02'19" WEST, 12.83 FEET TO A CONCRETE MONUMENT;
(6) THENCE WITH SAID MARGIN, NORTH 64°22'45" WEST, 228.32 FEET TO AN IRON PIN, THE SOUTHEAST CORNER OF THE SOHIO OIL COMPANY PROPERTY, AS RECORDED IN DEED BOOK 7436, PAGE 224;
(7) THENCE WITH THE BOUNDARY OF SAID SOHIO OIL COMPANY, NORTH 21°44'28" EAST, 220.00 FEET TO AN IRON PIN;
(8) THENCE CONTINUING WITH SAID BOUNDARY, NORTH 64°22'45" WEST, 220.00 FEET TO A PK NAIL IN THE SOUTHEASTERLY MARGIN OF ANDREW JACKSON PARKWAY (AS WIDENED);
(9) THENCE WITH SAID MARGIN OF ANDREW JACKSON PARKWAY, NORTH 21°44'28" EAST, 170.30 FEET TO A PK NAIL;
(10) THENCE WITH SAID MARGIN OF ANDREW JACKSON PARKWAY, NORTH 37°23'00" EAST, 51.92 FEET TO AN IRON PIN;
(11) THENCE WITH SAID MARGIN OF ANDREW JACKSON PARKWAY, NORTH 21°44'28" EAST, 36.87 FEET TO THE POINT OF BEGINNING, CONTAINING 114,500.506 SQUARE FEET OR 2.629 ACRES.

BEING THE SAME PROPERTY AS DESCRIBED IN FIRST AMERICAN TITLE INSURANCE COMPANY COMMITMENT NO. 14797-E, DATED SEPTEMBER 23, 1997, EXCLUDING PARCEL 310, AS RECORDED IN PLAT BOOK 7900 PAGE 96, REGISTER'S OFFICE FOR DAVIDSON COUNTY, TENNESSEE.

BEING a portion of the same property conveyed to Sohio Oil Company by that certain deed dated December 23, 1987 and recorded December 28, 1987 in Book 7436, Page 224.

LESS AND EXCEPT that portion of the property used for public right-of-way.

RECORDERS MEMO
LEGIBILITY OF WRITING, TYPING OR PRINTING IN THIS DOCUMENT UNSATISFACTORY WHEN RECEIVED

OATH OF CONSIDERATION

BOOK 10728 PG 71

STATE OF TEXAS)
) §:
COUNTY OF DALLAS)

We, the undersigned Grantee of the foregoing deed, first being duly sworn, hereby make oath that the actual consideration or value, whichever is greater, for this transfer is $ 189,146.00 .

FIRST B REALTY, L.P.
By: First B Corp., its General Partner

By: Kathy P. McNair

Its: Senior Vice President

Sworn to before me this 12th day of December, 1997.

3291 12/18 0101 03CHECK 728.84

Jane H. Boyd (L.S.)
NOTARY PUBLIC
My Commission Expires:

JANE H. BOYD
Notary Public
STATE OF TEXAS
My Comm. Exp. 05/26/2000

firstcitydeeddivvcntbp.doc

OFFICIAL RECEIPT

FELIX Z. WILSON, II
REGISTER OF DAVIDSON COUNTY
NASHVILLE, TENNESSEE

RECEIVED OF _____

FOR _____

BOOK 10728 PG 72

CO - CONVEYANCE	CC - CERTIFIED COPY	MISC - MISCELLANEOUS
MO - MORTGAGE	REL - RELEASE	CO TX - STATE TAX CONVEY
WD - WARRANTY DEED	UCC - UNIFORM COMMERCIAL CODE	MO TX - STATE TAX MORT
TD - TRUST DEED		PRFEE - PROBATE FEE

DATE	SYMBOL	VALUATION	TAX AND FEES	TOTAL PAID

CAMT
189146.00
CON TX 699.84
PRFEE 1.00
WDEED 28.00
TOTAL 728.84
CHECK 728.84

RECEIPT IS NOT VALID UNTIL CHECK IS PAID BY BANK

12/18/97 01 15:41 0001 3291

03820333
IDENTIFICATION REFERENCE

97 DEC 18 PM 3:35

FELIX Z. WILSON
DAVIDSON COUNTY, TN

No. 1234031