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, Skagit County Auditor

12/7/2000 Page 1 of 33 11:32:39AM

When recorded return to:

Skagit County Farmland Legacy Program
c/o Skagit County Commissioners
County Administration Building
700 South Second St. Room 202
Mount Vernon, WA 98273

005115

FIRST AMERICAN TITLE CO.

58937 E

GRANT DEED OF CONSERVATION EASEMENT

Grantor: Roy G. Hensler and Bernice V. Hensler
as Trustees of the Hensler Family Trust

38504
SKAGIT COUNTY WASHINGTON
Real Estate Excise Tax

DEC 07 2000

Grantee: Skagit County

Legal Description:

Abbreviated form: portions of Government Lots 2 and 3, Section 6,
Township 36 North, Range 5 East, W.M.
(complete legal at Exhibit A).

Amount Paid \$ 397.80
Skagit Co. Treasurer
By *KH* Deputy

Assessor's Tax ID# and Parcel Number: 360506-0-002-0005 / P50860
360506-0-002-0400/P115746
360506-0-002-0500/P115747

20th THIS GRANT DEED OF CONSERVATION EASEMENT ("Easement") is made this
day of November, 2000, Roy G. Hensler and Bernice V. Hensler, as Trustees
of the Hensler Family Trust, having an address at 26 State Route 9, Sedro Woolley, WA
98284, hereinafter referred to as "Grantor"), in favor of Skagit County, a political subdivision
of the State of Washington, having an address at Skagit County Farmland Legacy Program,
c/o Skagit County Board of Commissioners, County Administration Building Room 202, 700
South Second Street, Mount Vernon, WA 98273 (hereinafter referred to as "Grantee").

I. RECITALS

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A. Grantor is the sole owner in fee simple of that certain real property (the "Protected Property") in Skagit County, Washington, more particularly described in Exhibit A. (legal description) and shown on Exhibit B. (site map), which are attached and incorporated into this Easement by this reference. The portion of the property protected by this Easement is considered the ("Riparian Habitat Conservation Zone") and is approximately 45.09 acres in size.

B. The Riparian Habitat Conservation Zone protected by this Easement is described in Exhibit A. (legal description) and shown in Exhibit B. (site map), which are attached and incorporated into this Easement by this reference.

C. The Riparian Habitat Conservation Zone (hereafter referred to as "Protected Property") provides riparian habitat and other natural values (collectively, the Conservation Values), as more particularly described in Recitals 1.A, 1.B. and Exhibits B., C. and D. below. For purposes of this Easement, riparian habitat is the land area adjacent to aquatic systems with flowing water that contains elements of both aquatic and terrestrial ecosystems which mutually influence each other and provide habitat for fish and wildlife species. Riparian Habitat provides vital functions to aquatic and upland ecosystems which include: among others, soil and streambank stability, moderation of stream temperature and reduction of nutrients to the aquatic system.

D. The specific Conservation Values and characteristics of the Protected Property are further documented in an inventory of relevant features of the Protected Property, dated November 15, 2000, on file at the offices of Grantee and incorporated into this Easement by this reference "Baseline Documentation", and a summary is attached as Exhibit C. The Baseline Documentation, which has been reviewed and accepted by Grantor and Grantee, consists of reports, maps, photographs, and other documentation that provide, collectively, an accurate representation of the Protected Property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant. Exhibit B, included as part of the Baseline Documentation, is a scaled site map delineating the approximate location of all buildings, the existing developed area, and other key features and improvements on the site at the time of this grant, including the Riparian Habitat Conservation Zone.

E. The Protected Property is of significant natural value to the Grantor, the people of Skagit County and the people of the State of Washington (collectively "Conservation Values"). The Conservation Values include protection of the Riparian Habitat Conservation Zone.



F. A goal of Skagit County as stated in the County-wide Regional Comprehensive Plan Policies, adopted in July 2000 is to: "Encourage the Retention of Open Space and Development of Recreational Opportunities, Conserve Fish and Wildlife Habitat, Increase Access to Natural Resource Lands and Water, and Develop Parks". 005115

G. The declared policies of Skagit County in the Critical Areas Ordinance of Skagit County (Title 14 Chapter 14.24.20), as adopted July 24, 2000, or as amended, is "to assist in orderly development, conserve the value of property, safeguard the public welfare, and provide for the protection of the quality and quantity of groundwater used for public water supplies (RCW 36.70A.070(1)) and provide protection for the following critical areas...Wetlands, Frequently Flooded Areas.... and Fish and Wildlife Habitat Conservation Areas... It is the purpose of this Chapter to protect, restore where practical, and enhance fish and wildlife populations and their associated habitats."

H. Grantor, as owner of the Protected Property, has the right to protect and preserve the Conservation Values of the Protected Property, and desires to transfer such rights to Grantee in perpetuity.

I. The foregoing recitals are incorporated into this Easement by this reference.

II. CONVEYANCE AND CONSIDERATION

A. For the reasons stated above, in consideration of the mutual covenants, terms, conditions, and restrictions contained in this Easement, and in consideration of payment of \$26,000 and other good and valuable consideration by Grantee to Grantor, the receipt of which is acknowledged, Grantor hereby grants, conveys and warrants to Grantee a conservation easement in perpetuity over the Protected Property, consisting of certain rights in the Protected Property, as defined in this Easement, subject only to the restrictions contained in this Easement.

B. This conveyance is a conveyance of an interest in real property under the provisions of RCW 64.04.130.

C. Grantor expressly intends that this Easement run with the land and that this Easement shall be binding upon Grantor's personal representatives, heirs, successors, and assigns.

III. PURPOSE

The purpose of this Easement is to assure that the Riparian Habitat Conservation Zone will be retained predominantly in its natural condition, and to prevent any use of, or activity on, the Riparian Habitat Conservation Zone that will impair or interfere with the Conservation Values of the Riparian Habitat Conservation Zone. This Purpose includes the protection of



riparian habitat as defined in Recital 1.C. of this Easement. Grantor intends that this Easement will confine the use of, or activity on, the Riparian Habitat Conservation Zone to such uses and activities that are consistent with this Purpose. This Easement shall not be construed as affording to the general public physical access to the Property.

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IV. RIGHTS CONVEYED TO GRANTEE

To accomplish the Purpose of this Easement, the following rights are conveyed to Grantee by this Easement:

A. **Protection.** To preserve and protect in perpetuity and to enhance by mutual agreement with the Grantor the Conservation Values of the Protected Property.

B. **Stewardship Plan.** To further this Purpose, Grantee has, by mutual agreement with Grantor, developed a plan for stewardship of the Riparian Habitat Conservation Zone which is attached as Exhibit D. and incorporated into this Easement by this reference, and on file in the offices of the Grantee. The Stewardship Plan describes activities to monitor, protect, maintain and restore or enhance the original and natural conditions of the Riparian Habitat Conservation Zone.

C. **Access for Monitoring and Enforcement.**

1. To enter the Protected Property annually, at a mutually agreeable time and upon prior written notice to Grantor, for the purpose of making a general inspection to monitor compliance with this Easement.

2. To enter the Protected Property at such other times as are necessary if Grantee has a reason to believe that a violation of the Easement is occurring or has occurred, for the purpose of mitigating or terminating the violation and otherwise enforcing the provisions of this Easement. Such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Protected Property.

3. To enter Grantor's property lying between the west line of the Protected Property and the east line of State Highway No. 9, for the purpose of ingress and egress to the Protected Property in conjunction with the rights granted in C.1. and C.2. above.

D. **Injunction and Restoration.** To enjoin any use of, or activity on, the Protected Property that is inconsistent with the Purpose of this Easement, including trespasses by members of the public, and to require or undertake the restoration of such areas or features of the Protected Property as may be damaged by uses or activities inconsistent with the provisions of this Easement, all in accordance with Section X.



E. Enforcement. To enforce the terms of this Easement, consistent with Section X.

F. Assignment of Rights to State. Grantor hereby acknowledges its authorization and approval of the assignment of certain rights in this Easement to the State of Washington through the Interagency Committee for Outdoor Recreation, which rights shall be co-held by Grantee and the State of Washington through the Interagency Committee for Outdoor Recreation. This Assignment of Rights shall be substantially in the form attached to this Easement as Exhibit E.

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G. Assignment. To assign, convey or otherwise transfer Grantee's interest in the Protected Property in accordance with Section XV.

V. PROHIBITED USES AND ACTIVITIES

Any use of, or activity on the Protected Property inconsistent with the purposes of this Easement is prohibited, and Grantor acknowledges and agrees that it will not conduct, engage in or permit any such use or activity. Without limiting the generality of the foregoing, the following uses of, or activities, though not an exhaustive list, are inconsistent with the purposes of this easement and shall be prohibited, except as expressly provided in Section VI. below, or as described in the Stewardship Plan (Exhibit D.), or as deemed necessary by Grantee to preserve or protect the Conservation Values of the Protected Property:

A. Construction. The placement or construction of any buildings, structures, or other improvements of any kind, (including, without limitation, residential structures, docks, fences, roads, and utilities), except as permitted in Sections VI. below.

B. Alteration of Land. The alteration of the surface of the land, including, without limitation, the excavation or removal of soil, sand, gravel, rock, peat, or sod, except for the study of any incidental archeological findings, or as is necessary for uses permitted in Sections VI. below.

C. Erosion or Water Pollution. Any use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or subsurface waters.

D. Alteration of Wetlands or Water Courses. The alteration or manipulation of wetlands or watercourses, including draining, filling, dredging, ditching, or diking, water impoundments or surface or sub-surface water withdrawal, except as necessary to protect public health or safety or property on the Protected Property or adjacent property, or as permitted in Sections VI. below.

E. **Removal of Trees and Other Vegetation.** The pruning, topping, cutting down, burning or other destruction or removal of live and dead trees and other vegetation, except for educational or research activities consistent with the purpose of the Easement, or as permitted in Sections VI. below, or to remove plants that are listed as noxious plants by the State of Washington Department of Agriculture. This prohibition includes harvesting or cutting trees for lumber, firewood or Christmas trees, as well as cutting or digging of trees, shrubs or herbs for commercial sale.

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F. **Crop Cultivation.** The cultivation of any crops including timber products, nursery stock, fruit and vegetables, row crops, and livestock feed.

G. **Waste Disposal.** The disposal or storage of rubbish, garbage, debris, hydrocarbons, pesticides, animal or human waste, abandoned vehicles or equipment or parts thereof or other unsightly, offensive, or hazardous waste or material except as a part of an existing on-site domestic waste disposal system.

H. **Application of Agricultural Chemicals.** The application of agricultural chemicals including fertilizers, animal wastes and pesticides, except as deemed necessary by Grantor and Grantee to preserve, protect, or enhance the Conservation Values of the Protected Property.

I. **Construction of Additional Roads and Trails.** The construction of roads, trails or paths for any use, except as permitted in Sections VI. below.

J. **Signs.** The placement of commercial signs, billboards, or other advertising material, except as permitted in Section VI. below.

K. **Mining.** The exploration for, or development and extraction of minerals and hydrocarbons on or below the surface, including sand and gravel extraction.

L. **Wildlife Disruption.** The intentional disruption of wildlife breeding and nesting activities.

M. **Domestic Animals.** The keeping of domestic animals, including grazing livestock.

N. **Introduced Vegetation.** The introduction of nonnative invasive plant species.

O. **Motorized Watercraft, Off-Road Vehicles and Excessive Noise.** The operation of motorboats, jet-skis, motorcycles, dune buggies, snow mobiles, or other type of motorized watercraft or off-road motorized recreational vehicles or the operation of other sources of excessive noise pollution except for equipment normally used for proper maintenance and associated with activities permitted in Section VI.



VI. PERMITTED USES AND ACTIVITIES

Grantor reserves for itself and its heirs, successors, and assigns, any use of, or activity on, the Protected Property, which is not inconsistent with the purposes of the Easement and which is not prohibited herein. Without limiting the generality of the foregoing, Grantor specifically reserves for itself and its heirs, successors, and assigns, the following uses and activities, but is not obligated to undertake any of these:

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- A. **Planting of Vegetation.** The planting of native species of trees and shrubs for the purposes of protecting, restoring or enhancing the conservation values of the Protected Property.
- B. **Hazardous Tree Removal.** The trimming or removal of trees or other vegetation that pose a threat to property, public health and safety of neighbors, the general public or users of the Protected Property. A certified arborist shall arbitrate any disagreement regarding the identification of hazardous or diseased trees.
- C. **Forest Management.** Forest management practices designed to enhance or restore native wildlife habitat including thinning or topping of existing trees, provided that any cut trees are not removed from the Protected Property. Such activities shall be carried out in compliance with federal, state and local regulations, and shall be mutually agreed upon by Grantor and grantee. Prior to such forest management activities, Grantor shall submit to Grantee, for review and approval, an updated Stewardship Plan or Forest Management plan that describes the habitat enhancement objectives of the plan and the specific practices proposed.
- D. **Erosion Control and Surface Water Management.** Installation of erosion control measures, surface water retention facilities, and other structures, intended to protect the conservation values of the Protected Property, provided that effective placement outside the riparian buffer area is not possible, and provided that any such installation shall be subject to the prior written approval of the Grantee.
- E. **Recreational.** To conduct low impact recreational activities (such as hiking or bird watching) on the Protected Property provided that such activities are conducted in a manner and intensity that does not adversely impact plant and wildlife habitat and trails on the Protected Property. No motorized recreational vehicles or other activities that could disrupt the wildlife or destroy essential habitat are allowed.
- F. **Trails.** To maintain, renovate, expand, or replace existing trails or to construct new trails on the Protected Property, provided that such trails shall not exceed three feet in width. The design, location and construction materials of any new construction or renovation, expansion, or replacement of trails shall be subject to the prior written approval of the Grantee and construction and maintenance of the trails may not adversely impact the Conservation Values of the Protected Property.



G. **Fences.** To construct, repair or replace a fence to preserve or protect the Conservation Values of the Protected Property. Fences shall allow the safe passage of wildlife.

H. **Access Driveways.** To maintain, repair and replace the existing access driveways and existing paths, provided, that any such replacement shall be subject to the prior written approval of the Grantee.

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K. **Signage.** To place signs on the Protected Property to advertise for sale or rent or to declare that a Conservation Easement has been placed on the property or to post notice of a wildlife area or to state the conditions of access to the Protected Property such as no hunting or trespassing, provided that such signs are built and located to protect and preserve the Conservation Values of the Protected Property.

L. **Noncommercial hunting and fishing.** Noncommercial hunting and fishing by Grantor and assigns. Such activities shall be carried out in compliance with federal, state and local regulations.

M. **Emergencies.** To undertake other activities necessary to protect public health or safety on the Protected Property or adjacent property, or which are actively required by and subject to compulsion of any governmental agency with authority to require such activity, provided that any such activity shall be conducted in a manner that protects the Conservation Values of the Protected Property to the greatest practicable extent, taking into account all the surrounding circumstances.

VII. STEWARDSHIP

Grantor agrees to protect the Riparian Habitat Conservation Zone on the protected property as shown in Exhibit B. No activities which would damage the Conservation Values of the Riparian Habitat Conservation Zone shall be permitted. Grantor further agrees to manage the Riparian Habitat Conservation Zone consistent with the goals in Stewardship Plan as described in Section IV.B. and Exhibit C.

VIII. NOTICE

A. **Notice.**

1. **Grantor.** The following permitted uses and activities require Grantor to notify Grantee in writing prior to undertaking the use or activity:

- a) forest management activities (Section V.C.);
- b) installation of erosion control measures and surface water retention facilities (Section VI.D.);
- c) construction, renovation or replacement of trails (Section VI.F.);



- d) construction, renovation or replacement of wetland boardwalk (Section VI.G.)
- e) construction, renovation or replacement of wildlife observation shelter (Section VI.H.)
- f) replacement of access driveways (Section VI.I.)

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The purpose of requiring Grantor to notify Grantee prior to undertaking these permitted uses and activities is to afford Grantee an adequate opportunity to ensure that the use or activity in question is designed and carried out in a manner consistent with the Purpose of this Easement. Whenever such notice is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the use or activity in question. Grantor may notify Grantee at the time of permit application, for concurrent review, or may provide notice and initiate review prior to permit application, at the Grantor's discretion. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed use or activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the Purpose of this Easement. If Grantee does not provide written objections within thirty (30) days after receipt of Grantor's notice, Grantee shall be deemed to have approved of the proposed activity for purposes of this easement only.

B. Optional Consultation. If Grantor is unsure whether a proposed use or activity is prohibited by this Easement, Grantor may consult Grantee by providing Grantee a written notice describing the nature, scope, design, location, timetable, and any other material aspect of the proposed use or activity in sufficient detail to permit Grantee to make an informed judgment as to the consistency with the Purpose of this Easement and to provide comments thereon to Grantor for the purposes of this easement only.

C. Addresses. 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 either served personally or sent by first class certified mail, postage prepaid, addressed as follows:

To Grantor: Skagit County Farmland Legacy Program
c/o Skagit County Commissioners
County Administration Building
700 South Second St. Room 202
Mount Vernon. WA 98273

To Grantee: Roy G. Hensler and Bernice V. Hensler
Trustees, Hensler Family Trust
26 State Route 9
Sedro Woolley, WA 98284

or to such other address as either party designates by written notice to the other.



IX. DISPUTE RESOLUTION

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A. **Preventive Discussions.** Grantor and Grantee will promptly give the other notice of problems or concerns arising in connection with the parties' actions under this Easement or the use of or activities or conditions on the Protected Property, and will meet as needed, but no later than 15 days after receipt of a written request for a meeting, to minimize the same.

B. **Optional Alternative Dispute Resolution.** If a dispute is not resolved through preventive discussions under subsection A, Grantor and Grantee may by mutual agreement submit the matter to mediation or arbitration upon such rules of mediation or arbitration as Grantor and Grantee may agree.

X. GRANTEE'S REMEDIES

A. **Notice of Violation, Corrective Action.** If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the Purpose of this Easement, to restore the portion of the Protected Property so injured to its prior condition in accordance with a plan approved by Grantee.

B. **Grantor's Failure to Respond.** Grantee may bring an action as provided in subsection C if Grantor:

1. Fails to cure the violation within thirty (30) days after receipt of a notice of violation from Grantee; or
2. Under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing the violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.

C. **Grantee's Action.**

1. **Injunctive Relief.** Grantee may bring an action at law or in equity in a court having jurisdiction to enforce the terms of this Easement:
 - a. To enjoin the violation, ex parte as necessary, by temporary or permanent injunction; and
 - b. To require the restoration of the Protected Property to the condition that existed prior to any such injury.



2. **Damages.** Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of Conservation Values. Without limiting Grantor's liability in any way, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking corrective or restoration action on the Protected Property.

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D. **Emergency Enforcement.** If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Protected Property, Grantee may pursue its remedies under this section without prior notice to Grantor or without waiting for the period provided for cure to expire.

E. **Scope of Relief.** Grantee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this 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 Easement, without the necessity of providing 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.

F. **Costs of Enforcement.** In the event Grantee must enforce the terms of this Easement, the costs of restoration necessitated by acts or omissions of Grantor, its agents, employees, contractors, family members, invitees or licensees in violation of the terms of this Easement and Grantee's reasonable enforcement expenses, including attorneys' and consultants' fees, shall be borne by Grantor or those of its personal representatives, heirs, successors, or assigns, against whom a judgment is entered. In the event that Grantee secures redress for an Easement violation without initiating or completing a judicial proceeding, the costs of such restoration and Grantee's reasonable expenses shall be borne by Grantor and those of its personal representatives, heirs, successors, or assigns who are otherwise determined to be responsible for the unauthorized use or activity.

G. **Grantee's Discretion.** Grantee acknowledges its commitment to protect the Purpose of the Easement. Enforcement of the terms of the Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any terms of this Easement by Grantor, its agents, employees, contractors, family members, invitees or licensees shall not be deemed or construed to be a waiver by Grantee of such term or any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver of such term or any of Grantee's



rights under this Easement. No grant by Grantor in its governmental or regulatory capacity of any building permit, grading permit, land use approval or other development approval shall be deemed or construed to be a waiver of any term or any of Grantee's rights under this Easement.

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H. Waiver of Certain Defenses. Grantor acknowledges that it has carefully reviewed this Easement and has consulted with and been advised by counsel of its terms and requirements. In full knowledge of the provisions of this Easement, Grantor hereby waives any claim or defense it may have against Grantee or its successors or assigns under or pertaining to this Easement based upon waiver, laches, estoppel, or prescription.

I. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor to abate, correct, or restore any condition on the Protected Property or to recover damages for any injury to or change in the Protected Property resulting from causes beyond Grantor's control, including, without limitation, natural changes, fire, flood, storm, or earth movement, or from acts of trespassers, that Grantor could not reasonably have anticipated or prevented or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes. In the event the terms of this Easement are violated by acts of trespassers that Grantors could not reasonably have anticipated or prevented, Grantor agrees, at Grantee's option, to join in any suit, to assign its right of action to Grantee, or to appoint Grantee its attorney in fact, for the purpose of pursuing enforcement action against the responsible parties.

J. Estoppel Certificates. Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor, or to any party designated by Grantor, any document, including an estoppel certificate, that certifies, to the best of Grantee's knowledge, Grantor's compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement. Such certification shall be limited to the condition of the Protected Property as of Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within thirty (30) days of receipt of Grantor's written request.

XI. ACCESS BY PUBLIC NOT REQUIRED

This Easement does not provide and shall not be construed as providing, the general public access to any portion of the Protected Property.

XII. COSTS, LIABILITIES AND INSURANCE, TAXES, ENVIRONMENTAL COMPLIANCE, AND INDEMNIFICATION

A. Costs, Legal Requirements, Liabilities and Insurance. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership,



operation, upkeep, and maintenance of the Protected Property, including the maintenance of adequate liability insurance coverage. Grantor remains solely responsible for obtaining any applicable governmental permits and approval for any construction or other activity or use permitted by this Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall prevent the perfection of any liens against the Protected Property arising out of any work performed for, material furnished to, or obligations incurred by Grantor.

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B. Taxes. Grantor shall pay all taxes levied against the Protected Property by government authority as they become due, and shall furnish Grantee with satisfactory evidence of payment upon request. If Grantor fails to pay any taxes when due, Grantee is authorized, but in no event obligated, to make or advance such payment of taxes upon three (3) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the maximum rate allowed by law.

C. Representations and Warranties. Grantor represents and warrants that, after reasonable investigation and to the best of Grantor's knowledge:

1. Grantor and the Protected Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Protected Property and its use;
2. There has been no release, dumping, burying, abandonment or migration from off-site on the Protected Property of any substances, materials, or wastes that are hazardous, toxic, dangerous, or harmful or are designated as, or contain components that are, or are designated as, hazardous, toxic, dangerous, or harmful and/or that are subject to regulation as hazardous, toxic, dangerous, or harmful in violation of any federal, state or local law, regulation, statute, or ordinance;
3. Grantor has not disposed of any hazardous substances off-site, nor have they disposed of substances at sites designated or proposed to be designated as federal Superfund (42 U.S.C. § 9601 et seq.) or state Model Toxics Control Act (RCW 70.105D.010 et seq.) ("MTCA") sites; and
4. There is no pending or threatened litigation affecting the Protected Property or any portion of the Protected Property that will materially impair the Conservation Values of any portion of the Protected Property. No civil or criminal proceedings have been instigated or are pending against Grantor or its predecessors by government agencies or third parties arising out of alleged violations of environmental laws, and Grantor has not received any notices of violation, penalties, claims, demand letters, or other notifications relating to a breach of environmental laws.



D. Remediation. If, at any time, there occurs, or has occurred, a release in, on, or about the Protected Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic or dangerous to the air, water or soil, or in any way harmful or threatening to human health or environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee should be responsible for remediation.

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E. Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Protected Property, or any of Grantor's activities on the Protected Property, or otherwise to become an operation with respect to the Protected Property within the meaning of the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended ("CERCLA"), and MTCA.

F. Indemnification. Grantor hereby agrees to release and hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the personal representatives, heirs, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with:

1. 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 Protected Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; and
2. The obligations, covenants, representations and warranties in subsections A, B, C, and D of this section.

XIII. EXTINGUISHMENT, CONDEMNATION AND SUBSEQUENT TRANSFER

A. Extinguishment. If circumstances arise in the future that render the Purpose of this Easement impossible to accomplish, this Easement can only be extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction and only upon a finding and declaration to that effect. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Protected Property subsequent to such termination or extinguishment, shall be determined in accordance with Section XIII.B, Valuation, of this Easement.

B. Valuation. In the event of an extinguishment pursuant to Subsection A, the amount to be paid by the Grantor to the Grantee shall be determined by subtracting the value of the



Protected Property subject to this Easement from the fair market value of the unrestricted Protected Property at the time of termination or extinguishment.

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C. Condemnation. If all or any of the Protected Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to extinguish this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interest in the Protected Property subject to the taking or in lieu purchase and all direct or incidental damages resulting from the taking or in lieu purchase. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantor and Grantee agree that Grantee's share of the balance of the amount recovered shall be determined by the method described in Subsection B, with the remainder due to the Grantor.

D. Application of Proceeds. Grantee shall return any proceeds received under the circumstances described in this Section XIII. to Skagit County's Conservation Futures Fund (or successor fund) for use in purchasing conservation easements or development rights on other eligible sites under the program (or successor program.)

E. Subsequent Transfers. Grantor agrees to:

1. Incorporate the terms of this Easement by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including, without limitation, a leasehold interest;
2. Describe this Easement in and append it to any executory contract for the transfer of any interest in the Protected Property;
3. Obtain a certificate from the purchaser, leaseholder or other party gaining an interest in all or part of the Protected Property and any financier, acknowledging their awareness of this Easement and their intent to comply with it. Such certificate shall be appended to and recorded with any deed or other legal instrument by which Grantor divests itself of any interest in all or a portion of the Protected Property; and
4. Give written notice to Grantee of the transfer of any interest in all or a portion of the Protected Property no later than forty-five (45) days prior to the date of such transfer. Such notice to Grantee shall include the name, address, and telephone number of the prospective transferee or the prospective transferee's representative.

The failure of Grantor to perform any act required by this subsection shall not impair the validity of this Easement or limit its enforceability in any way.

XIV. AMENDMENT



If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee are free to jointly amend this Easement; provided that no amendment shall be allowed that will diminish the effectiveness of this Easement in carrying out the Purpose of the Easement in any way and that only those amendments which strengthen the effectiveness of the Easement in carrying out the Purpose of the Easement shall be permitted. Any such amendment shall not affect the perpetual duration of the Easement and shall be recorded in the official records of Skagit County, Washington, and any other jurisdiction in which such recording is required.

005115

XV. ASSIGNMENT

This Easement is transferable by mutual agreement of Grantor and Grantee, and Grantee may assign its rights and obligations under this Easement only to an agency or organization that is a qualified organization at the time of transfer under section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under RCW 64.04.130 or RCW 84.34.250 (or any successor provision(s) then applicable). As a condition of such transfer, Grantee shall require that the transferee exercise its rights under the assignment consistent with the Purpose of this Easement.

XVI. RECORDING

Grantee shall record this instrument in a timely fashion in the official records of Skagit County, Washington, and in any other appropriate jurisdictions, and may re-record it at any time as may be required to preserve its rights in this Easement.

XVII. GENERAL PROVISIONS

- A. **Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the State of Washington. Venue to be Skagit County, except as to Exhibit E, "Assignment of Rights."
- B. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the Purpose of this Easement and the policy and purpose of RCW 64.04.130 and Chapter 84.34 RCW. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- C. **Severability.** If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the



application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.

005115

D. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Protected Property and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Protected Property, all of which are merged into this Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section XIV.

E. No Forfeiture. Nothing contained in this Easement will result in a forfeiture or reversion of Grantor's title in any respect.

F. "Grantor" - "Grantee". The terms "Grantor" and "Grantee," wherever used in this Easement, and any pronouns used in their place, shall be held to mean and include, respectively the above-named Grantor, and its personal representatives, heirs, successors, and assigns, and the above-named Grantee, its personal representatives, successors and assigns.

G. Successors and Assigns. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties to this Easement and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.

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

I. Joint and Several. The obligations imposed by this Easement upon Grantor shall be joint and several.

J. Counterparts. The parties may execute this instrument in two or more counterparts, which shall be signed by both parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.



XVIII. SCHEDULE OF EXHIBITS

005115

- A. Legal Description of Property Subject to Easement**
- B. Site Map(s)**
- C. Baseline Documentation Summary**
- D. Stewardship Plan**
- E. Assignment of Rights**



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, Skagit County Auditor

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

Ray G. Zensler

Bernice J Kensler

Ken'm. Keep

Print Name Kim M. Kerr



Page 19 of 20

The BOARD OF COUNTY COMMISSIONERS
Conservation Easement.

does hereby accept the above Grant Deed of

005115

Dated: November 20, 2000

SKAGIT COUNTY, WASHINGTON

Harvey Wolden
Harvey Wolden, Chairman

Robert Hart
Robert Hart, Commissioner

Ted W. Anderson, Commissioner

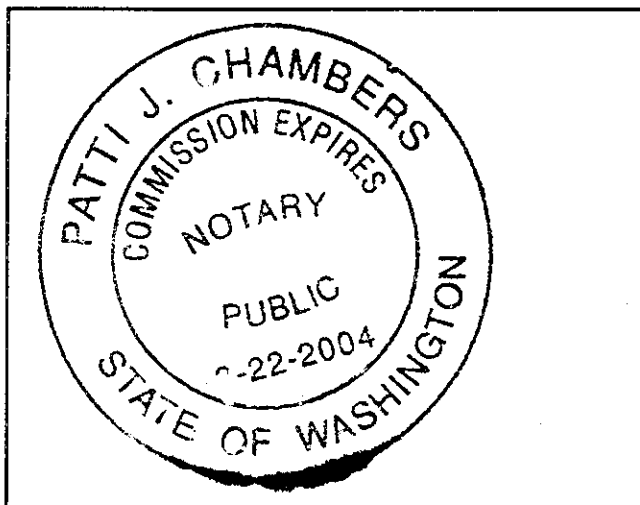
Approved as to Form

John R. Moffat
John R. Moffat
Chief Civil Deputy

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Harvey Wolden & Robert Hart
are the persons who appeared before me, and said persons acknowledged that they signed this instrument,
on oath stated that they were authorized to execute the instrument and acknowledged it as the
_____ of _____ to be the free and
voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: November 20, 2000



(Use this space for notarial stamp/seal)

Patti J. Chambers
Notary Public
Print Name Patti J. Chambers
My commission expires 3/22/04



EXHIBIT A/

LEGAL DESCRIPTION

005115

CONSERVATION EASEMENT FROM HENSLER FAMILY TRUST

THAT PORTION OF GOVERNMENT LOTS 2 AND 3, SECTION 6, TOWNSHIP 36 NORTH, RANGE 5 EAST, W.M. DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 36 NORTH RANGE 5 EAST, W.M., AS SHOWN ON DEPARTMENT OF NATURAL RESOURCES SURVEY MAP NO. 302, DATED APRIL 1978;
THENCE SOUTH 88°56'52" EAST 117.68 FEET ALONG THE NORTH LINE OF SAID SECTION 6 TO THE SOUTHWEST CORNER OF SECTION 31, TOWNSHIP 37 NORTH, RANGE 5 EAST, W.M., AS SHOWN ON DEPARTMENT OF NATURAL RESOURCES SURVEY MAP NO. 193, DATED APRIL 1974;
THENCE CONTINUE SOUTH 88°56'52" EAST 2484.25 FEET ALONG SAID NORTH LINE OF SECTION 6, ALSO BEING THE SOUTH LINE OF SAID SECTION 31, TO THE NORTHWEST CORNER OF GOVERNMENT LOT 2 (NORTH 1/4 CORNER) OF SAID SECTION 6;
THENCE CONTINUE SOUTH 88°56'52" EAST 145.68 FEET ALONG SAID NORTH LINE OF SECTION 6 TO THE MONUMENTED SOUTH 1/4 CORNER OF SAID SECTION 31, PER SAID DEPARTMENT OF NATURAL RESOURCES SURVEY MAP NO. 193;
THENCE CONTINUE SOUTH 88°56'52" EAST 382.84 FEET ALONG SAID NORTH LINE OF SECTION 6 TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 23°53'33" WEST 319.08 FEET;
THENCE SOUTH 26°51'03" WEST 170.99 FEET;
THENCE SOUTH 61°00'21" WEST 522.81 FEET;
THENCE SOUTH 10°40'08" WEST 397.39 FEET;
THENCE SOUTH 70°41'25" EAST 88.36 FEET;
THENCE SOUTH 22°35'15" EAST 66.86 FEET;
THENCE SOUTH 17°47'53" EAST 311.27 FEET;
THENCE SOUTH 12°24'16" EAST 170.0 FEET, MORE OR LESS, TO AN INTERSECTION WITH AN EXISTING EAST-WEST FENCE LINE;
THENCE SOUTH 88°42'28" EAST 1224.4 FEET, MORE OR LESS, ALONG SAID EAST-WEST FENCE LINE, OF FENCE LINE PROJECTED, TO THE WESTERLY MARGIN OF THE BURLINGTON NORTHERN RAILROAD RIGHT OF WAY;
THENCE NORTH 0°30'40" EAST 1655.6 FEET, MORE OR LESS, ALONG SAID WESTERLY MARGIN TO THE NORTH LINE OF SAID GOVERNMENT LOT 2, SECTION 6, TOWNSHIP 36 NORTH, RANGE 5 EAST, W.M. AT A POINT BEARING SOUTH 88°56'52" EAST FROM THE TRUE POINT OF BEGINNING;
THENCE NORTH 88°56'52" WEST 742.41 FEET ALONG SAID NORTH LINE TO THE TRUE POINT OF BEGINNING;

SUBJECT TO AND TOGETHER WITH EASEMENTS, RESERVATIONS, RESTRICTIONS, COVENANTS, LIENS, LEASES, COURT CAUSES AND OTHER INSTRUMENTS OF RECORD INCLUDING BUT NOT LIMITED TO THOSE MENTIONED ON SCHEDULE B-1 OF FIRST AMERICAN TITLE COMPANY REPORT ORDER NO. 58937, DATED JULY 26, 2000.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.



EXHIBIT B

Site Map

005115

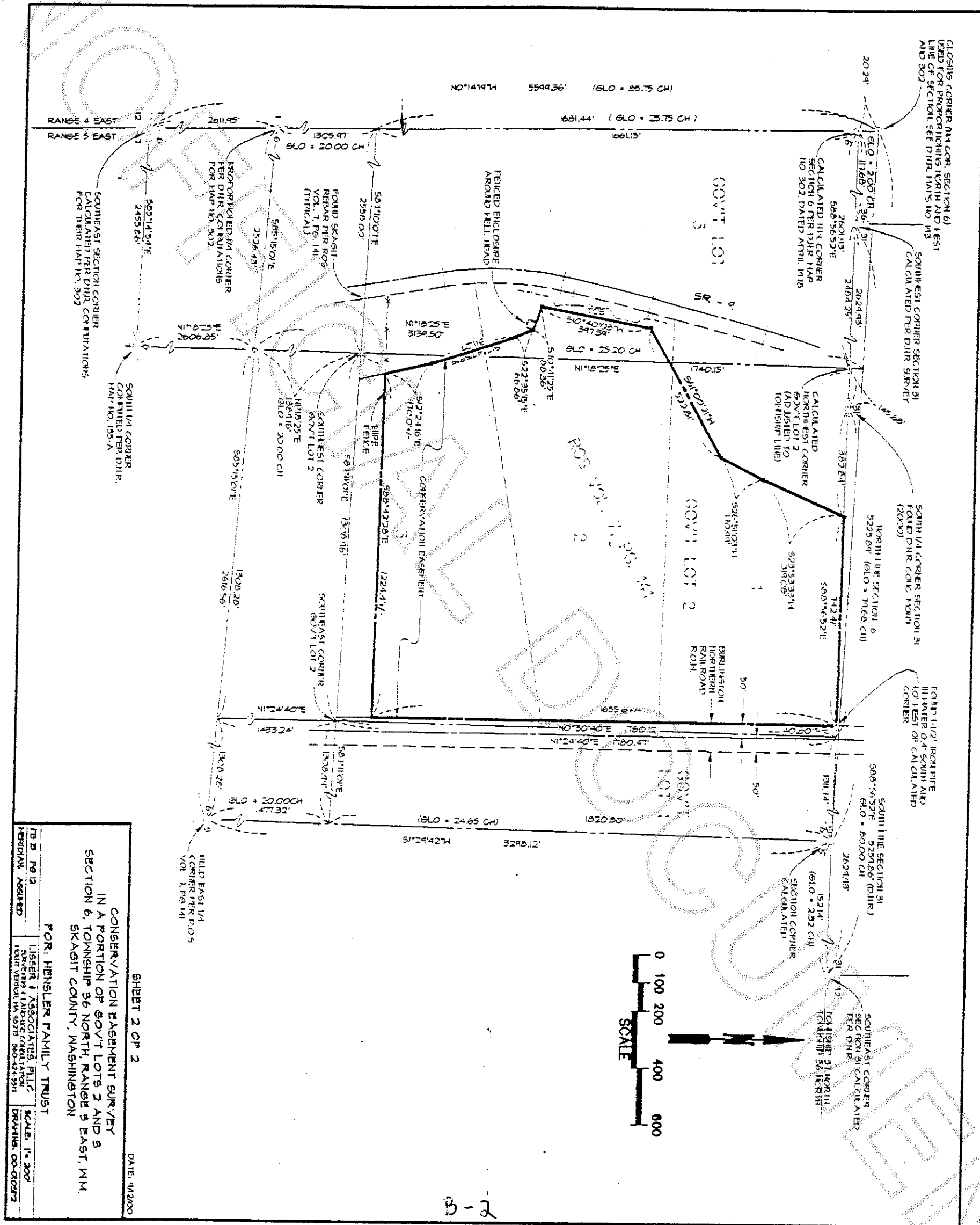
B-1



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EXHIBIT C

Baseline Documentation Summary

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EXHIBIT C
CONSERVATION EASEMENT BASELINE SUMMARY

005115

Grantor Information:

Name Roy and Bernice Hensler Parcel #: 360506-0-002-0005 / P50860
Address # 26 State Route 9 Section 6
City Sedro Woolley, WA Zip 98284 Township 36N
Phone (Day) 766-6610 (Evening) same Range 5E

Skagit County (Grantee) Contact:

Name(s) Rich Doengess (S.C. Farmland Legacy Program) Phone: (360) 336-9365
or Martha Bray (Skagit Land Trust) Phone: (360) 428-7878

Property Information:

Acres: 48.1 Number of Buildings 0 Descriptions Attached Yes XX No
Percent Wetland 100% Percent Forest 50% Percent Farmland 0 Percent Other 0
Percent buildings and Grounds 0 County Zoning Ag Type of Ownership FEE
Mortgage Yes X No Mtg. Holder

Soil types: Approximately 85% of the forested wetland and riparian area soils are mapped by NRCS as "Mukiteo Muck" (Map unit # 97), a "very deep, very poorly drained soil in depressional areas. A small portion of higher forest on the west side of the Protected Property is "Wiseman channery sandy loam (Map unit # 159), 0 to 8 percent slopes," a very deep, somewhat excessively drained soil on alluvial fans." A small portion of the wetland area on the east side of the Protected Property is "Terric Medisaprists, 0 to 2 percent slopes" (Map unit # 143) "deep poorly drained soils in back swamps of flood plains and in depressional areas on till plains."

County Critical Areas: National Wetland Inventory data classifies the northwestern portion of the Protected Property as "Palustrine Forested;" and the southeastern portion as "Palustrine Scrub-Shrub".

Special Features of Property:

The Protected Property is located in the upper reaches of the Samish River floodplain just south of the Whatcom County border. It comprises approximately 80% of a 58 acre tract owned by the Hensler Family. The conservation easement boundary transects the Hensler Family tract from north to south, with the property to the west excluded from the easement (see attached survey and site map). This boundary is located roughly along the forested edge of the tract, with 3 residential homesites and old pasture outside the easement boundary, and the riparian corridor and relatively undisturbed woodland within it.

The northwestern portions of the Protected Property is forested wetland composed primarily of 25-35 year old red alder and some western red cedar and western hemlock. Understory consists primarily of salmonberry and skunk cabbage. Closer to the Samish River, to the east and south, the trees are short-

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lived due to saturated soils, and the alder becomes less frequent, giving way to willow and other shrubs. A small unnamed tributary to the Samish River roughly bisects the Protected Property flowing west to east into the wetland system. The largest trees are located near this stream.

005115

The Samish River is low gradient with several braided channels winding through the wetland system. Coho, king, and chum salmon, as well as steelhead and sea-run cut-throat are all documented in the upper Samish River system, with the associated wetlands particularly important for juvenile coho.

The woodland and wetland system also provide high quality wildlife habitat for a number of other native wildlife species including raptors, waterfowl, passerines, small mammals and amphibians. In addition, the landowners have observed bear, coyote and beaver on the Protected Property.

Condition of Property:

The Protected Property is in a relatively undisturbed natural state. No intensive human uses have occurred on it in the past 40 years except as described below.

No structures exist on the Protected Property except an electric transmission line transecting the northeast corner of the property. The property is subject to a 150-foot wide right-of-way easement in favor of the United States of America to maintain this power line. The easement allows the Grantee the right to fell, limb and top all trees, brush and snags on this strip, which encompasses approximately 3.5 acres of the Protected Property. The Burlington Northern Railroad and right-of-way easement runs north--south along the eastern boundary of the Protected Property.

A recent land survey, which was conducted for this conservation easement, indicates that the old fence-line running east-west near the southern boundary of the Protected Property is parallel to the property line, but is located approximately 80-90 feet north of it – well within the Protected Property (see attached survey and site map).

History:

According to the landowner, much of the Protected Property was logged off and cleared in the early 1900's, and was part of a large dairy farm. The Hensler family has owned the property since 1962. Some grazing along the wooded edges have occurred in the past, but little evidence of this remains. Until several years ago, the landowners leased part of the property to duck hunters. Other recent uses appear to be limited to some firewood harvest and low impact recreation.

Attachments:

☒ Aerial Photos/Map* ☒ On-site Photographs* ☒ Appraisal ☒ Survey
☒ Assessor Printout ☒ Title Search/Insurance ☒ "Stewardship Management Plan"

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Baseline Summary document prepared by Martha Bray, Skagit Land Trust, 8/15/00



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Exhibit E

ASSIGNMENT OF RIGHTS

005115

This ASSIGNMENT OF RIGHTS (this "Assignment") is executed as of the 20th day of November, 2000, by SKAGIT COUNTY ("Assignor"), to and in favor of THE STATE OF WASHINGTON ("State"), through the Interagency Committee for Outdoor Recreation ("IAC").

RECITALS

A. Assignor has entered into a conservation easement ("Conservation Easement") with certain property owners (collectively "Owner") in the Prairie Road portion of the Samish watershed (W.R.I.A. number #3 under WAC 173-500-040) in Skagit County, Washington. The names and addresses of the Owner and the recording number of the Conservation Easement are set forth in Exhibit 1 attached hereto and incorporated herein. The legal description of the Property subject to the Conservation Easement are set forth in Exhibit 2 attached hereto and incorporated herein.

B. The conservation purpose of the Conservation Easement is described in the Conservation Easement. That purpose is also described in the Project Agreement entered into between the recipient of IAC funds ("Sponsor") and the State through the IAC entitled Samish River Project, Project Number 97-1272C dated April 10, 1998 and the application and supporting materials which are on file with the State in connection with the Project Agreement, which Project Agreement is incorporated herein by this reference. That purpose includes protection, restoration, and enhancement of riparian habitat, as defined in the Conservation Easement.

C. Owner has authorized Assignor to assign to the State certain rights for access to and stewardship of the property covered by the Conservation Easement. Assignment of such rights is a necessary condition to receipt of grant funding under the Project Agreement and the policies of the Riparian Habitat Program (RHP) administered by the IAC under SSB6063, Ch. 235, § 329(6) (1997). Such rights are valuable to the State in connection with ensuring protection of riparian habitat under the terms of the Conservation Easement, and are particularly valuable because Assignor and Owner have agreed that Assignor will retain all responsibility for obligations of the Assignor under the Conservation Easement.

D. These recitals are incorporated herein by this reference.

Now, therefore, Assignor and the State agree as follows:

AGREEMENT

1. **Assignment.** For and in consideration of monies coming in whole or in part from the Habitat Conservation Account of the General Fund of the State of Washington and in fulfillment of terms of the Project Agreement identified herein, Assignor does hereby assign, transfer, set over, convey and deliver to the State individually, and as the representative of all the people of the State, the following rights (collectively referred to as "Rights") under the Conservation Easement the recording number of which is listed in Exhibit 1 attached hereto and incorporated herein by this reference:

a. **Access.** To enter the Riparian Habitat Conservation Zone, as defined in the Conservation Easement, through the Property subject to the Conservation Easement at a reasonable time and upon prior arrangement with Assignor and Owner, in order to monitor and evaluate performance, compliance, and/or quality assurance under the Project Agreement.

b. **Injunction and Restoration.** In the event of the failure of Assignor to undertake such injunction and restoration, to enjoin any use of, or activity in, the Riparian Habitat Conservation Zone which is inconsistent with the terms of the Conservation Easement, including trespass by members of the public, and undertake or cause to be undertaken the restoration of such areas or features of the Riparian



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Habitat Conservation Zone as may be damaged by uses or activities contrary to the provisions of the Conservation Easement.

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c. Enforcement. In the event of the failure of Assignor to undertake such enforcement, to enforce the terms of the Conservation Easement, and thereby assume the Assignor's remedies under the Conservation Easement.

d. Amendments. To review and approve any proposed amendments to the Conservation Easement. Review and approval by IAC's Director will be for compliance with the terms of the Project Agreement.

e. Termination For Reasons of Impracticability. To review and approve any proposed agreements to terminate the Conservation Easement, or release a portion of the Riparian Habitat Conservation Zone from the terms of the Conservation Easement, before expiration of the term of the Conservation Easement for the reason that circumstances have rendered the conservation purpose of the Conservation Easement impractical to achieve.

f. Stewardship Plans. To review any Stewardship Plans, including riparian habitat restoration and enhancement plans, as defined in the Conservation Easement. Review by IAC's Director will be for compliance with the terms of the Project Agreement.

These Rights shall be held in common with Assignor or Assignor's successors and assigns.

2. **State's Exercise of Rights.** The State hereby represents and warrants that its exercise of rights under this Assignment will be consistent with the conservation purpose defined in the Conservation Easement and the Project Agreement.

3. **Representations and Warranties of Assignor.** Assignor hereby represents and warrants to the State that:

a. Owner, identified in Exhibit 1 attached hereto and incorporated herein, has authorized and approved this Assignment.

b. Assignor shall enforce the terms of the Conservation Easement as provided in the Conservation Easement.

c. Assignor shall comply with, and IAC shall not be responsible for determining compliance with, all applicable federal, state, and local laws, regulations, and policies in its administration of the Conservation Easement or the undertaking of any of its rights under the Conservation Easement.

d. Neither Assignor nor Owner has any claims or causes of action, at law or in equity, with respect to any Conservation Easement as of the date provided above.

4. **Obligations.** It is expressly understood and agreed that, by the acceptance of this Assignment, the State has not assumed, and shall not become obligated to keep, fulfill, observe, perform or discharge, any duty or obligation of Assignor under the Conservation Easement.

5. **Indemnity.** Assignor shall defend, protect and hold harmless the State, IAC, or any employees thereof, from and against any and all costs, claims, fees and expenses arising out of or in any way relating to Assignor's representations and warranties under this Assignment, Assignor's obligations under the Conservation Easement, or the acts by or omissions of Assignor or Owner.

6. **Replacement Property.** The Conservation Easement may be extinguished in whole or in part before expiration of its term (if any) under certain circumstances identified in the Conservation Easement. Assignor may be entitled to compensation in such event. Assignor shall use all such proceeds for acquisition, restoration and/or enhancement of substantially equivalent property or property interests



within the same watershed, and if no feasible opportunity exists in the same watershed, within another watershed; provided, however, that any such project must be identified in an eligible watershed plan or accomplish an objective cited in such a plan. Assignor hereby agrees to consult with, and receive the approval of, the IAC in the selection of any replacement property and to assign to the State the same or substantially equivalent rights for access to and stewardship of the replacement property as provided for in this Assignment.

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7. **Restriction on Assignment.** Assignor shall not assign the Conservation Easement, or the performance of any obligations to the State under the Conservation Easement, without the express written consent of the IAC's Director.

8. **Assignment Term.** The term of this Assignment shall be the same as the term of the Conservation Easement, and shall expire upon the expiration date of the Conservation Easement (if any).

9. **Disputes.** Any disputes between Assignor and the State under this Assignment shall be governed by the terms of the Project Agreement.

10. **Governing Law/Venue.** This Assignment shall be governed by the laws of the State of Washington. In the event of a lawsuit between Assignor and the State involving this Assignment, venue shall be proper only in Thurston County. Assignor by executing this Assignment, acknowledges the jurisdiction of the courts of the State of Washington in this matter.

11. **Severability.** If any provision of this Assignment or any provision of any document incorporated by reference herein shall be held invalid, such invalidity shall not affect the other provisions of this Assignment which can be given effect without the invalid provision and to this end the provisions of this Assignment are declared to be severable.

ATTACHMENTS:

Exhibit 1 - Owner and Conservation Easement Recording Number

Exhibit 2- Legal Description of Property Subject to Conservation Easement



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ASSIGNOR

Dated:

005115

ASSIGNOR - SKAGIT COUNTY

Harvey Wolden
Harvey Wolden, Chairman

Robert Hart
Robert Hart, Commissioner

Ted W. Anderson, Commissioner

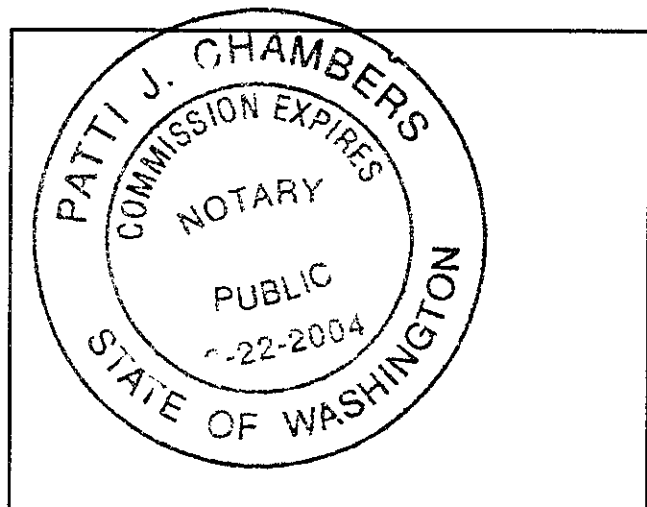
Approved as to Form

John R. Moffat
John R. Moffat
Chief Civil Deputy

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Harvey Wolden & Robert Hart
_____ are the persons who appeared before me, and said persons
acknowledged that they signed this instrument, on oath stated that they were authorized to execute the
instrument and acknowledged it as the _____ of
_____ to be the free and voluntary act of such party for the uses
and purposes mentioned in the instrument.

Dated: November 20, 2000



(Use this space for notarial stamp/seal)

Patti J. Chambers
Notary Public
Print Name Patti J. Chambers
My commission expires 3/22/04



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Skagit County Auditor

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STATE:

THE STATE OF WASHINGTON, through its Interagency Committee for Outdoor Recreation

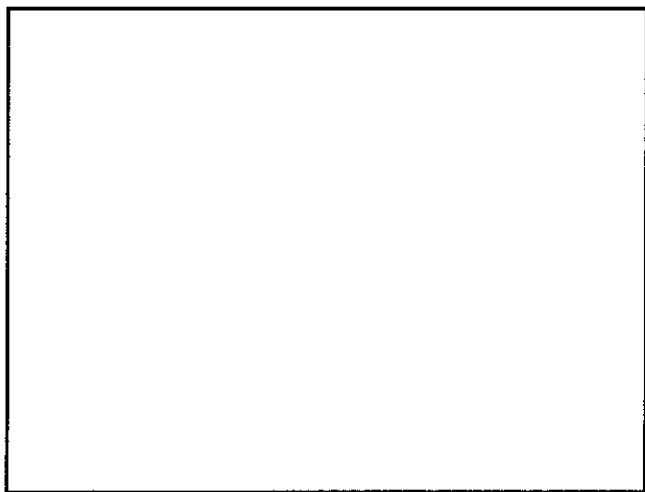
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By _____
Its Director

STATE OF WASHINGTON)
) ss:
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____



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Exhibit 1

005115

Roy G. Hensler and Bernice V. Hensler, Trustees of the Hensler
Family Trust, 26 State Route 9, Sedro-Woolley, WA 98284

Conservation Easement Recording Number: _____



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Exhibit 2

005115

Legal Description of Protected Property


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