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Skagit County Auditor

5/21/2001 Page 1 of 17 2:10:16PM

RETURN TO:

LAW OFFICE

of

BRADFORD E. FURLONG, P.S.
825 CLEVELAND AVENUE
MOUNT VERNON, WASHINGTON 98273
(360) 336-6508

Document Title: Restated Covenants and Restrictions

Reference number of documents assigned or released: Replacing CC&Rs dated March 24, 1982, Auditor's File No. 8204050036 for lots owned by Declarants listed below.

Grantor(s)/Declarants: Eric and Lori Stoffers; Fred Hanson; Dave McConnell and Virginia Justice; David and Cynthia Buttrey; Mike and Ericka Engle; Gale Sterrett

Grantee(s): Helmick Road Association Members

Legal Description: (pertaining to "Helmick Place")

Tract A of Parcel Map No. 519-81, entitled "5-Acre Parcel Map for Schmidt Mill Co., approved July 9, 1981, and recorded July 10, 1981, Book 5 of Short Plats, at page 97, under Auditor's File No. 8107100001, being a portion of the West 1/2 of Section 10, Township 35 North, Range 5 East, W.M., in Skagit County, Washington.

Assessor's Parcel/Tax I.D. Number: 350510-2-004-0004
350510-2-004-0400
350510-2-004-0707
350510-2-004-0905

350510-2-004-0517
350510-2-004-0608
350510-2-004-0806

RESTATED COVENANTS AND RESTRICTIONS

These Covenants and Restrictions are made by ERIC STOFFERS and LORI STOFFERS, husband and wife, FRED HANSON, an individual, DAVE McCONNELL and VIRGINIA JUSTICE, husband and wife, DAVID J. BUTTREY and CYNTHIA A. BUTTREY, husband and wife, MIKE ENGLE and ERICKA ENGLE, husband and wife, GALE STERRETT, an individual, (known together and collectively as Declarants), pertaining to HELMICK PLACE, Tract A of Parcel Map No. 519-81, entitled 5 Acre Parcel Map for Schmidt Mill Co., approved July 9, 1981, and recorded July 10, 1981 in Book 5 of Short Plats, at page 97, under Auditor's File No. 8107100001, being a portion of the West ½ of Section 10, Township 35 North, Range 5 East, W.M., in Skagit County, Washington.

DECLARANTS HEREBY REVOKE as applied to their property, in its entirety, the Prior Covenant and Restriction ("Prior C&R") dated March 24, 1982 and recorded under Auditor's File No. 8204050036; the Prior C&R shall still apply to any property described therein not owned by Declarants herein and Declarants' and their successors' right to enforce the Prior C&R shall remain in tact.

DECLARANTS HEREBY COVENANT that a majority of lot owners are authorized to form a road and maintenance association that may be incorporated as a not-for-profit corporation and shall have all powers permitted by state law and shall be organized as follows:

The name of the association is the Helmick Road Association.

1. DEFINITIONS:

Restated Covenants and Restrictions: The covenants and restrictions written herein that replace Covenant and Restriction dated March 24, 1982 and recorded under Auditor's File No. 8204050036 for lots owned by Declarants herein.

Parcel Map: All lots legally described as shown on the face of the "5-ACRE PARCEL MAP FOR SCHMIDT MILL CO.," of Map No. 519-81, approved July 9, 1981, and recorded July 10, 1981 in Book 5 of Short Plats, at page 97, under Auditor's File No. 8107100001, being a portion of the West ½ of Section 10, Township 35 North, Range 5 East, W.M., in Skagit County, Washington

Lot(s): All individual parcels of real property owned by Declarants located within the Parcel Map.



Member(s): An owner(s) of Lot(s).

Owner(s): Same as Member(s).

Road. That roadway known as Helmick Place that serves the Lots, as shown on the Parcel Map as Tract A.

Prior C&R. The Covenant and Restriction dated March 24, 1982 and recorded under Skagit County Auditor's File No. 8204050036.

Non-Association Owner Lot. The fee owner of a lot on the Parcel Map, not a Declarant herein, and any successors and/or the Lot thereof.

2. PURPOSE AND APPLICABILITY OF RESTATED COVENANTS AND RESTRICTIONS. These Restated Covenants and Restrictions are promulgated to provide for the self-government of the Association and to promote the safety, health, well-being and enjoyment of its members. The administration and management of the Association and the actions of the Owners, the Association and its Directors and Officers shall be governed by these Restated Covenants and Restrictions. All present and future owners of lots owned by Declarants and their tenants, licensees, invitees, servants, agents, employees and any other person or persons who are permitted to use any portions of Helmick Place, Tract A, shall be subject to these Restated Covenants and Restrictions. Acquisition, rental or occupancy of a lot shall be deemed conclusive evidence of the Owner's, tenant's or occupant's acceptance and ratification of, and agreement to comply with, these Restated Covenants and Restrictions now existent or hereafter adopted.

3. ASSOCIATION.

- 3.1. Form of Association. The Association has been or will be incorporated as a non-profit corporation under the laws of the State of Washington. The rights and duties of the members and of said corporation shall be governed by the provisions of the Restated Covenants and Restrictions, the Articles of Incorporation and the Bylaws. Additionally, the Association shall administer to the Prior C&R dated March 24, 1982 and recorded under Auditor's File No. 8204050036 for any Lot in the Parcel Map not owned by a member/Declarant hereunder. The Association shall remain organized as a profit or non-profit corporation.
- 3.2. Law Governing Association. Chapters 64.38 RCW (Homeowners' Associations) and 24.03 (Washington's non-profit corporation statute), as supplemented by the lawful provisions of the Restated Covenants and Restrictions and the Articles of Incorporation shall control the governance and operations of the Association.



3.3. Powers of Association. Subject to the provisions of the Restated Covenants and Restrictions and the Articles of Incorporation, the Association may, through its Members, Directors or Officers:

- (a) Adopt and amend Bylaws;
- (b) Adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect Assessments for Road expenses from Owners;
- (c) Hire and discharge or contract with agents and independent contractors;
- (d) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or one or more Owners on matters affecting the Association;
- (e) Make contracts and incur liabilities;
- (f) Regulate the use, maintenance, repair, replacement, and modification of the Road;
- (g) Cause additional improvements to be made as a part of the Road;
- (h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, but the Road may only be conveyed to a municipal corporation subject to the limitation that it remain open and maintained as a roadway;
- (i) Grant easements, licenses, and concessions through or over the Road;
- (j) Impose and collect any assessments, payments, fees, or charges for the use, rental, or operation of the Road;
- (k) Impose and collect charges for late payment of Assessments. Foreclose liens for unpaid assessments;
- (l) Impose and collect reasonable charges for the preparation and recording of amendments to the Restated Covenants and Restrictions, Articles of Incorporation, or Bylaws of the Association;
- (m) Provide for the indemnification of its Officers and maintain Officers' liability insurance;



(n) Exercise other powers conferred by law, the Restated Covenants and Restrictions, the Articles of Incorporation or the Bylaws;

(o) Exercise any other powers necessary and proper for the governance and operation of the Association.

3.4. Membership. Each fee Owner (or owners, if more than one), or real estate contract vendee of a Lot in Helmick Place, Tract A, shall be a member of the Association; provided, that the collective owners of a lot shall be considered one Owner with one vote. Ownership of a Lot shall be the sole qualification for membership in the Association, and the membership of the Association shall at all times consist exclusively of all the Owners. The ownership of an interest in a Lot solely as security for the performance of an obligation does not entitle the Owner of such interest to membership in the Association.

3.5. Transfer of Membership. The Association membership of each Owner shall be appurtenant to the Lot giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to such Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof.

3.6 Meetings.

3.6.1 Place of Meetings. Meetings of the Association shall be held at such place within Skagit County, Washington as may be designated by the Directors and stated in the notice of the meeting.

3.6.2 Annual Meetings. The annual meeting of the Association shall be held for the election of Officers/Board of Directors, and approval of the annual budget and the conduct of such other business as may be properly brought before the meeting. The meeting shall be held on the second Saturday of March of each year and there shall be presented the following information:

(a) A balance sheet and a revenue and expense statement of the Association prepared on a cash basis, which shall be current to thirty (30) days;

(b) A statement of the amount of any reserves for repair or replacement and of any portions of those reserves currently



designated by the Association for any specified projects.

3.6.3 Notices of Annual Meetings. Not less than thirty (30) nor more than sixty (60) days in advance of an annual meeting, the Secretary shall cause to be hand-delivered or sent prepaid by first class US mail to the mailing address of each Lot and a Non-Association Owner, a notice of annual meeting which shall state the place, day and hour of the meeting and the items on the agenda to be voted on by the Members, including a list of the candidates seeking to be elected as Officers of the Association.

3.6.4 Special Meetings. Special meetings may be called by the President or a majority of Members upon reasonable notice to the Members. In case of an emergency, notice shall be by any reasonable methods and time limits may be reduced by any reasonable amount.

3.7 Voting.

3.7.1 Voting Rights. Each Owner and Non-Association Owner has a right to vote at meetings of the Association on such matters as may lawfully come before the meeting, *provided*, that a Non-Association Owner only may vote on assessments and road maintenance budget issues. The total number of votes available to any Owner shall be equal to the number of lots the Owner owns.

3.7.2 Joint Owner Disputes. The vote for a Lot or Non-Association Lot must be cast as a single vote, and fractional votes shall not be allowed. Joint owners of such Lot(s) shall determine their vote(s) jointly and cast unified votes. If Owners cannot agree to vote one way or the other, then the conflicting votes shall be deemed an abstention of the vote for such Lot(s).

3.7.3 Voting by Proxy, Written Ballot or by Telephone. Votes allocated to a Lot or Non-Association Lot may be cast by Written Ballot, or by Proxy, if such Written Ballot is delivered to the President prior to the vote being called, or if such Proxy is voted by another Member at the meeting in accordance with the terms of the Proxy. A vote may be cast and a meeting attended by telephone conference call.

3.7.4 Quorum. A quorum is present when the Members and Non-Association Member(s) present at a meeting have the right to vote for six (6) of the eleven (11) Lots that comprise Helmick Place, Tract A. A quorum is required to transact any business.



- 3.7.5 Conduct of Meeting. The President shall preside at meetings of the Association and the Secretary shall keep the minutes of meetings, for inclusion in the Association's permanent Minute Book. Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with these Restated Covenants and Restrictions.

4 BOARD OF DIRECTORS.

- 4.1 Officers. The Association shall be governed by a Board of Directors, who shall be the three Officers duly elected at the Annual Meeting or appointed by the President. All provisions of these Restated Covenants and Restrictions relating to Officers shall relate to the Board of Directors as well.
- 4.2 Quorum. A quorum of the Directors is two (2) members.
- 4.3 Term. A Director shall serve for a term of two (2) years, and until his or her successor is elected or appointed.
- 4.4 Meetings. Meetings of the Board of Directors shall be held at such time and place as shall be determined from time to time by the Board, but at least one meeting shall be held in each year. The President or majority of the Board may call a meeting upon seventy-two (72) hours notice delivered to each of the Directors.

5. OFFICERS.

- 5.1. Enumerated. The Officers of the Association are a President, a Secretary and a Treasurer. All officers must be Members of the Association.
- 5.2. Election of Officers. The Officers of the Association shall be elected by majority vote at the annual meeting of the Association.
- 5.3. Removal of Officers; Vacancies. An Officer may be removed by the Members with or without cause by the affirmative vote of a majority of the Members. A successor may be appointed by the President, or elected by the Members at any regular or special meeting.
- 5.4. President. The President is the chief executive officer of the Association and shall preside at meetings of the Association and the Board, and shall undertake general and active management of the business of the Association, subject to the control of the Members. The President shall have the authority to make or cause to be made emergency repairs to the Road when (s)he deems such repairs necessary to maintain the roadway and after obtaining the approval therefore by a majority of



voting members of the Association. All costs for such emergency repairs shall be paid by special assessments to the Lot Owners which shall be payable and collectable as any other assessment.

5.5. Secretary. The Secretary shall attend all meetings of the Association and Board, and shall record the voting and the minutes of all proceedings. The Secretary shall give notice of meetings of the Association and shall perform such other duties as may be proscribed by the President or the Association.

5.6. Treasurer. The Treasurer shall have custody of all funds and shall keep full and accurate records of receipts and disbursements and shall deposit all funds in such bank accounts as designated by the President. The Treasurer shall disburse funds as ordered by the Board of Directors, in accordance with the Annual Budget. All books and records shall be kept in accordance with generally accepted accounting principles.

6. ASSESSMENTS. Assessments shall be made on a pro-rata share, by Lot, and Non-Association Lot, based on the Annual Budget passed at the Annual Meeting. Assessments shall be paid to the Association Treasurer no later than 120 days after the Annual Budget is passed. Assessments unpaid as of that date are deemed delinquent and subject to enforcement proceedings.

6.1. Authority of the Board of Directors. The Board of Directors shall have primary responsibility for maintaining and enforcing collections of assessments lawfully levied by the Association. All assessments shall be paid by check or money order; the treasurer shall issue a receipt therefor.

6.2. Liens. The Association shall have the authority to place liens upon the Lots or Non-Association Lots for failure to pay assessments. That authority shall include the power of non-judicial foreclosure as of deed of trust described in Chapter 61.24 RCW.

6.3. Other Remedies. All other civil and equitable remedies are reserved and available to the Association for the collection of assessments.

6.4. Attorney Fees. The Association shall be entitled to recover any costs and reasonable attorney's fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the Association shall be entitled to recover costs and reasonable attorney's fees if it prevails on appeal and in the enforcement of a judgment.



6.5. Special Assessments. Special Assessments may be levied for emergency repairs to the Road as deemed necessary by the President, notice to and approval by the majority of the Members of the Association. Special Assessments shall be based on the total costs of repairs and shared on a pro-rata share, by Lot.

6.6. Late Charges and Interest. All delinquent assessments shall be subject to a late charge of 1% of the delinquent assessment per month or portion thereof for the time the assessment is delinquent.

6.7. No Waiver of Rights. The failure of the Association, the President, the Officers or of an Owner to enforce any right, provision, covenant or condition which may be granted by the Restated Covenants and Restrictions, Articles of Incorporation or Bylaws, shall not constitute a waiver of the right of the Association, the President, the Officers, or the Owner to enforce such right, provision, covenant or condition in the future.

6.8. Application. The foregoing assessment provisions shall be utilized with respect to Non-Association Owners/Lots.

7. MEMBER REIMBURSABLE EXPENSES.

7.1 Reimbursement Rules. Expenses incurred by a member for work to maintain or improve the Association roadway shall be reimbursable pursuant to this section. The Association may reimburse a member for expenses related to work performed to improve or maintain the Association roadway in an amount of up to fifty dollars (\$50) per year, per owner. Any such request shall be limited to out-of-pocket expenses and shall not include labor by the member. No request shall be considered unless submitted in writing with a receipt within thirty (30) days of the date that the expense is incurred. Such expenses shall be approved by a majority vote of the board of directors.

8. MISCELLANEOUS.

8.1 Pesticide-Herbicide Prohibition. At no time shall the Association, a member or a contractor hired by a member or the Association utilize pesticides or herbicides on Tract A.

8.2 Amendment of Covenants and Restrictions. At a duly constituted meeting of the Association called for that purpose at which a quorum is present, these Restated Covenants and Restrictions may be amended by the affirmative vote of Owners representing a seven (7) of the votes in the Association and shall be effective



immediately.

8.3 Severability. If any provisions of these Restated Covenants and Restrictions or the application thereof in any circumstance is held invalid, the validity of the remainder of these Restated Covenants and Restrictions shall not be affected thereby, and to this end the provisions of these Restated Covenants and Restrictions are declared to be severable.

8.4 Applicability. The purchaser of any Lot takes title subject to the obligation to comply with these Restated Covenants and Restrictions, and any amendment thereto, and with the bylaws and articles of incorporation of any such association referred to above and if such an association is not active and in good standing, then each lot owner has the obligation to pay one eleventh ($1/11^{\text{th}}$) of the cost of maintaining the Roadway. The encumbrance created hereby shall run with the land and shall be binding on the present and future owners of all Lots.

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DATED this 13 day of April 2001.

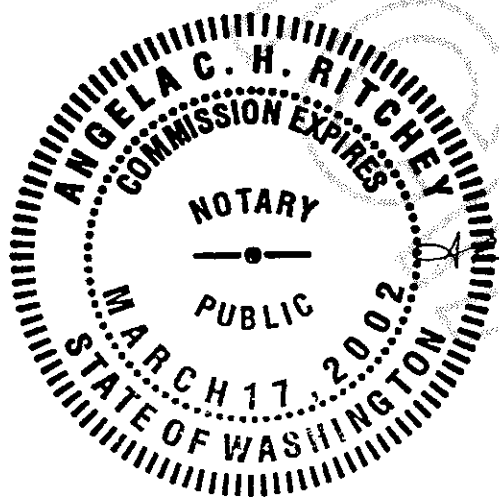
Eric Stoffers
Eric Stoffers

Lori Stoffers
Lori Stoffers

STATE OF WASHINGTON)
) : SS
COUNTY OF Skagit)

On this day personally appeared before me ERIC STOFFERS and LORI STOFFERS, known to me to be the persons who signed the within and foregoing instrument as their free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 13th day of April, 2001.



Angela C. H. Ritchey
Notary Public in and for the State of
Washington, residing at Bellingham
Printed Name: Angela C. H. Ritchey

RESTATED COVENANTS & RESTRICTIONS
March 2001



200105210210
, Skagit County Auditor

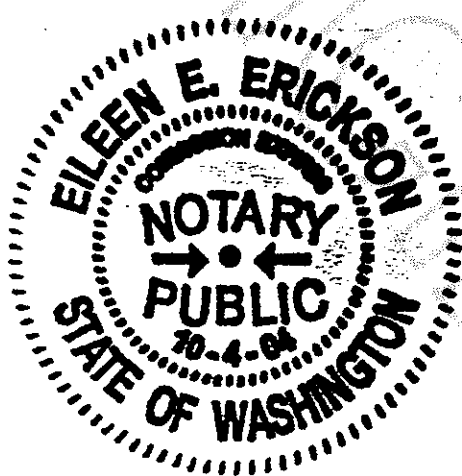
DATED this 30th day of March, 2001.

E. Fred Hanson
Fred Hanson

STATE OF WASHINGTON)
) : SS
COUNTY OF Pierce)

On this day personally appeared before me FRED HANSON, known to me to be the person who signed the within and foregoing instrument as his free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 30th day of March, 2001.



Eileen E. Erickson
Notary Public in and for the State of
Washington, residing at Tacoma
Printed Name: EILEEN E. ERICKSON

RESTATED COVENANTS & RESTRICTIONS
March 2001



DATED this 23rd day of March (vai) October, 2001

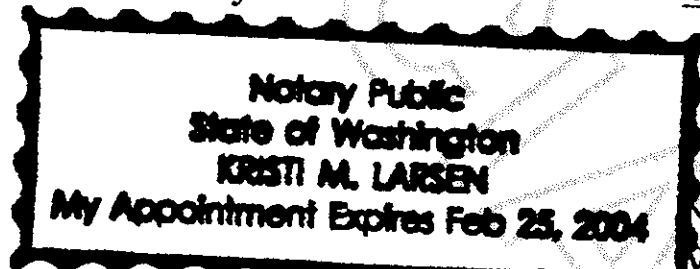
[Signature]
Dave McConnell

Virginia A. Justice
Virginia Justice

STATE OF WASHINGTON)
COUNTY OF Skagit) SS

On this day personally appeared before me DAVE McCONNELL and VIRGINIA JUSTICE, known to me to be the persons who signed the within and foregoing instrument as their free and voluntary act and deed for the uses and purposes therein mentioned.

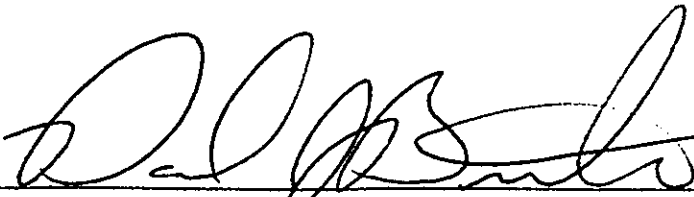
GIVEN under my hand and official seal this 23 day of March, 2001



Kristi M. Larsen
Notary Public in and for the State of
Washington, residing at Mount Vernon
Printed Name: Kristi M. Larsen

RESTATED COVENANTS & RESTRICTIONS
March 2001

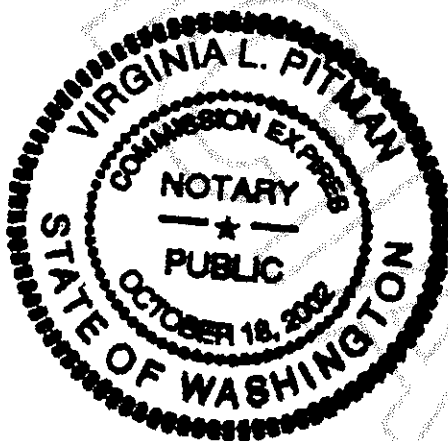
DATED this 23 day of MARCH 2001

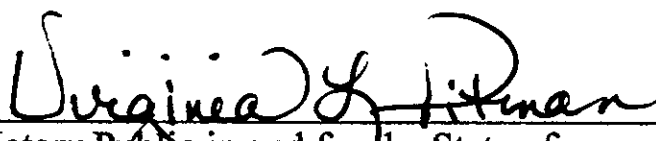

David J. Buttrey

STATE OF WASHINGTON)
): SS
COUNTY OF Skagit)

On this day personally appeared before me DAVID J. BUTTREY, known to me to be the person who signed the within and foregoing instrument as his free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 23rd day of March, 2001.




Notary Public in and for the State of
Washington, residing at Burlington
Printed Name: Virginia L. Pitman

RESTATED COVENANTS & RESTRICTIONS
March 2001

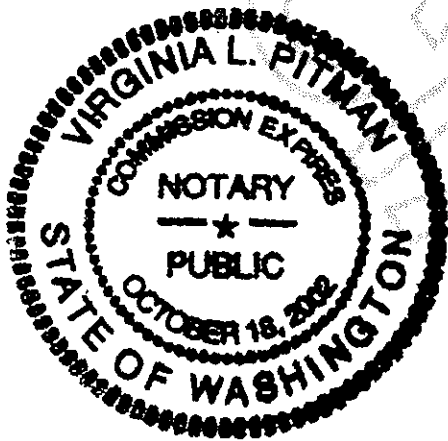
DATED this 23 day of March, 2001

Cynthia A. Buttrey
Cynthia A. Buttrey

STATE OF WASHINGTON)
): SS
COUNTY OF Skagit)

On this day personally appeared before me CYNTHIA A. BUTTREY, known to me to be the persons who signed the within and foregoing instrument as her free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 23rd day of March, 2001.



Virginia L. Pitman
Notary Public in and for the State of
Washington, residing at Burlington
Printed Name: Virginia L. Pitman

RESTATED COVENANTS & RESTRICTIONS
March 2001

DATED this 10th day of April, 2001.

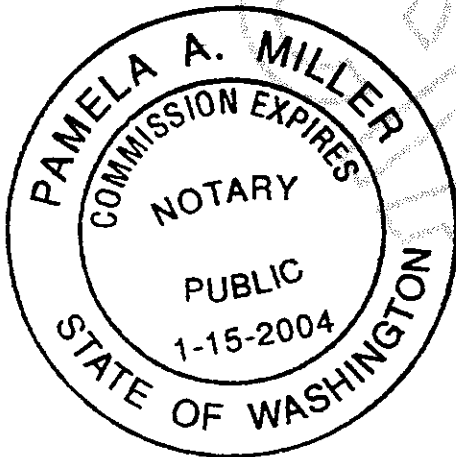
Mike Engle
Mike Engle

Ericka Engle
Ericka Engle

STATE OF WASHINGTON)
): SS
COUNTY OF SKAGIT)

On this day personally appeared before me MIKE ENGLE and ERICKA ENGLE, known to me to be the persons who signed the within and foregoing instrument as their free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 10th day of April, 2001.



Pamela A Miller
Notary Public in and for the State of
Washington, residing at BURL
Printed Name: PAMELA A MILLER

RESTATED COVENANTS & RESTRICTIONS
March 2001

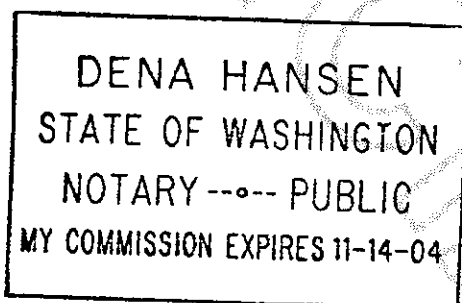
DATED this 23 day of March, 2001.

Gale Sterrett
Gale Sterrett

STATE OF WASHINGTON)
): SS
COUNTY OF _____)

On this day personally appeared before me GALE STERRETT, known to me to be the person who signed the within and foregoing instrument as her free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 23rd day of March, 2001.



Dena Hansen
Notary Public in and for the State of
Washington, residing at Sedro-Woolley
Printed Name: Dena Hansen

RESTATED COVENANTS & RESTRICTIONS
March 2001

