

When recorded return to:

Skagit Land Trust  
P. O. Box 1017  
Mt. Vernon, WA 98273



200412220156

Skagit County Auditor

12/22/2004 Page 1 of 28 4:25PM

Grantor: Eugene B. Kahn

Grantee: Skagit Land Trust

Legal Description:

Abbreviated form: portions of NW 1/2 of SE 1/4 of Section 20, T35N, R10E, S45E, CORNWALL, WASHINGTON  
Additional legal description in Exhibit A

Assessor's Tax Parcel Number: P45390; P45391; P45388

DEC 23 2004

Amount Paid \$ 0  
Skagit County Treasurer  
By: Deputy

**GRANT DEED OF CONSERVATION EASEMENT**

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 21<sup>st</sup> day of December, 2004, by Eugene B. Kahn, as his separate estate, residing at P.O. Box 899, Coupeville, WA 98239 (hereinafter referred to as Grantor), in favor of the Skagit Land Trust, a Washington nonprofit corporation qualified to do business in Washington, having an address at P. O. Box 1017, Mt. Vernon, WA 98273 (hereinafter referred to as "Grantee").

**I. RECITALS**

A. Grantor is the owner in fee of that certain real property inclusive of all standing and down timber, situated at 55757 State Route 20, Rockport, WA 98283, in Skagit County, State of Washington, more particularly described in Exhibit "A" (legal description) and shown on Exhibit "B" (site plan) and Exhibit "C" (Baseline Documentation Summary), all of which are attached and made part hereof by this reference.

B. Grantor granted a Conservation Easement on a portion of said property in 1995 ("Original Protected Property") by a deed recorded on December 27, 1995, under Skagit County Auditor's File No. 9512290145, (the "Original Easement"). Grantor has since purchased additional adjacent property ("New Property"), acquired additional interest in the Original Protected Property, and sold portions of the Original Protected Property. It is Grantor's intention

to extend protection to the New Property. Grantor wishes to make a new, additional gift by subjecting the New Property to the terms of a new Conservation Easement ("Easement").

C. Grantor and Grantee wish to update the language of the Original Easement and consolidate documents. Therefore, this new Easement supersedes and replaces the Original Easement on the portion of the Original Protected Property still owned by Grantor. The new Easement provides at least the same degree of protection as the Original Easement but adds to that protection the New Property as described in Exhibit A. Therefore, hereafter, the portion of the Original Protected Property still owned by the Grantor, and the New Property shall be considered the "Protected Property" and the portion of the Original Protected Property that was sold shall be considered the "Meyer Property". The revisions made herein to the 1995 Original Easement as it applies to the Protected Property do not revise the terms of the 1995 Original Easement as it applies to the Meyer Property.

D. The Protected Property possesses ecological, open space, scenic and forest land values (collectively conservation values) of great importance to Grantor, Grantee, and the people of Skagit County and the State of Washington. The Protected Property enhances the open space and rural character of Skagit County and provides a natural wooded mountain side and open space setting that can be enjoyed from nearby State Route 20, as well as from the neighboring properties. The Protected Property provides excellent scenic quality, open space, forestland and diversified wildlife habitat that maximizes the number of wildlife species that use the area. Many passerines (song birds), woodpeckers and raptors use the Protected Property as do coyote, bear, cougar, deer, as well as small mammals and amphibians.

E. The Protected Property is approximately forty-eight (48) acres, consisting of approximately 19 acres of the Original Protected Property, together with approximately twenty-nine (29) acres of New Property. It consists mostly of steep forested hillside. Approximately ten (10) acres of the New Property was commercially logged by the previous owner in 2002, this timber harvest removed primarily hardwoods and several large conifers. The logged area is regenerating with mixed hardwood and brush. The remainder of the forest is composed primarily of conifers—Douglas fir, western hemlock, and western red cedar which are approximately 110 years old. There are three seasonal creeks on the Protected Property. The surrounding lands are relatively intact and undeveloped.

F. The Protected Property provides important perching and roosting areas for the many wintering bald eagles that feed along the nearby Skagit River in the winter time. The Protected Property is within the Skagit River Bald Eagle Natural Area (SRBENA). SRBENA consists of a designated area along the upper Skagit River that is managed by a consortium of public and private conservation entities for the protection of bald eagle habitat and for public educational purposes. Approximately 3,500 acres are currently protected within the SRBENA area. A nearby parcel of land in SRBENA was donated to The Nature Conservancy by the Grantor. The Protected Property is directly across State Route 20 from, and within view of, the eagle viewing area maintained for the public by SRBENA cooperators at Milepost 100.



G. The Protected Property is adjacent on two sides to public lands – to the north, the Mt Baker/Snoqualmie National Forest, and to the east by land that is managed by the WA. State Department of Fish and Wildlife – the Protected Property adds important low elevation native forest to this contiguous undeveloped forest habitat. The Protected Property is also very near the designated boundary of, and is in the same watershed as, the Skagit National Wild and Scenic River. Congress declared that these rivers, together with their immediate environments "...possess outstanding remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations." Restrictions on the uses of the Protected Property helps prevent encroachment on these natural areas of national significance, and would benefit the river because of decreased erosion and siltation due to the exclusion of logging.

H. The Protected Property provides habitat for the bald eagle, a threatened species protected under the Endangered Species Act. Congress has found that encouraging conservation programs "...is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's heritage of fish, wildlife, and plants." The United States Forest Service is active in the upper Skagit River watershed in protecting bald eagle habitat.

I. The legislatively declared policies of the State of Washington in the Washington State Open Space Tax Act, Chapter 84.34 RCW, provide "...that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crop, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well being of the state and its citizens." Under the Open Space Act, lands eligible for preferential real property tax treatment include lands such as the subject Protected Property presently classified by Skagit County as Open Space Land, where the preservation in its present use would conserve and enhance natural and scenic resources, preserve visual quality along a public highway, and promote conservation of wildlife, including the federally listed, threatened and endangered, bald eagle and Puget Sound Chinook salmon.

J. The Protected Property would be extremely desirable property for substantial timber harvesting because of its location and its high quality stand of timber. In the absence of this Easement, the Protected Property could be logged in a manner which would destroy the open-space and scenic character of the Protected Property and its ecological value.

K. 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".



L. The specific Conservation Values of the Protected Property (forestland, open space, wildlife habitat, flora, riparian areas and scenic quality) are documented in an inventory of relevant features of the Protected Property, dated December 24, 2004, on file at the offices of Grantee and incorporated herein by this reference ("Baseline Documentation Summary"/Exhibit C.), which 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. Grantor and Grantee further agree that, within twelve (12) months of the execution hereof, a collection of additional Baseline Documentation may be compiled by Grantee, and incorporated herein by this reference. Failure to timely compile the additional Baseline Documentation shall not affect the enforceability or validity of any other provision hereof.

M. Grantor intends that the Conservation Values of the Protected Property be preserved and maintained by the continuation of land uses on the Protected Property that do not significantly impair or interfere with the Conservation Values. These current uses include: maintenance and operation of an existing small-scale hydroelectric plant; management and restoration of forest land for wildlife, native flora, open space and scenic quality; , as well as development and maintenance of two additional small scale hydroelectric power plants are consistent with this Easement.

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

O. Grantee is a publicly supported, tax-exempt nonprofit organization, qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code of 1986, as amended, and also qualified as a nonprofit nature conservancy corporation under RCW 64.04.130 and 84.34.250, whose primary purpose is to preserve open space, wildlife habitat, wetlands, forestland, farmland, shoreline and scenic views.

P. Grantee agrees by accepting this grant to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the Conservation Values of the Protected Property for the benefit of this generation and the generations to come.

## II. CONVEYANCE AND CONSIDERATION

A. For the reasons stated above, and in consideration of the mutual covenants, terms, conditions, and restrictions contained herein, Grantor hereby voluntarily grants, conveys, and warrants to Grantee a conservation easement in perpetuity over the Protected Property, consisting of the rights in the Protected Property, hereinafter enumerated, subject only to the restrictions set forth herein ("Easement").



B. This conveyance is a conveyance of an interest in real property under the provisions of RCW 64.04.130, and is made as an absolute, unconditional, unqualified, and completed gift subject only to the mutual covenants and terms, conditions, and restrictions hereinafter set forth, and for no other consideration.

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

### III. PURPOSE

A. It is the purpose of this Easement to preserve and protect the scenic, open-space, natural character and ecological value of the Protected Property, and to preserve the natural forest areas of the Protected Property.

B. Grantor intends that the Protected Property shall not be converted nor directed to any uses other than those provided herein.

C. Preservation of the Protected Property will enhance the general public's visual access to natural, undeveloped environments. Nothing contained herein, however, shall be construed as affording the general public physical access to any portion of the Protected Property.

### IV. RIGHTS CONVEYED TO GRANTEE

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

A. Identification and Protection. To identify, preserve and protect in perpetuity and to enhance by mutual agreement the Conservation Values of the Protected Property;

B. Access.

1. Grantee and Grantee's representatives and agents may enter upon the Protected Property annually, at a mutually agreeable time and upon prior written notice to the Grantor, for the purpose of making a general inspection to assure compliance with this Easement.

2. Grantee and Grantee's representatives and agents may enter upon the Protected Property at such other times as are necessary if there is reason to believe that a violation of the Easement is occurring, for the purposes of enforcing the provisions of this Easement.

3. All entry upon the Protected Property is at the risk of each licensee and Grantor shall not be liable for personal injury or property damage based on breach of a duty to Grantee or its invitee, negligence or existence of any latent defect or dangerous condition. Prior to Scientific/Educational Use described below, Grantee and any party gaining entry shall sign a written waiver of all claims for personal injury or property damage and which acknowledges the inherent and latent dangers of entering the Protected Property and which may arise from the entry. Grantor shall provide the form for said waiver.

C. Scientific and Educational Use. To allow persons or small groups to enter upon the Protected Property for educational, scientific and biological purposes to observe and study on the Protected Property; provided that any such persons or groups must first make a written request for approval to enter upon the Protected Property from the grantor who shall not unreasonably withhold permission therefore. Such persons shall agree to provide the Grantor with copies of any data or reports resulting from such research, and agree to abide by any conditions on access set forth by the Grantor.

D. Injunction and Restoration. To seek to enjoin any activity on, or use of, the Protected Property by any person or entity which is inconsistent with this Easement, including trespasses by members of the public, and to undertake or cause to be undertaken the restoration of such areas or features of the Protected Property as may be damaged by activities contrary to the provisions hereof, all in accordance with Section IX.

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

## V. PROHIBITED USES

A. General. Any use of, or activity on, the Protected Property inconsistent with the purposes of the 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 on, the Protected Property, though not an exhaustive list of inconsistent uses or activities, are inconsistent with the purposes of this Easement and shall be prohibited, except as expressly provided in Section VI below:

B. Subdivision. The legal subdivision of the Protected Property, including but not limited to platting, replats, judicial partition or testamentary partition. Any subdivision potential which exists now or as created in the future shall be deemed to be extinguished. Grantor shall not exercise any development rights on the Protected Property, nor use such development rights or the area of the Protected Property for the purpose of calculating permissible lot yield of the Protected Property or on adjacent property.



C. Construction. The placement or construction of any buildings, structures, or other improvements of any kind (including, without limitation, roads, utilities and parking lots), except as permitted in Sections VI. E., F., H., I. and J., below.

D. 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 as deemed necessary by Grantee to preserve or protect the Conservation Values of the Protected Property or for the study of any incidental archeological findings or as is necessary for uses permitted in Sections VI. E., F., H., I., J and L., below.

E. Erosion and 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; subject to Sections VI. E. and F.

F. Alteration of Water Courses. The draining, filling, dredging, ditching, or diking of wetland areas, the alteration or manipulation of water courses, except as necessary to protect public health or safety or property on the Protected Property or adjacent property or as deemed necessary by Grantee to preserve or protect the Conservation Values of the Protected Property, or as is necessary for uses permitted in Sections VI.E., F., and L., below.

G. Removal of Trees and Other Vegetation. The pruning, topping, cutting down, or other destruction or removal of live and dead trees and other vegetation located on the Protected Property, except as deemed necessary by Grantor and Grantee to protect or preserve the Conservation Values of the Protected Property or for educational or research activities consistent with the purpose of the Easement, or as permitted in Sections VI.B., C., D., E., F., H., I., and L., below, or to remove plants that are listed as noxious plants by the State of Washington Department of Agriculture. This prohibition includes commercial harvesting or cutting of trees for lumber, firewood or Christmas trees.

H. Waste Disposal. The disposal or storage of rubbish, garbage, debris, hydrocarbons, abandoned vehicles or equipment or parts thereof or other unsightly, offensive, or hazardous waste or material on the Protected Property.

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

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

K. Mining. The exploration for, or development and extraction of minerals and hydrocarbons on or below the surface of the Protected Property.



L. Wildlife Disruption. The intentional disruption of wildlife breeding and nesting activities. This would include, but not limited to, any human activity or disruption by domestic animals.

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

N. Introduced Vegetation. The introduction of nonnative invasive species on the Protected Property, except as deemed necessary by the Grantee to enhance the Conservation Values of the Protected Property.

O. Off-Road Vehicles and Excessive Noise. The operation of motorcycles, dune buggies, snow mobiles, or other type of off-road motorized recreational vehicles or the operation of other sources of excessive noise pollution, except for equipment normally used for proper maintenance (such as chainsaws) and associated with activities permitted in Section VI.

## VI. PERMITTED USES

A. General. Grantor reserves for itself and its heirs, successors, and assigns, any use of, or activity on, the Protected Property which is consistent 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 the following uses and activities:

B. 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 both Grantor and Grantee. Prior to such forest management activities, Grantor shall submit to Grantee, for review and approval, a forest management plan that describes the habitat enhancement objectives of the management plan and the specific practices proposed.

C. Hazard Trees. The trimming or removal of hazardous trees that pose a threat to property (including fence lines and the existing or future hydroelectric plants and associated improvements), public health and safety of neighbors or users of the Protected Property or surrounding forest areas, provided that any cut trees are not removed from the Protected Property. A certified arborist shall arbitrate any disagreement regarding the identification of hazardous or diseased trees.

D. Firewood. To cut and remove a maximum of two cords of firewood per year, from down trees, for personal, on-site use only, provided that the removal and hauling does not adversely impact the Conservation Values of the Protected Property.



E. Scale Hydroelectric Plants. To maintain, renovate, repair, enlarge or replace existing small-scale hydroelectric plant structures, and to construct no more than two new small-scale hydroelectric plant structures. This includes, but is not limited to, maintaining, repairing, enlarging or replacing intake or outflow pipes, pumps, turbines, or lines for the existing or new hydroelectric structures. The power generated from any future hydroelectric plant on the Protected Property belongs to the Grantor, his heirs, successors, and assigns free of all claims to electricity or proceeds from its sale. The existing hydroelectric plant consists of a generator house located south of the Protected Property and associated structures (including, but not limited to, pipes and supports, ditches, etc.) on the Protected Property. Reactivation or maintenance of the existing hydroelectric plant which is located substantially within the existing footprint of said plant is permitted at any time. Any new hydroelectric plant or structures, or any renovation that substantially expands or moves the footprint of the existing or previously approved structures, shall be mutually agreed to by Grantor and Grantee, and shall be carried out in compliance with federal, state and local regulations. Prior to construction of any substantial new hydroelectric structures, Grantor shall submit to Grantee for review and approval, a written plan that shows location and construction details of said plant or structures. Construction and maintenance of said structures shall not adversely impact the Conservation Values of the Protected Property, outside the area disturbed during construction and maintenance, and shall be designed so as to minimize erosion and slope disturbance. New hydroelectric plants and associated structures shall be subject to the following limitations: 1) Total area disturbed during construction and/or major maintenance or renovation shall be limited to one and one-half acres (1.5); 2) Areas that are temporarily disturbed during construction shall be stabilized to minimize erosion during construction, and restored with native vegetation as soon as practical; 3) Total area that is permanently altered or disturbed by said plant and structures shall be limited to one-acre (1); 4) Water intake structures shall be constructed to exclude amphibians; 5) Water withdrawal shall, at no time, remove all water flow from any natural stream course.

F. Spring. To develop springs on the Protected Property to collect water for domestic use and irrigation. This development shall be limited to a catch basin and pipes to direct the water to residences and appurtenant areas on Grantor's Property or Meyer Property only. The design, location and placement of any such catch basin and pipes shall be mutually agreed to by Grantor and Grantee, shall be carried out in compliance with federal, state and local regulations. Said construction and maintenance shall not adversely impact the Conservation Values of the Protected Property, and shall be included in, and subject to, the limitations set forth in Section VI. E. (Small Scale Hydroelectric Plants) above.

G. Recreation. To engage in recreational activities such as hiking or bird watching as well as incidental bicycling and horseback riding 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.



H. Foot Trails. To maintain, renovate, expand, or replace existing foot trails or to construct new foot trails on the Protected Property, provided that such trails shall not exceed three feet in width. Construction and maintenance of the trails may not adversely impact the Conservation Values of the Protected Property.

I. Fences. To construct perimeter fences to preserve or protect the Conservation Values of the Protected Property, or to protect hydroelectric plant construction, maintenance, and operation by fencing. Perimeter fences shall allow the safe passage of wildlife.

J. 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.

K. Abandoned Structures. To remove any abandoned structures on the Protected Property.

L. 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. NOTICE AND APPROVAL

A. Notice. Grantor shall notify Grantee and receive Grantee's written approval prior to undertaking certain permitted activities provided in Sections VI. B., E, and F. The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted uses and activities is to afford Grantee an opportunity to ensure that the use or activity in question is designed and carried out in a manner consistent with the purposes of this Easement. Whenever 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. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

B. Approval. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request for approval. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purposes of this Easement. Grantee's approval may include reasonable conditions which must be satisfied in undertaking the proposed



use or activity. If Grantor must undertake emergency action to protect health or safety on the Property or must act by and subject to compulsion of any governmental agency, Grantor may proceed with such action without Grantee's approval only if Grantor notifies Grantee prior to taking such action and Grantee cannot provide its approval, with or without conditions, within such time as is reasonable under the circumstances.

C. Grantee's Failure to Approve Within the Required Time. Where Grantee's approval is required, and if Grantee does not grant or withhold its approval in the time period and manner set forth herein, Grantor may assume Grantee's approval of the permitted use or activity in question.

D. Addresses for Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing either served personally or sent by first class mail, postage prepaid, addressed to as follows:

To Grantor: Eugene B. Kahn  
P.O. Box 899  
Coupeville, WA 98239

To Grantee: Skagit Land Trust  
P. O. Box 1017  
Mt. Vernon, WA 98273

or to such other address as either party from time to time shall designate by written notices to the other.

## VIII. DISPUTE RESOLUTION

All disputes between the parties concerning the construction or implementation of the rights and liabilities of the parties pursuant to this agreement shall be subject to this dispute resolution section.

1. Either party may give written notice to the other party of a dispute and request that the matter be subject to mediation with the mediator to be selected from those available from a recognized dispute resolution center or mediation service, with each party to pay 50% of the mediator's fees. Both parties shall meet in good faith as is reasonably requested by the mediator in an attempt to resolve the dispute. Thirty (30) days after appointment of a mediator, if no resolution has been reached to the mutual satisfaction of the parties, either party may pursue arbitration.

2. Any arbitration shall be conducted pursuant to Washington State statutes, Washington Superior Court Rules and Skagit County Local Rules for Mandatory Arbitration, no matter the amount in controversy or the remedy sought. The arbitrator shall have full powers in law and equity to award damages, declare rights and liabilities, prohibit acts, require that acts be



performed or to enjoin any activity or use. To commence arbitration, a party must commence an action in Skagit County Superior Court to compel. The arbitrator's award shall include an award of attorney's fees and costs to the prevailing party and shall be subject to appeal only pursuant to the provisions of Chapter 7.04 RCW now or as hereafter amended. The prevailing party in any appeal shall receive its attorney's fees and costs. The court shall have full jurisdiction to enforce the arbitrator's decision, including Civil and Criminal contempt.

3. The foregoing notwithstanding, either party may commence an action in Superior Court (whether mediation or arbitration has commenced or not) to seek a temporary injunction or preliminary injunction pursuant to Washington State Laws and the Superior Court Rules. The Court shall have exclusive jurisdiction to hear such temporary or preliminary injunction matters and the Superior Court's decision with respect to such injunction requests shall stand until a hearing on the merits is conducted before the arbitrator and an arbitrator's award is made. The prevailing party in any request for a temporary injunction or preliminary injunction shall be awarded its attorney's fees and costs related thereto by the Superior Court irrespective of the ultimate outcome of the dispute before the arbitrator. The Court shall enter an injunction at any time it is shown by a preponderance of the evidence that a violation of the terms of this easement will cause any injury to the conservation values protected by this easement.

## **IX. GRANTEE'S REMEDIES**

A. General. Grantor and Grantee are presumed to have a common interest in the reasonable application of the terms of this Easement to the Protected Property and the parties undertake the grant and acceptance of the Easement in a spirit of cooperation which presupposes regular consultation between Grantor and Grantee, not less frequently than annually. Grantor and Grantee shall be bound by agreements as to the interpretation of this Easement that are set forth in writing and recorded in the minutes and records of the Skagit Land Trust or its successor.

B. Notice of Failure. If Grantee determines that the 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.

C. Grantor's Failure to Respond. If Grantor: (1) fails to cure a violation within thirty (30) days after receipt of a notice thereof from grantee or under circumstances for which the violation cannot be reasonably cured within the thirty (30) day period, fails to commence curing such violation within thirty (30) days of notice; or fails to continue diligently to cure such violation until finally cured; Grantee may then invoke dispute resolution as set forth in Section VIII. above.



D. Grantee's Action. Pursuant to Section VIII., Grantee may bring action in Skagit County Superior Court to enforce the terms of this Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including damages for the loss of the Conservation Values; and to require the restoration of the Protected Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Protected Property.

E. Immediate Action Required. 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.

F. Nature of Remedy. Grantee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement, and 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 proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

G. Costs of Enforcement. In the event that grantee enforces the terms of this easement, the cost of restoration and Grantee's reasonable enforcement expenses, including attorney's fees, and costs shall be born by grantor or its heirs, successors or assigns, as the case may be. In the event that Grantee secures redress for an easement violation without initiating or completing the judicial proceeding, the cost of such restoration and grantee's reasonable expenses, including attorney's fees and costs, shall be born by grantor or its heirs, successors, or assigns, as the case may be.

H. Grantee's Discretion. Enforcement of the terms of this Easement shall be at the discretion of the Grantee, and any forbearance by the Grantee to exercise its rights under this easement in the event of any breach of any terms of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term of any Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantors shall impair such right or remedy or be construed as a waiver.

I. Waiver of Certain Defenses. Grantor acknowledges that it has carefully reviewed this Grant Deed of Conservation Easement and has consulted with and been advised by counsel



of its terms and requirements. In full knowledge of the provisions of this Grant Deed of Conservation Easement, Grantor hereby waives any claim or defense it may have against Grantee or its successors in interest under or pertaining to this Grant Deed of Conservation Easement based upon waiver, laches, estoppel, adverse possession, or prescription, except as contemplated by paragraph IX. K., the estoppel certificate procedure, and except as affected by written agreements prepared pursuant to paragraph IX. A.

J. Acts Beyond Grantors 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, fire, flood, storm, and earth movement, 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.

K. Estoppel Certificates. Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance or lack thereof with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement as requested by Grantor.

## **X. ACCESS BY PUBLIC**

Nothing contained herein, shall be construed as affording the general public access to the Protected Property.

## **XI. COSTS, LIABILITIES, TAXES, AND INDEMNIFICATION**

A. 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 comprehensive general liability insurance coverage. Such insurance shall include Grantee's interest and name Grantee as an additional insured and provide for at least thirty (30) days notice to Grantee before cancellation and that the act or omission of one insured will not invalidate the policy as to the other insured party.

B. Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, charges of whatever description levied on or assessed against the Protected Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantee is authorized, in the absence of any formal protest from the Grantor as to the validity of such taxes, but in no event obligated to make or advance any 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 the Grantor at the maximum rate allowed by law.

C. Environmental Representations and Warranties. Grantor represents and warrants that to the best of Grantor's knowledge:

1. There are no apparent or latent defects in or on the Protected Property;
2. There has been no release, dumping, burying or abandonment on the Protected Property of any substances, materials, or wastes which are hazardous, toxic, harmful or dangerous, or are designated as, or contain components which are, or are designated as, hazardous, toxic, dangerous, or harmful and/or which are subject to regulation as hazardous or toxic, dangerous, or harmful and/or which are subject to regulation as hazardous or toxic, dangerous or as a pollutant by any federal, state or local law, regulation, statute, or ordinance;
3. Neither Grantor nor Grantor's predecessors in interest have disposed of any hazardous substances off-site, nor have they disposed of substances at sites designated or proposed to be designated as federal or state Superfund sites; and
4. There is no pending or threatened litigation affecting the Protected Property or any portion thereof which will materially impair the value or usefulness of the Protected Property or any portion thereof to the Grantee. No civil or criminal proceedings have been instigated or are pending against the Grantor or its predecessors by government agencies or third parties arising out of alleged violations of environmental laws, and neither Grantor nor its predecessors in interest have received any notices of violation, penalties, claims, demand letters, or other notifications relating to a breach of environmental laws.

D. Indemnification. Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, 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 Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties;
2. The obligations specified in subsections A and B of this section;
3. The breach of the environmental representation and warranties specified in subsection C of this section; or
4. The existence or administration of this Easement.

## **XII. SUBSEQUENT TRANSFER OR EXTINGUISHMENT**

A. Extinguishment. If circumstances arise in the future that render the purpose of



this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and 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, unless otherwise provided by Washington law at the time, in accordance with subsection B herein. Grantee shall use all such proceeds in a manner consistent with the conservation purposes of this grant.

B. Valuation. This Easement constitutes a real property interest immediately vested in Grantee, which, for the purpose of subsection A herein, the parties stipulate to have a fair market value determined by multiplying the fair market value of the Protected Property unencumbered by the Easement (minus any increase in the value after the date of this grant attributable to improvements) by the ratio of the value of the Easement at the time of this grant to the value of the Protected Property, without deduction for the value of the Easement, at the time of this grant. The values at the time of this grant shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to section 170(h) of the Internal Revenue Code of 1986, as amended. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Protected Property unencumbered by the Easement shall remain constant.

C. Condemnation. If the Easement is taken, in the whole or in the part, by the exercise of the power of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law.

D. Subsequent Transfers. Grantor agrees (1) to incorporate the terms of this Easement 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, and (2) to describe this Easement in and append it to, any executory contract for the transfer of any interest in the Protected Property. Grantor further agrees to give written notice to the Grantee of the transfer of any interest of at least thirty (30) 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 his or her representative. The failure of the Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.





### XIII. 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 shall affect the qualification of this Easement or the status of Grantee under any applicable laws, including RCW 64.04.130, Chapter 84.34 RCW, or Section 170(h) of the Internal Revenue Code, as amended, and any amendment shall be consistent with the purpose of this Easement, and shall not affect its perceptual duration. Any such amendment shall be recorded in the official records of Skagit County, Washington, and any other jurisdiction in which such recording is required.

### XIV. ASSIGNMENTS

A. Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this easement only to an 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 then applicable). As a condition of such transfer, Grantee shall require that the Conservation Purposes that this Easement is intended to advance continue to be carried out by the transferee. Grantee shall notify Grantor in writing, at Grantor's last known address, in advance of such assignment.

B. Succession. If at any time it becomes impossible for Grantee to ensure compliance with the covenants contained herein and Grantee has not named a successor organization, or the Grantee shall cease to exist, then its rights and duties hereunder shall become vested and fall upon the following named entities to the extent that they shall accept this Easement, in the following order:

1. San Juan Preservation Trust  
P.O. Box 327  
Lopez Island, WA 98261

2. Such other entity, with purposes similar to the Skagit Land Trust, constituting a "qualified organization" within the meaning of the Internal Revenue Code of 1986 (or corresponding provision of any future statute); provided that if such vesting in the entities named above is deemed to be void under the Rule Against Perpetuities, the rights and obligations under this Easement shall vest in such organization as a court of competent jurisdiction shall direct, pursuant to the applicable Washington law and the Internal Revenue Code (or corresponding provision of any future statute) and with due regard to the purposes of this Easement.

## XV. RECORDATION

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.

## XVI. GENERAL PROVISIONS

A. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Washington.

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 the application thereof 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 thereby.

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

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

F. "Grantor" - "Grantee". The terms "grantor" and "grantee" whenever used herein, and any pronouns used in the place thereof shall mean and include, respectively, the above-named grantor, and its personal representatives, heirs, successors and assigns and the above-named grantee, and its personal representatives, heirs, successors and assigns. All covenants, terms, conditions, restrictions and rights of this easement shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.

G. 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.

H. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

I. Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, 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.

## **XVII. SCHEDULE OF EXHIBITS**

- A. Legal Description of Property Subject to Conservation Easement
- B. Site Map
- C. Baseline Documentation Summary



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

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument  
this 21<sup>st</sup> day of December 2004:

**Grantor:**

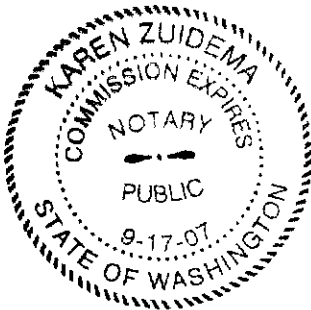
Eugene B. Kahn  
Eugene B. Kahn

STATE OF WASHINGTON  
COUNTY OF SKAGIT

) ss.

On this day personally appeared before me Eugene B. Kahn, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 21<sup>st</sup> day of December 2004.



Karen Zuidema  
Notary Public in and for the state of  
Washington, residing at Anacortes  
My commission expires: 9/17/07

Printed Name: Karen Zuidema



SKAGIT LAND TRUST does hereby accept the above Deed of Conservation Easement.

**Grantee:**

SKAGIT LAND TRUST, a Washington not for profit corporation

Accepted this 22<sup>nd</sup> day of December 2004 by:

Attestation:

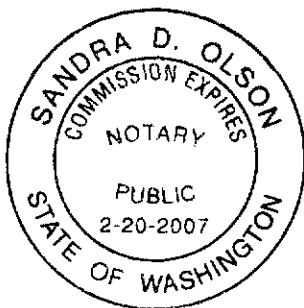
John S. Milnor  
John S. Milnor, President

Catherine Dostart  
Catherine Dostart, Secretary

STATE OF WASHINGTON )  
COUNTY OF SKAGIT ) ss.

On this day personally appeared before me John S. Milnor, to me known to be the president of Skagit Land Trust, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

Given under my hand and official seal this 22<sup>nd</sup> day of December 2004.



Sandra D. Olson  
Notary Public in and for the state of  
Washington, residing at Anacortes  
My commission expires: 2-20-07

Printed Name: SANDRA D. OLSON



**Exhibit A**  
**Legal Description of Property Subject to Conservation Easement**

**Parcel "A"**

The Northwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 20, Township 35 North, Range 10 East, W.M., EXCEPT the East 363 feet thereof.

Together with:

**Parcel "B"**

That portion of the following described Tract "X" lying within the following described Lot 1:

**Tract "X"**

That portion of the northeast quarter of the southeast quarter and the east 363 feet of the northwest quarter of the southeast quarter of Section 20, Township 35 North, Range 10 East, W.M. lying northerly of the following described line:

Commencing at the east quarter corner of said Section 20; thence S  $01^{\circ} 48' 26''$  W along the east line thereof, a distance of 443.94 feet to the point of beginning of this line description; thence S  $73^{\circ} 05' 58''$  W, a distance of 1242.84 feet; thence S  $55^{\circ} 30' 39''$  W, a distance of 634.10 feet to the west line of the east 363 feet of said northwest quarter of the southeast quarter and end of this line description, which point is 100.00 feet north of the southwest corner of said east 363 feet.

**Lot 1**

Lot 1, Short Plat No. 96-054, approved July 23, 1996, recorded August 28, 1996 in Volume 12 of Short Plats, pages 138 and 139, under Auditor's File No. 9608280066 and being a portion of the Southeast  $\frac{1}{4}$  of Section 20, Township 35 North, Range 10 East, W.M.

TOGETHER WITH a non-exclusive easement for ingress and egress 30 feet in width over and across that portion of Government Lots 1 and 2 of Section 21, Township 35 North, Range 10 East, W.M., as conveyed under Auditor's File Nos. 96061700014 and 9606240076 and as more particularly shown on the face of said Short Plat.

Situated in Skagit County, Washington

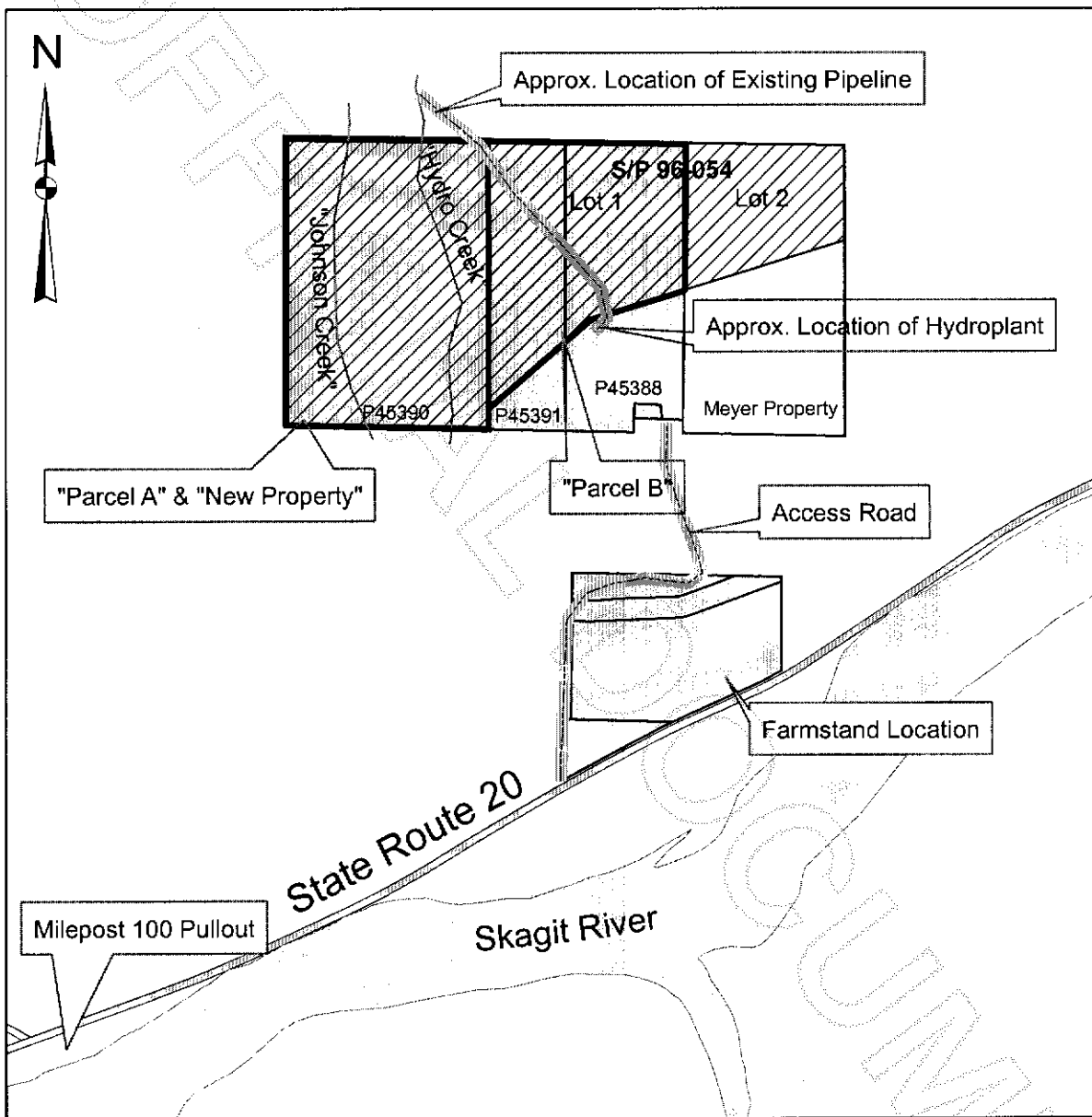


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# EXHIBIT B Site Map Section 20, Township 35 North, Range 10 East



0 0.125 0.25 0.5 Miles

- Protected Area
- Parcel Boundaries of Kahn Property

This site map is provided for the purposes of locating the property and dominant features. It does not purport to be a survey. No reliance should be placed on this map for dimensi



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**EXHIBIT C (Page 1 of 5)**

**BASELINE DOCUMENTATION SUMMARY  
Kahn Conservation Easement – 2004**

**Grantor Information:**

Name: Eugene B. Kahn

Address: P.O. Box 899

City: Coupeville, WA 98239

Phone: (360) 766-4150

Protected Property Address: 55757 State Route 20, Rockport, WA 98283

**Skagit Land Trust (Grantee) Contact:**

Executive Director, Skagit Land Trust, PO Box 1017, Mount Vernon, WA 98273

(360) 428-7878

**Property Information:**

Location: Section 20, Township 35N, Range 10E

Parcels: P45390, P45391 and P45388

Acres: 48

Habitat types and acres of each: forest (48 acres)

Structures: one pipeline for hydroelectric power generation that runs from a catchment located north of the property line to a generator located to the south of the easement boundary on the eastern portion of the Protected Property – see attached map.

County Zoning: Secondary Forest (~10 acres) and Industrial Forest (~38 acres)

Land Use Tax Classification: P45390 – Classified Timber; P45391 and P45388 – Open Space Farm and Ag.

Type of Ownership: Fee      Mortgage? No

Legal Description: see attachment



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*Soil types:* Soils on the property are primarily Skiyou gravelly silt loam (approximately 41 acres), with slopes from 15 to 30% (soil type 127 on soil survey map). This is a very deep, well-drained soil, with an effective rooting depth of 60 inches or more. Runoff is medium and the hazard of water erosion is moderate. Approximately 5 acres along the western boundary of the property is Andic Xerochrepts, warm-Rock outcrop complex with slopes of 65 to 90% (soil type 4 on soil survey map). The Andic Xerochrepts portion of this complex are moderate to very deep and well drained; however runoff from this soil is rapid and the hazard of water erosion is severe. The remaining 2 acres of the property, in the southwestern corner are Heisler gravelly silt loam with 30 to 65% slopes (soil type 66 on soil survey map). This soil is very deep and well drained. Runoff is medium and the hazard of water erosion is moderate.

*County Critical Areas:* Streams – two streams run north to south through the property. The westernmost stream, locally known as Johnson Creek, is classified by DNR as a type 5 stream. The easternmost stream, locally known as Hydro Creek, is classified by DNR as a type 4 stream.

Geologically Hazardous Areas – much of the property contains slopes over 30%. Fish and Wildlife Habitat Conservation Areas – the forested hillside may be suitable for nesting Pileated Woodpeckers and communal roosts of both Vaux's Swifts and Townsend's Big-eared Bats.

*State Priority Habitats and Species:* Bald Eagle communal roost, Cavity nesting birds (Pileated Woodpecker), Roosting and breeding habitat for bats, Elk habitat, Riparian habitat, Rural Natural Open Space and Snags and Logs.

**Special Features of Property:** The Protected Property is located on the north side of State Route 20 and includes approximately 48 acres of south-facing forested hillside. The Protected Property is located less than ½ mile from the Skagit River, across the valley from Illabot Creek. This reach of the Skagit is known for its importance to wintering Bald Eagles, attracted to the area to feed on spawning salmon. The forest on the Protected Property is immediately south and west of forested areas documented as wintering Bald Eagle night roosts and it likely also provides thermal cover for

**EXHIBIT C (Page 3 of 5)**

the eagles. The Protected Property is very steep, climbing from approximately 500 feet to nearly 1,000 feet above sea level. The forest on the eastern 19 acres is composed of older, coniferous trees, such as hemlock, cedar and Douglas fir. There are many trees on this portion of the property nearly 100 years old. The forest on the western 29 acres of the property is much younger and composed primarily of deciduous trees, such as cottonwood, alder and big-leaf maple. A few remnant 100-year old conifers can be found on this hillside, but most of the few conifers are less than 50 years old.

The Protected Property also has two streams located on it, locally known as "Hydro Creek" and "Johnson Creek". These high gradient streams and surrounding slopes provide habitat suitable for tailed frogs and Pacific giant salamanders. The streams are not fish bearing and go underground when they reach the toe of the slope.

The forested hillside found on the Protected Property, in combination with the adjacent open farmlands below, provides foraging and roosting habitat for a variety of species dependent upon the increasingly rare low elevation forests of Puget Sound, including Pileated Woodpeckers, Vaux's Swifts and several bat species. Songbirds and raptors and numerous species of mammals and amphibians also use this habitat. Protection of the forest on the hillside above significant waterways, such as the Skagit River, is also important for the protection of water quality, through the reduction of erosion and sedimentation.

State Route 20 is a federally designated Scenic Byway and the Protected Property is a prominent feature in the viewshed of the highway in this area. Many visitors to the area stop at local landmarks, such as the nearby Mile Post 100 pullout of viewing eagles and the farmstand of Cascadian Farm. The Protected Property is highly visible from both of these popular locations.

**Condition of Property:** The forest on the eastern 19 acres of the Protected Property is in a nearly mature condition, dominated by old conifers and snags, with a few young conifers and hardwoods.



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## EXHIBIT C (Page 4 of 5)

This portion of the property contains a pipeline for a small hydropower plant built with assistance from a Federal Department of Energy grant. The pipeline (approximately 8 inches in diameter) runs from a catchment on Hydro Creek, located north of the property boundary, and on US Forest Service land. This pipeline carries water through the Protected Property, down to a generator housed in a small building just south of the easement boundary. The water is then directed into a streambed that carries it south to rejoin Hydro Creek. The pipeline is buried in most places across the Protected Property. But in one location near the northern end the pipe is supported by wooden scaffolding across a gulley.

On the western portion of the Protected Property the forest is primarily deciduous, with only a few conifers older than 50 years. Approximately 10 acres were selectively logged in 2002, a process that was occurring when the current owner purchased the land. The area logged was not replanted. This portion of the property also has remnants of an old logging road that winds up the hillside, passing immediately south of the northwest corner of the Protected Property. The upper reaches of this road do not appear to have been used in the 2002 logging.

The Grantor and Skagit Land Trust are not aware of any hazardous substances or the release or disposal of such in the easement area, and no signs of such were observed.

**History:** Mr. Kahn purchased the eastern 19 acres (P45388 and P45391) of the Protected Property in 1979 along with 3 partners (Roc Fleishman, Sarah Ross and Thomas Forster). In 1995 the owners donated a Conservation Easement to Skagit Land Trust (CE 95-12-4) on the 19 acres. This easement also covered approximately 10 acres to the east in a separate parcel (P109420). The eastern parcel was then sold to Harlyn and Jim Meyer, who continue to own that property. In 2002 the western 29 acres of the Protected Property were owned by Russell Johnson, who started logging the lower portion of the property in the summer of 2002. In July 2002 the Grantor purchased the land in the midst of the logging activities.



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In compliance with Section 1.170A-14(g)(5) of the federal tax regulations, this natural resources inventory is an accurate representation of the property at the time of conservation easement donation.

[Signature]  
Grantor

date: 12/21/04

Brenda C. Cunningham  
Skagit Land Trust, Grantee

Stewardship Director  
Title

date: 12-21-04

**Attachments (available in baseline file):**

- ✓ Ground photos
- ✓ Orthophoto
- ✓ Assessor's map
- ✓ Site map
- ✓ Assessor's printout
- ✓ Topographic Map
- ✓ Soil Survey map and descriptions

Baseline summary prepared by Brenda Cunningham, December 2004

References used to prepare this report:

*Management Recommendations for Washington's Priority Habitats and Species*; WDFW (May 1991)

*Soil Survey of Skagit County Area, Washington*; USDA, SCS (Sept. 1989)



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