

RETURN ADDRESS:

Skagit County Health Department
700 South 2nd Street Room #301
Mount Vernon, WA 98273
Attn: Corinne Story



200608170098
Skagit County Auditor

8/17/2006 Page 1 of 14 1:51PM

WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)

DOCUMENT TITLE(S) (or transactions contained therein): Mitigation Covenant
REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED: n/a <input type="checkbox"/> Additional reference #s on page _____ of document(s)
GRANTOR(S) (Last name first, then first name and initials) Sayyes Enterprises, LLC, a Washington limited liability company; Patricia A. Lessard; Charles A. Rossi and Susanne M. Rossi, husband and wife; Laurence G. Fladebo and Delores L. Fladebo, Trustees of the Fladebo Family Trust dated May 1, 2000; and Mildred A. Leslie <input type="checkbox"/> Additional names on page _____ of document
GRANTEE(S) (Last name first, then first name and initials) Skagit County, a county of the State of Washington; Leif Erickson Recreation Association, a Washington nonprofit corporation <input type="checkbox"/> Additional names on page _____ of document
LEGAL DESCRIPTION (abbreviated: i.e., lot, block, plat or section, township, range) Lots 1 through 9 of the Plat of Willabelle Estates, as per plat recorded October 25, 2005, under Skagit County Auditor's File No. 200510250130 Additional legal is on page _____ of document
ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER P123529, P123530, P123531, P123532, P123533, P123534, P123535, P123536, P123537 <input type="checkbox"/> Assessor Tax # not yet assigned

MITIGATION COVENANT

THIS MITIGATION COVENANT is made as of this _____ day of _____, 2006, by Sayyes Enterprises, LLC, a Washington limited liability company; Patricia A. Lessard; Charles A. Rossi and Susanne M. Rossi, husband and wife; Laurence G. Fladebo and Delores L. Fladebo, Trustees of the Fladebo Family Trust dated May 1, 2000; and Mildred A. Leslie (collectively "Grantors") for the benefit of Skagit County, a County of the State of Washington, and the Leif Erickson Recreation Association, a Washington nonprofit corporation ("LERA") (collectively "Grantees").

Recitals

WHEREAS, Grantors own Lots 1 through 9 of the Plat of Willabelle Estates, as per plat recorded October 25, 2005, under Skagit County Auditor's File No. 200510250130, situate in Skagit County, Washington. The foregoing Plat of Willabelle Estates is referred to herein as the "Plat" and Lots 1 through 9 of the Plat are referred to herein as the "Lots."

WHEREAS, LERA has two domestic water supply wells (well log numbers 81144 and 81145) in the vicinity of the Plat (the "Wells").

WHEREAS, Grantors wish to impose certain restrictions on the Lots consistent with the letter to Chad Savage from Corinne Story of the Skagit County Health Department dated July 13, 2006 ("Willabelle Estates Mitigation and Contingency Plan Recommendations for On-site Sewage Disposal Systems"). The covenants contained herein constitute a Mitigation Plan for the Plat of Willabelle Estates pursuant to Skagit County Code § 14.24.350.

NOW, THEREFORE, the Grantors covenant as follows:

A. Substantive Covenants:

- (1) All on-site sewage disposal systems installed on the Willabelle Estates Lots shall be of a type that passes the EPA Environmental Technology Verification (ETV) protocol or that is listed with the Washington State Department of Health as a certified nitrogen reducing product (effluent concentrations of 20 mg/L nitrate-nitrogen or less per WAC 246-272A-0110).
- (2) No Accessory Dwelling Unit (ADU) shall be constructed on any Lot within the Willabelle Estates Plat unless approved by Skagit County based on a determination that the effluent from the combined on-site sewage disposal system for the primary residence and ADU on the Lot will not exceed 300 gallons of effluent per day. An ADU is defined as a dwelling unit that is either (1) not physically attached to the primary single-family dwelling unit on a Lot, or (2) has a kitchen separate from the kitchen of the primary single-family dwelling unit on a Lot.



- (3) All of the on-site sewage disposal systems in the Plat of Willabelle Estates shall be inspected by a Skagit County-licensed Operation and Maintenance person no less than once a year for the life of the system. Any failures shall be reported to the Skagit County Health Department by the property owner within seven (7) days of their receipt of the report.
- (4) Prior to issuance of a permit for each on-site sewage disposal system in the Plat of Willabelle Estates, the Lot owner shall be required to sign and record on their title a "perpetual operation and maintenance contract" per Skagit County Code 12.05.120(7) to have their system maintained at a minimum, annually, or more frequently, if required by the proprietary treatment device manufacturer.
- (5) The annual Operation and Maintenance inspection shall include nitrate testing of effluent from each proprietary treatment device prior to discharge into a drainfield. Analysis shall be at a Department of Ecology (DOE) accredited laboratory and the results reported to the Skagit County Health Department. As an alternative to such annual nitrate testing, if such testing has occurred for the first four devices for a period of at least three years and there has been no noncompliant test result from any device, the homeowners' association may install the monitoring well described in paragraph 7 below and monitor it twice a year; however as additional devices, in excess of the original four devices, are added, they, each, also must have acceptable annual nitrate testing for a period of three years from the respective dates of becoming operational. If a monitoring well is installed consistent with this provision, the results of the monitoring shall be addressed in accordance with paragraphs 7(a) and 7(b) below.
- (6) Failure of effluent from a proprietary treatment device to meet a standard of 20 mg/L nitrate-nitrogen shall be verified by two retests one week apart after the first non-compliant test.
- (a) Lack of compliance for any proprietary treatment device as demonstrated by these repeat samples will require system repair or retrofit for additional treatment followed by two consecutive (a week apart) compliant samples.
- (b) Further lack of compliance for any proprietary treatment device will require monthly retests for up to 6 months. Failure of the retesting to meet a geometric mean of 20 mg/L concentration requirements requires the homeowners' association or Lot owner to install a monitoring well at a site approved by the Skagit County Health Department on the down-gradient boundary of the overall drainfield easement area shown on the Plat (e.g., the easement area containing the nine individual drainfields). Semi-annual testing (twice a year) of the well will be required.
- i. If the monitoring well reveals a concentration of nitrate as nitrogen of 5 mg/L or higher:
1. The Lot owner(s) whose system(s) are noncompliant shall work with the County to ensure that the noncompliant system(s) and their drainfield(s), as well as the on-site sewage disposal systems and related drainfields for any Lots in the Plat that have



not yet been developed, incorporate the best available nitrogen reducing design and technology, including measures even more stringent than those specified in item #1 above if better design solutions and/or technology than that referenced in item #1 has become available.

2. The covenants shall be modified to include mitigations noted in (6)(b)(i)(1) above.

ii. If the monitoring well reveals a concentration of nitrate as nitrogen of 10 mg/L or higher, implementation of the contingency plan is required per Skagit County Code 14.24.350(4) and may include a building moratorium.

(7) A documented increase in the nitrate as nitrogen levels in the Norway Park public water supply wells (from the current level of about 2 mg/L) to 5 mg/L or higher will also require the homeowners' association to install a monitoring well at a site approved by the Skagit County Health Department on the down-gradient boundary of the overall drainfield easement area shown on the Plat (e.g., the easement area containing the nine individual drainfields). Semi-annual testing (twice a year) of the monitoring well will be required.

(a) If the monitoring well reveals a concentration of nitrate as nitrogen of 5 mg/L or higher:

i. The homeowners' association shall work with the County to ensure that the system(s) and their drainfield(s) in this Plat are functioning as designed. On-site sewage disposal systems and related drainfields for any Lots in the Plat that have not yet been developed shall incorporate the best available nitrogen reducing design and technology, including measures even more stringent than those specified in item #1 above if better design solutions and/or technology than that referenced in item #1 has become available.

ii. The covenants shall be modified to include mitigations noted in (7)(a)(i) above.

(b) If the monitoring well reveals a concentration of nitrate as nitrogen of 10 mg/L or higher, implementation of the contingency plan is required per Skagit County Code 14.24.350(4) and may include a building moratorium.

(8) The homeowners' association is responsible for the cost of the monitoring well's construction, maintenance and monitoring and analysis, if such a well is required, and shall be entitled to collect from each Lot owner that owner's proportionate share of the cost.

B. Running with the Land. The covenants set forth in paragraph A above shall run with the Lots and shall be binding upon the Grantors and their heirs, successors and assigns as owners of the Lots.



C. Enforcement. The covenants set forth in paragraph A above are for the benefit of Skagit County and LERA and shall be enforceable by either Skagit County or LERA or both of them.

D. Counterparts. This document may be executed in any number of identical counterparts. If so executed, each such counterpart shall be deemed an original for all purposes, and all such counterparts shall collectively constitute one agreement.

GRANTORS:

SAYYES ENTERPRISES, LLC

By

Chad Savage

Its

Manager

Dated

8-16-06

Patricia A. Lessard

Dated _____

Charles A. Rossi

Dated _____

Susanne M. Rossi

Dated _____

Mildred Leslie

Dated _____

The Fladebo Family Trust

By:

Laurence G. Fladebo, TTEE

Laurence G. Fladebo, Trustee of the Fladebo Family Trust dated May 1, 2000

Dated

08-14-06

By:

Delores L. Fladebo, TTEE

Delores L. Fladebo, Trustee of the Fladebo Family Trust dated May 1, 2000

Dated

08/14/06



C. Enforcement. The covenants set forth in paragraph A above are for the benefit of Skagit County and LERA and shall be enforceable by either Skagit County or LERA or both of them.

D. Counterparts. This document may be executed in any number of identical counterparts. If so executed, each such counterpart shall be deemed an original for all purposes, and all such counterparts shall collectively constitute one agreement.

GRANTORS:

SAYYES ENTERPRISES, LLC

By _____

Its _____
Dated _____

Patricia A. Lessard
Dated _____

Charles A. Rossi
Charles A. Rossi
Dated AUGUST 16, 2006

Susanne M. Rossi
Susanne M. Rossi
Dated August 16, 2006

Mildred Leslie
Dated _____

The Fladebo Family Trust

By: _____
Laurence G. Fladebo, Trustee of the Fladebo Family Trust dated May 1, 2000
Dated _____



C. Enforcement. The covenants set forth in paragraph A above are for the benefit of Skagit County and LERA and shall be enforceable by either Skagit County or LERA or both of them.

D. Counterparts. This document may be executed in any number of identical counterparts. If so executed, each such counterpart shall be deemed an original for all purposes, and all such counterparts shall collectively constitute one agreement.

GRANTORS:

SAYYES ENTERPRISES, LLC

By _____

Its _____

Dated _____

Patricia A. Lessard
Patricia A. Lessard
Dated 8-14-06

Charles A. Rossi
Dated _____

Susanne M. Rossi
Dated _____

Mildred Leslie
Dated _____

The Fladebo Family Trust

By: _____
Laurence G. Fladebo, Trustee of the Fladebo Family Trust dated May 1, 2000
Dated _____



C. Enforcement. The covenants set forth in paragraph A above are for the benefit of Skagit County and LERA and shall be enforceable by either Skagit County or LERA or both of them.

D. Counterparts. This document may be executed in any number of identical counterparts. If so executed, each such counterpart shall be deemed an original for all purposes, and all such counterparts shall collectively constitute one agreement.

GRANTORS:

SAYYES ENTERPRISES, LLC

By _____

Its _____
Dated _____

Patricia A. Lessard
Dated _____

Charles A. Rossi
Dated _____

Susanne M. Rossi
Dated _____

Mildred Leslie
Mildred Leslie
Dated *Aug. 14, 2006*

The Fladebo Family Trust

By: _____
Laurence G. Fladebo, Trustee of the Fladebo Family Trust dated May 1, 2000
Dated _____

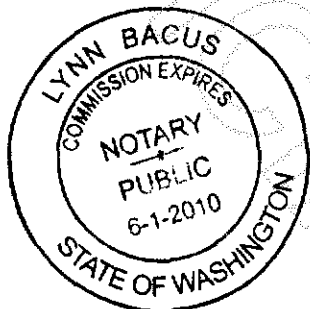
By: _____
Delores L. Fladebo, Trustee of the Fladebo Family Trust dated May 1, 2000
Dated _____



STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that Chad Savage signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it in (his/her) capacity as Manager of SAYYES ENTERPRISES, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 16th day of August, 2006.



Lynn Bacus
NOTARY PUBLIC in and for the
State of Washington, residing
at Mount Vernon;
My commission expires: 6/1/2010
Lynn Bacus
[Type or Print Notary Name]

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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

GIVEN under my hand and official seal this _____ day of _____, 2006.

NOTARY PUBLIC in and for the
State of Washington, residing
at _____;
My commission expires: _____

[Type or Print Notary Name]



STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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

GIVEN under my hand and official seal this _____ day of _____, 2006.

NOTARY PUBLIC in and for the
State of Washington, residing
at _____;
My commission expires: _____

[Type or Print Notary Name]

STATE OF WASHINGTON)
) ss.
COUNTY OF WA)

I certify that I know or have satisfactory evidence that Laurence G. Fladebo signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it in his capacity as Trustee of the Fladebo Family Trust dated May 1, 2000, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 14 day of August, 2006.

Kim Walley
NOTARY PUBLIC in and for the
State of Washington, residing
at Burlington;
My commission expires: 10-04-08
Kim Walley
[Type or Print Notary Name]



STATE OF WASHINGTON)
COUNTY OF Wa) ss.

I certify that I know or have satisfactory evidence that Delores L. Fladebo signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it in her capacity as Trustee of the Fladebo Family Trust dated May 1, 2000, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 14 day of August, 2006.

Kim Waller

NOTARY PUBLIC in and for the
State of Washington, residing
at Burlington;

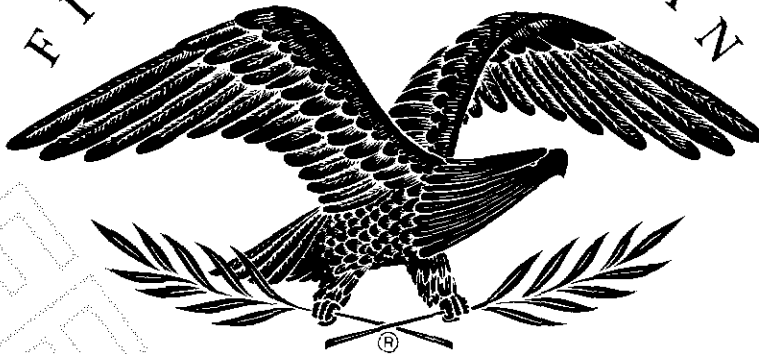
My commission expires: 10-04-08

Kim Waller

[Type or Print Notary Name]



FIRST AMERICAN



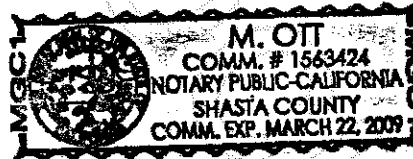
STATE OF CALIFORNIA
COUNTY OF

Shasta

}ss.

On 8-16-06, before me, M. Ott, Notary Public,
personally appeared Charles A. Rossi and
Susanne M. Rossi, personally known to me
(or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature

M. Ott

(This area for official notarial seal)

Title of Document Mitigation Covenant

Date of Document _____ No. of Pages _____

Other signatures not acknowledged _____



200608170098
Skagit County Auditor

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it in (his/her) capacity as _____ of SAYYES ENTERPRISES, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this _____ day of _____, 2006.

NOTARY PUBLIC in and for the
State of Washington, residing
at _____;
My commission expires: _____

[Type or Print Notary Name]

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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

GIVEN under my hand and official seal this 14th day of August, 2006.

Lauren M. Harty

NOTARY PUBLIC in and for the
State of Washington, residing
at Tukwila;
My commission expires: 10-10-07
LAUREN G. HARTY

[Type or Print Notary Name]

Y:\WP\SAYYES ENTERPRISES\COV\HARTY\149.DOC



200608170098

Skagit County Auditor

8/17/2006 Page

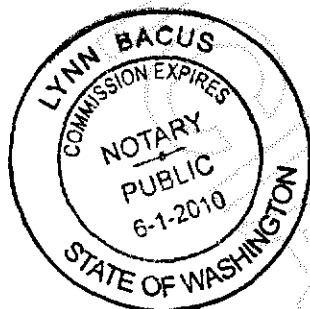
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STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

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

GIVEN under my hand and official seal this 14th day of August, 2006.



Lynn Bacus
NOTARY PUBLIC in and for the
State of Washington, residing

at Mount Vernon

My commission expires: 6/1/2010

Lynn Bacus
[Type or Print Notary Name]

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Laurence G. Fladebo signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it in his capacity as Trustee of the Fladebo Family Trust dated May 1, 2000, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this _____ day of _____, 2006.

NOTARY PUBLIC in and for the
State of Washington, residing

at _____

My commission expires: _____

[Type or Print Notary Name]

