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Grantor: Nicholas De Graaf Fahey, Joseph De Graaf Fahey and Anna Cornelia Fahey

Grantee: Skagit Land Trust

Brief Legal Description: Ptn Gov. Lot 4, 19-36-1 E WM. & Ptn Gov. Lots 1 & 2, 30-36-1 E W.M. *Full legal description shown in Exhibit A.*

Assessor's Tax Parcel and I.D. No: P46456/360119-0-006-0109; P46714/360130-0-001-0000; P46716/360130-0-002-0009; P46717/360130-0-002-0108; P46718/360130-0-002-0207; P46719/360130-0-003-0008, and P46720/360130-0-003-0107.

GRANT DEED OF CONSERVATION EASEMENT

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 21 day of December, 2007 ("Easement"), by Nicholas DeGraaf Fahey, an unmarried man, Joseph DeGraaf Fahey, a married man, and Anna Cornelia Fahey, an unmarried woman, each as their separate property and each as an undivided interest, as tenants in common and not as joint tenants with right of survivorship, interest ("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 ("Grantee").

I. RECITALS

A. Grantor is the owner in fee of that certain real property inclusive of all standing and down timber (hereinafter referred to as "Protected Property"), situated on Cypress Island, in Skagit County, State of Washington, more particularly described in Exhibit A (Legal Description) and shown on Exhibit B (Site Map), and Exhibit C (Baseline Report Summary), all of which are attached and made part hereof by this reference.

B. The Protected Property consists of approximately one-hundred (100) acres, including 4,580 feet of saltwater shoreline on the west side of Cypress Island that encompasses the area commonly known as Tide Point. The shoreline adjoins Rosario Strait, which connects to Puget

Sound to the south. To the east it borders on the Cypress Island Natural Area Preserve for approximately 2,330 feet. Approximately three and one-half (3.5) acres are in open meadow, which has been managed as pasture and orchard surrounding an old homestead. An existing rustic cabin and outbuildings are located within the meadow area on the northwest part of the Protected Property.

C. Because of its location and orientation, the Protected Property would be desirable for permanent residences and vacation or commercial resort development, intensive timber harvest, and other uses inconsistent with conservation. In the absence of this Easement the Protected Property, could be developed with up to eighteen additional residential sites under existing zoning, and undergo shoreline modifications and other more intensive uses that would destroy or diminish the natural character, open-space qualities of the Protected Property and its ecological value.

D. For the purposes of this Easement, the Protected Property is divided into two designated land use zones depicted in Exhibit B (Site Map) and legally described in Exhibit D (Designated Land Use Zones): (1) *Homestead Zone*, which is approximately thirteen acres in size and includes approximately 1,300 feet of saltwater shoreline and a small enhanced wetland at the tip of Tide Point. The *Homestead Zone* includes approximately 3.5 acres of open meadow areas that have been maintained through management and grazing, with the remainder in mixed woodland and old orchard. (2) *Forest Stewardship Zone*, which is approximately eighty-seven acres in size, and includes approximately 3,280 feet of undisturbed saltwater shoreline. The forest consists of healthy second growth native forest more than one-hundred years old, comprised mostly of conifers, dominated by Douglas fir but also including western hemlock, western red cedar, grand fir and pockets of hardwood species; the understory is comprised primarily of salal. A permanent unnamed stream flows northwesterly through this designated zone from the southeast corner of the Protected Property to the saltwater shoreline, which supplies surface water for domestic use and irrigation in the *Homestead Zone*. Another small permanent unnamed stream flows along the northeast corner of the Protected Property and serves as the boundary to the adjacent private property to the northeast. There is also a small freshwater wetland centrally located within the designated forest stewardship zone. The forest exists in a substantially undisturbed natural state, and harbors a diversity of native animals and plants. Because of the rain shadow effect, the forest communities on Cypress Island have evolved in a more arid environment than most of the Puget Sound region and are identified as rare by the Washington State Natural Heritage Program. The *Forest Stewardship Zone* includes the majority of saltwater shoreline on the Protected Property.

E. The Protected Property is in the watershed of Rosario Strait, a part of Puget Sound. The Washington State legislature in RCW 90.70.001 has recognized "that Puget Sound and related inland marine waterways of Washington State represent a unique and unparalleled resource. A rich and varied range of marine organisms, composing an interdependent, sensitive communal ecosystem reside in these sheltered waters" The legislature has further recognized that residents of this region enjoy a way of life centered around the waters of Puget Sound which depends upon a clean and healthy marine resource. Restrictions on the uses of the Protected Property would benefit Rosario Strait and Puget Sound because it would decrease soil erosion by limiting



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logging of the forest and reduce contamination in runoff by restricting development and construction.

F. The saltwater shoreline on the Protected Property includes areas of mixed coarse and fine sediment beaches suitable for forage fish spawning; these beaches are also important to numerous invertebrate species that, in turn, are an important food source for many higher forms of life. The kelp beds near the shore provide important resting and feeding areas for many bird and animal species associated with shallow marine habitats. These, and the deeper waters of Rosario Strait, are frequently used by marine mammals including orcas and minke whales, harbor porpoises, and harbor seals.

G. The Protected Property adjoins the Cypress Island Natural Area Preserve ("NAP") to the east, a state designation under Chapter 79.70 RCW. One of the purposes of the NAP is "to protect outstanding examples of rare or vanishing terrestrial or aquatic ecosystems, rare plant and animal species and unique geologic features". The majority of Cypress Island uplands are designated Natural Resource Conservation Area under Chapter 79.71 RCW. Together the Cypress Island NAP and NRCA include 5,100 acres of protected state lands, which is more than ninety percent of the island. The Protected Property is the largest remaining parcel in private ownership on the island. It is also adjacent to the 5,910 acre Cypress Island Aquatic Reserve to the west, these are state owned aquatic lands that are being "utilized primarily for their natural ecological systems," and withdrawn "from all uses that conflict with this purpose". Collectively these designations on and surrounding Cypress Island provide to the people of Washington outstanding scenic and ecological values and low impact public recreation. The NAP, NRCA and Aquatic Reserve, would benefit from this easement because the restrictions would be similar to the State's plan to preserve the area in its natural state. Restrictions on the use of the property will provide a protected buffer to the more sensitive habitats of the NAP, and will create contiguous protection from the shoreline to the Cypress Island highlands. In addition the Department of Natural Resources which is managing these State protected lands is actively endeavoring to preserve as much of Cypress Island as possible through conservation easements and land acquisition.

H. The legislatively declared policies of the State of Washington in Chapters 84.33 and 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." And, "(i)t is this state's policy to encourage forestry ... so that present and future generations will enjoy the benefits which forest areas provide in enhancing water supply, in minimizing soil erosion, storm and flood damage to persons or property, in providing a habitat for wild game, in providing scenic and recreational spaces, in maintaining land areas whose forests contribute to the natural ecological equilibrium, and in providing employment and profits to its citizens and raw materials for products needed by everyone." Under these laws, lands eligible for preferential real property tax treatment include the Protected Property where the preservation in its present use would conserve and enhance natural resources and promote conservation of forest land, wetlands, and wildlife habitat.



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

J. The Protected Property has scenic, ecological, open-space, and forest land values. The Protected Property enhances the open-space character of Skagit County, and provides a natural coastline and wooded setting that can be enjoyed by the public traveling through Rosario Strait west of Cypress Island. Cypress Island is the last large undeveloped island in the San Juan archipelago, and contains relatively intact coastal and upland ecosystems.

K. The specific Conservation Values of the Protected Property are documented in an inventory of relevant features of the Protected Property, dated December 20, 2007, a copy of which is on file at the offices of both Grantor and Grantee, is signed by each party, and is incorporated into this Easement by this reference ("Baseline Documentation"). The Baseline Documentation 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. A summary of said documentation is contained in Exhibit C ("Baseline Report Summary"). Any characterization of the timing of this Easement contained in the Baseline Documentation shall not be interpreted so as to alter, amend or otherwise modify this Easement. In any conflict or inconsistency between the terms of this Easement and the Baseline Documentation, the Baseline documentation shall prevail.

L. Grantor intends that the Conservation Values of the Protected Property be preserved and maintained by the continuation of uses and activities on the Protected Property that do not significantly impair or interfere with the Conservation Values. These current and future uses consist of, but are not limited to: (1) continued use or replacement of the existing house as a single family residence, continued use or replacement of the existing cabin (Scotty's Cabin") as an accessory dwelling unit (ADU), and construction of one additional single family residence and associated ADU (a total of two residences and two ADU's), together with uses customarily associated with a family homestead within the designated Homestead Zone; these uses include: maintenance of outbuildings; keeping of livestock, pasture management, hay cutting, cultivation of a vegetable garden and orchard; (2) limited small-scale commercial recreational uses within the designated Homestead Zone; (3) operation of a small commercial sawmill within the designated Homestead Zone; (4) limited commercial forest harvest according to an approved Forest Stewardship Plan in both the designated Homestead Zone and the Forest Stewardship



Zone; (5) restoration and enhancement of habitat for fish, wildlife, native flora, as well as open space and scenic qualities. These current and future uses are consistent with this Easement.

M. 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.

N. 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.

O. 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.

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

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. **The Conservation Purposes.** The purpose of this Easement is to preserve and protect the scenic, open-space, natural character and ecological values including the forest, riparian areas, wetlands and shoreline of the Protected Property, and to prevent any use of, or activities on the Protected Property that will impair or interfere with its Conservation Values. It is also the purpose of this Easement to ensure the Protected Property will remain forever in predominantly its natural condition and sustain a healthy forest ecosystem while producing forest products in



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perpetuity, and that it shall not be converted or directed to any uses other than those provided herein.

B. **Public Access.** 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. **Grantee Access.**

B.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, and to locate, install or replace boundary markers between designated land use zones.

B.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.

C. **Scientific/Educational Use.** For the benefit of the public, to allow a limited number of persons to enter upon the Protected Property for scientific and biological purposes in conjunction with the adjacent Washington Department of Natural Resources Natural Areas Preserve and Natural Resources Conservation Area to observe and study on the Protected Property; provided that any such persons must first make a written request for approval to enter upon the Protected Property from the Grantor. Grantor retains the right to stipulate the timing of such visits and the size of any group of persons visiting the Protected Property. 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 restrictions 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 Article VIII (Grantee's Remedies).



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E. **Assignment.** To assign, convey, or otherwise transfer Grantee's interest in the Protected Property in accordance with Article XIII. (Assignment) herein.

V. RESTRICTIONS AND RESERVED RIGHTS

A. **Generally.** The Protected Property shall be used only for habitat conservation, limited commercial forestry, a family homestead and for other uses specifically reserved herein below by the Grantor. Any use of, or activity on the Protected Property inconsistent with the purposes of and restrictions in this Easement is prohibited, and Grantor acknowledges and agrees that it will not conduct, engage in or permit any such use or activity. Without limiting the generality of the foregoing, the prohibited uses and activities described below, though not an exhaustive list, are inconsistent with the purposes of this Easement and shall be prohibited, except as expressly provided herein, or as deemed necessary by Grantee to preserve or protect the Conservation Values of the Protected Property. Grantor reserves for itself and its heirs, successors, and assigns, any use of, or activity on, the Protected Property, which is not inconsistent with the purposes of the Easement and which is not prohibited herein; *provided* that all such uses and activities shall be consistent and in compliance with applicable federal, state, and local laws.

B. **Specified Land Use Zones.** For the purposes of land use restrictions and reserved rights in this Easement, the Protected Property is treated as two land use zones: the "Homestead Zone" and the "Forest Stewardship Zone"; hereinafter so called, depicted in Exhibit B (Site Map), legally described in Exhibit D and more particularly described in Exhibit C (Baseline Report Summary). Restrictions and Reserved rights apply to the entire Protected Property, or to specific land use zones, as described below.

C. **Entire Protected Property.** The following restrictions and reserved rights apply to the entire Protected Property.

C.1. **Specific Prohibited Activities and Uses.** The following are specific activities and uses that are prohibited on the Protected Property:

- i. Surface or subsurface mining, or mining exploration of any kind whatsoever, including excavation or removal of sand, gravel or rock from the beach, *except* for occasional removal of small amounts of sand and gravel for on-site noncommercial use only, not to exceed one cubic yard of material in any six-month period, and *except* the study of any incidental geological or archeological findings;
- ii. The use of any continuous type of night lighting outside the Homestead Zone on the Protected Property. This restriction does not prohibit downward directed night illumination for safety.
- iii. Construction or maintenance of multiple unit housing including farmworker housing;
- iv. Construction or maintenance of feedlots, commercial arenas, racetracks, golf courses, or aircraft landing sites except in an emergency, and through roads or right of ways;
- v. Operation of off road vehicles, all terrain vehicles, motorcycles, dune buggies, or other type of motorized recreational vehicles, or the operation of other sources of



excessive noise pollution except for equipment normally used for proper maintenance and associated with activities permitted in this section.

- vi. The intentional disruption of native wildlife breeding and nesting activities is prohibited in the beach and shoreline areas;
- vii. 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 including the use of manure lagoons or disposal of wastewater in manners inconsistent with the terms of this Easement.

C.2. Specific Allowed Activities and Uses. The following are specific activities and uses that are allowed on the Protected Property provided they are conducted in a manner and intensity that does not adversely impact the Conservation Values of the Protected Property:

- i. Foot trail construction, renovation and maintenance provided that such trails shall not exceed three feet in width;
- ii. Maintenance and/or replacement of the existing surface water collection and supply system for domestic household use and irrigation within the Homestead Zone only. Said water collection system may be relocated to the stream on the northeast boundary of the Protected Property if necessary.
- iii. Drilling, maintenance, operation and replacement of a groundwater well for domestic household use and irrigation within the Homestead Zone only.
- iv. Low impact recreation (such as hiking, dog walking or bird watching);
- v. Fishing, including shellfish harvest, by Grantor and guests in compliance with all federal, state and local regulations;
- vi. Construction, repair and replacement of fences to protect plantings, contain livestock or to preserve or protect the Conservation Values of the Protected Property *provided*, Grantor shall exercise reasonable effort to construct and maintain fences that will not harm or trap wildlife, and that allow for the safe passage of wildlife across the Protected Property;
- vii. Access by Water. Grantor reserves the right to access the property by use of moorage buoys and to haul boats, skiffs, vehicles, supplies, and equipment across the tidelands and shoreline in such a manner as to not permanently alter the beach or shoreline;
- viii. Grantor reserves the right to locate, move and raft logs in and across the beach and tidelands which are harvested from the Grantor's property, *provided* appropriate permits are obtained from regulatory agencies.

C.3. Subdivision. The Protected Property shall remain in unified ownership as one contiguous parcel which ownership may be joint and undivided, but without division, partition, subdivision, or other legal or *de facto* creation of lots or parcels in separate ownership, notwithstanding that the Protected Property may historically have been conveyed as separate parcels to various members of Grantor's family; *except*, any portion of the Protected Property may be conveyed to an entity that meets the qualifications under the provisions of RCW 64.04.130, for permanent conservation ownership by such qualified entity, subject to the prior written approval of Grantee, as described in Section VI.8. ("Written Approval"), and the continuation of the terms of this Easement; *and except*, the Grantor may enter into boundary line adjustments with adjoining



lands, or to aggregate any existing lots within the Protected Property area, subject to prior Written Approval by Grantee, *and provided* that such boundary line adjustments do not result in any net loss of acreage to the Forest Stewardship Zone, and does not adversely impact the Conservation Values on the Protected Property. No new parcel may be created by such boundary line adjustments. Any new land gained through a boundary line adjustment shall be made subject to the terms of this Easement and shall be considered an extension and governed by the provisions related to the specified area (*i.e.*, Forest Stewardship Zone or Homestead Zone) to which it is adjacent.

C.4. Development Rights. Grantor shall not: (1) exercise its development rights on the Protected Property; (2) transfer such development rights to any other portion of the Protected Property as it is now, or hereafter may be bounded or described, or to any other property adjacent to the Protected Property; or (3) otherwise use such development rights or the area of the Protected Property for the purpose of calculating permissible lot yield of the Protected Property or any other property; *except*, Grantor may exercise two development rights within the Homestead Zone on the Protected Property: one development right is currently exercised with continued occupancy of the existing cabin as one single family residence, one additional single family residence may be constructed and occupied, subject to the restrictions set forth in Section V.D. (Homestead Zone) below.

C.5. Roadways. Grantor may maintain, renovate or replace roads or construct new roads that may be reasonably necessary and incidental to carrying out permitted uses and activities on the Protected Property. Any roadways that are paved with impervious materials such as concrete or asphalt are subject to the impervious surface limitations in Section V.D.1. (Structures) below. New roads may be built or relocated within the Forest Stewardship Zone only consistent with a current Forest Stewardship Plan, or with prior Written Approval of the Grantee. An existing inventory of roads in the Forest Stewardship Zone is included in the Baseline Documentation. Grantor reserves the right to grant to neighboring landowners access to said roadways as described in the two revocable licenses shown in Exhibit G.

C.6. Habitat Restoration. Grantor may conduct management practices designed to enhance or restore naturally occurring habitats. Such activities include forest management as described in the current or any future approved Forest Stewardship Plan or Specific Activity Plan as described in Section E.1 below; planting native species of trees and shrubs; restoring and enhancing the existing wetlands; as well as removal of plants that are listed as noxious plants by the State of Washington Department of Agriculture or other non-native invasive species such as Himalayan blackberries. Any such restoration activities that involve major earth moving, or new water course alteration in the Forest Stewardship Zone shall be subject to prior Written Approval by Grantee.

C.7. Waste Disposal. The disposal or storage of rubbish, garbage, debris, hydrocarbons, pesticides, animal or human waste, abandoned vehicles or equipment or parts thereof or other unsightly, offensive, or hazardous waste or material is prohibited; *except* an on-site domestic



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waste disposal system, and composting of vegetable or animal waste for on-site use is allowed within the Homestead Zone.

C.8. **Signage.** Placement of commercial signs, billboards, or other advertising material is prohibited *except* 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.

C.9. **Emergencies.** 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 are allowed, 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.

D. **Homestead Zone.** Together with the restrictions and reserved rights on the entire Protected Property, listed in Section V.C. above, the following additional restrictions and reserved rights apply to the Homestead Zone.

D.1. **Structures.** Maintenance, alteration, removal and replacement of existing structures and construction of new structures is allowed within the Homestead Zone subject to the following limitations:

- i. Only two single family residences and two associated accessory dwelling units, as currently defined and allowed by Skagit County Code, are permitted on the entire Protected Property.
- ii. The total impervious surface of all existing and future structures, excluding dirt and gravel roads shall not exceed twelve-thousand square feet (12,000), with no single structure to exceed a cumulative foot-print of three-thousand square feet 3,000.
- iii. Any new structures shall be located at least one-hundred (100) feet from the shoreline.
- iv. The placement or construction of any permanent structures within the beach and saltwater shoreline area is prohibited including, without limitation, docks, bulkheads and boat launch ramps; *except* construction of shoreline erosion control structures designed to protect the existing house is allowed, *provided* that such structures are designed to be low impact to the surrounding shoreline and beach, and non-toxic wood or other bio-degradable materials are used.
- v. Continued maintenance and enhancement of the small wetland near the shoreline is allowed.
- vi. The installation and operation of small-scale devices intended to generate electricity, such as solar panels and wind or water generators are allowed *provided* that any such devices are of a scale appropriate for two single family residences, and there is no off-site commercial sale of electricity.
- vii. To ensure compliance with this Easement, construction, addition to, or removal of structures over 1,000 (one thousand) square feet, construction of any new erosion control structures, and installation of any wind or water generators shall be subject to prior Written Approval of Grantee.



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D.2. Residential and Agricultural Uses. Unless specifically prohibited herein, uses customarily associated with two single-family residences and a family homestead are allowed within the Homestead Zone including landscaping, gardening, orcharding, commercial timber, firewood harvest, viticulture, the keeping of livestock and household pets, subject to the following limitations:

- i. Forest and brush clearing, and commercial timber harvest is allowed within the Homestead Zone; *provided* that any merchantable timber removed is included in the calculation of the total volume that is allowed to be harvested under the Forest Stewardship Plan as described in Exhibit E; *and provided* that a buffer of native vegetation is retained along the saltwater shoreline. Said shoreline buffer shall be characteristic of the shoreline vegetation on Cypress Island, comprised of mixed native shrubs and large conifers, and shall average at least one-hundred feet (100) in width, with a minimum width of fifty (50) feet, as measured from the ordinary high water mark (OHM); *except*, the minimum buffer may be smaller in the areas directly in front of the existing house and the existing boathouse. The shoreline buffer may be managed for a filtered view from current and future homesites by limbing, pruning and selective removal and replacement of small trees and shrubs *provided* the overall density of vegetation is not significantly reduced, *and provided* conifers are not topped and no more than one-third of the branches are removed from any single tree. The shoreline buffer area subject to such management for view corridors shall comprise a cumulative total of no more than twenty-five percent of the linear footage along the shoreline within the Homestead Zone, or three-hundred-twenty-five (325) feet.
- ii. All such activities shall be consistent with Best Management Practices (BMP), which are defined as practices or structures designed to reduce the quantities of pollutants such as sediment, nitrogen, phosphorus, and animal wastes that are washed by rain and snow melt from farms into nearby surface waters. BMP refers to the most current conservation practice standards developed by the Natural Resource Conservation Service (NRCS), or its successors, and contained in the Field Office Technical Guide, or other practices identified by NRCS, an NRCS technical service provider.

D.3. Forestry and Agriculture-Related Commercial Activities. Processing storage and sale of forest products including small scale milling of lumber from on-site or Cypress Island sources , and the processing, storage and sale of agricultural products produced principally on-site, is allowed within the Homestead Zone; *provided* that such activities are conducted in a manner and intensity that does not adversely impact the conservation values of the Protected Property.

D.4. Small-scale Commercial Recreational Uses. Low impact commercial recreational uses and activities are permitted within the Homestead Zone such as a vacation rental or 'Bed and Breakfast' in the permitted dwelling units, or occasional tent camping by small groups, *provided* such activities do not significantly increase the intensity of land use beyond that associated with activities that are otherwise allowed in this easement; *and provided* that no more than the two single-family residences and two associated ADU's otherwise permitted are constructed or



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permanently occupied. Commercial group size at any one time shall be limited to twelve (12) persons. Bunkhouses, tent platforms, ball fields, tennis courts, laundry mats, retail stores, swimming pools, utility hook-ups for recreational camping vehicles and trailers, and other more intensive uses and structures associated with commercial resorts are expressly prohibited.

D.5. Boundary Relocation. If natural forces beyond the control of Grantor such as permanent flooding or shoreline erosion, or a government taking of a property interest by the power of eminent domain, reduces the usable acreage within the Homestead Zone by more than thirty-percent and if damage caused by such changes in the shoreline make the homestead improvements uninhabitable or difficult to replace, then the Grantor and Grantor's successors may propose to Grantee to move the boundary of the Homestead Zone to reestablish an area for uses permitted within said Zone, consistent with the Purposes of this Easement and reserved rights of the Grantor described in Article III., Article VD.1 and 2, and Article XII. The location and configuration of the revised Homestead Zone shall be subject to Written Approval of Grantee, and shall be subject to the following conditions: a) the boundary relocation shall not produce a revised Homestead Zone area larger than the original Homestead Zone (thirteen acres); b) the boundary relocation shall be designed and implemented to minimize all impacts on the conservation values of the Protected Property; c) all restrictions set forth in this easement regarding the Homestead Zone and the Protected Property shall apply to the relocated zone. If Grantee approves such boundary relocation and this Easement can be amended in conformance with Article XII, Section A., then such amendment shall be made to reflect the boundary relocation.

E. Forest Stewardship Zone. In addition to the restrictions and reserved rights on the entire Protected Property, listed in Section V.C. above, the following additional restrictions and reserved rights apply to the Forest Stewardship Zone.

E.1. Forest management and timber harvest. Forest management and harvest of live and down trees and other forest products is allowed provided such activities meet the purposes, terms and conditions of this Easement, including the performance goal and planning requirements and other specific restrictions of this section:

- i. **Performance Goal.** Consistent with the purposes of this Easement, it is the intent of any forest management activity undertaken by the Grantor within the Forest Stewardship Zone to enhance, restore and maintain through time the native forest ecosystems appropriate for this site, which is characterized generally by the following:
 - a. Overstory species composition naturally dominated by Douglas-fir.
 - b. Multi-layered forest canopy with quarter-acre, or smaller, gaps occurring naturally or by sustainable, selective timber harvesting.
 - c. Variable tree density with gradually increasing range of age classes and numbers of well-scattered, large-diameter Douglas-fir trees in the dominant crown class.



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- d. Gradually increasing numbers of standing dead trees, down logs and large woody debris on the forest floor through the progressive development of older forest structures.
- ii. Forest Stewardship Plan. Grantor has prepared a Forest Stewardship Plan with assistance of a professional forester which is consistent with this Easement and the Performance Goal above, and is hereby incorporated to this Easement by this reference. The requirements of said plan regarding timber harvest are summarized in Exhibit E.
- iii. Updating Forest Stewardship Plan. Grantor shall update the forest stewardship plan periodically, at least every 15 years, to reflect the conditions of the Protected Property as forest conditions and best management practices change over time, and as management activities are implemented. The minimum requirements for the Forest Stewardship Plan and any revised plan are contained in Exhibit F. All revised plans shall be: prepared with assistance of a professional forester or other qualified professional approved by Grantee; is consistent with this easement and the performance goal above and subject to Written Approval of Grantee.
- iv. Specific Activity Plans. Grantor shall develop a specific Activity Plan that is consistent with the approved Forest Stewardship Plan prior to any management activity that involves more than 600 feet of road building, commercial sale of harvested timber, or removal of more than five-thousand board feet (5 Mbf) of live or down wood in any twelve-month period. Minimum requirements for the activity plan are included in Exhibit E. To ensure the Activity Plan is consistent with this Easement, the plan shall be subject to prior Written Approval of Grantee prior to commencement of such activity. Government required permits, such as the Washington State Department of Natural Resources Forest Practices Applications, may serve as specific Activity Plans provided the Grantor receives approval of the permit from the Grantee prior to submitting it to the government agency for its action.
- v. Enforceability of Plans. Any limitations on the intensity of forest management activities contained in the approved Forest Stewardship Plan, or in any specific Activity Plans, including, but not limited to environmental protection measures and limitations on timber harvest levels or any activity that is potentially harmful to the Conservation Values of the Property shall be enforceable subject to Article X. (Grantee's Remedies) below. Until such time as either revised plan is approved by Grantee, the previous approved plan shall remain enforceable and in effect, even if its intended duration has expired.

E.2. Specific Prohibited Activities and Uses. The following specific activities and uses are prohibited within the Forest Stewardship Zone:



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- i. Shoreline and stream protection. The pruning, topping, cutting down, burning or other destruction or removal of live and dead trees and other native vegetation is prohibited within two-hundred feet (200) of the ordinary high water mark of the saltwater shoreline and within fifty feet (50) of the ordinary high water mark of the stream; *except* to maintain existing roads, carry out approved restoration activities as described in Section C.6. above, or to remove plants that are listed as noxious plants by the State of Washington Department of Agriculture.
- ii. Structures. The placement or construction of any buildings, structures, or other improvements of any kind (including, without limitation, docks, bulkheads, boat launch ramps, utilities and parking lots);
- iii. Domestic Animals. The keeping of domestic animals, including grazing livestock, *except* the incidental grazing of up to two horses that stay primarily in Homestead Zone;
- iv. Wildlife Disruption. The intentional disruption of native wildlife breeding and nesting activities;
- v. Alteration of Wetlands or Water Courses. The alteration or manipulation of wetlands or watercourses, including bank hardening, draining, filling, dredging, ditching, diking, water impoundments or surface or sub-surface water withdrawal is prohibited, except as necessary to maintain, protect public health or safety on the Protected Property or adjacent property;
- vi. 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 are prohibited, except for the study of any incidental archeological findings;
- vii. Introduced Vegetation. The introduction of nonnative or invasive plant species.

VI. NOTICE AND APPROVAL

A. **Notice.** Grantor shall give notice to, or shall notify Grantee (“Notice”), and receive Grantee's Written Approval prior to undertaking certain permitted activities provided in Sections V.C.3. (Subdivision); V.C.5 (Roadways); V.C.6. (Habitat Restoration); V.D.1. (Structures); V.D.5 (Boundary Relocation); and V.E.1 (Forest Stewardship Plans and Specific Activity Plans) as set forth in this Article VI. 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 (“Written Approval”). Grantee's approval may be withheld 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 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 Grantors:

Nicholas De Graaf Fahey
PO Box 1495
Anacortes, WA 98221

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. Any notice transmitted by prepaid U.S. Mail addressed to the addressee above shall deemed received on the third working day thereafter or when actually received, whichever is earlier.

VII. DISPUTE RESOLUTION

All disputes between the parties concerning the construction or implementation of the rights and liabilities of the parties pursuant to this Easement and any dispute over the Grantee's failure to grant written approval per Article VII (and sections referenced therein) shall be subject to this dispute resolution section.

A. 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 private arbitration as set forth below in section VII (B).

B. Any arbitration shall be conducted privately 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 may commence an action in Skagit County Superior Court to compel arbitration. 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 7.04A 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.

C. 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.

VIII. 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 Article VIII. above.

D. **Grantee's Action.** Pursuant to Article 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.



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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.

L. **Appointment of Attorney in Fact for Service of Process.** Each Grantor signing this instrument hereby irrevocably appoints and designates each of the others Grantors and each and every successor or assignee thereof as attorney in fact to receive service of process in any action to enforce or interpret this easement or to impose the remedies set forth above or otherwise available to Grantee under the law. All Grantors agree that service upon any one of them is service on all and waive any objection or defense inconsistent herewith.

IX. ACCESS BY PUBLIC

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

X. 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.



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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. Liens Subordinated. Grantor represents that as of the date of this grant, there are no liens or mortgages outstanding against the Protected Property. Grantor has the right hereafter to use the Protected Property as collateral to secure the repayment of debt, provided that any lien or other rights granted for such purpose, regardless of date, are subordinate to Grantee's rights under this Easement. Under no circumstances may Grantee's rights be extinguished or otherwise affected by the recording, foreclosure, or any other action taken concerning any subsequent future lien or other interest in the Property.

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

D.1. There are no apparent or latent defects in or on the Protected Property;

D.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;

D.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

D.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.



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E. 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:

E.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;

E.2. The obligations specified in subsections A and B of this section;

E.3. The breach of the environmental representation and warranties specified in subsection C of this section; or

E.4. The existence or administration of this Easement.

XI. 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. Termination and Proceeds. Notwithstanding that this Conservation Easement is an obligation, and not a financial asset, should it be extinguished, which may be accomplished only by judicial proceedings, or should any interest in the Protected Property be taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation subject to prior written consent of Grantee; Grantee is entitled to a share of the proceeds of any sale, exchange, or involuntary conversion of the property formerly subject to this easement, according to Grantee's proportional interest in the Protected Property as determined and as required under Treasury Regulations 1.170-A-14(g)(6)(ii). Grantee's proportional interest is determined as of the date of this grant and will not include value attributable to authorized improvements to the Protected Property made after the date of this grant, except as to improvements that are made by or at the expense of Grantee. Grantee will use such proceeds for its conservation purposes.

C. 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.

XII. AMENDMENT

A. General. 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 perpetual 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.

B. Amendment to Include Legal Descriptions. The parties acknowledge that at the time of execution of this conservation easement, a survey or site reconnaissance has not been completed sufficient to permanently identify the boundary between the specified land use zones (Homestead Zone and Forest Stewardship Zone), and to legally describe said zones in Exhibit D. The parties hereby agree: (1) that depiction contained in Exhibit B is sufficient to establish the specified land use zones pending completion of a survey or site reconnaissance and creation of full legal descriptions; (2) to waive any defense or claim of invalidity based on the adequacy of the land use zone legal descriptions; and (3) to execute and record an amendment to this conservation easement promptly after completion of the legal descriptions of the specified land use zones to complete Exhibit D by including therein such legal descriptions.

XIII. ASSIGNMENT

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. Washington Department of Natural Resources
P.O. box 47003
Olympia, WA 98504-7003
2. San Juan Preservation Trust
P.O. Box 327
Lopez Island, WA 98261
3. 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.

XIV. 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.

XV. 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 Article 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.

XVI. SCHEDULE OF EXHIBITS

- A. **Legal Description of Property Subject to Easement**
- B. **Site Map**
- C. **Baseline Report Summary**
- D. **Legal Description of Designated Land Use Zones**
- E. **Summary of 2007 Forest Stewardship Plan**
- F. **Minimum Requirements for Forest Stewardship Plans and Specific Activity Plans**
- G. **Revocable license to neighbors for road use**



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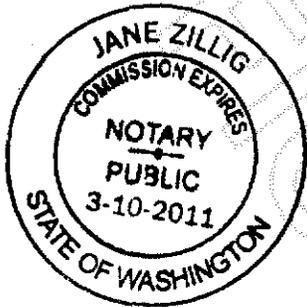
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STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

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

Given under my hand and official seal the day and year last above written.

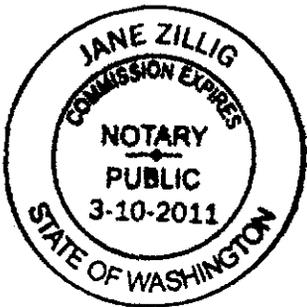


Jane Zillig
Notary Public in and for the state of
Washington, residing at Sedro Woolley
My commission expires: 3-10-11
Printed Name: JANE ZILLIG

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day before me personally appeared Nicholas DeGraaf Fahey to me known to be the individual who executed the foregoing instrument as Attorney in Fact for Joseph DeGraaf Fahey and acknowledged that he signed the same as his free and voluntary act and deed as Attorney in Fact for said principal for the uses and purposes therein mentioned, and on oath stated that the Power of Attorney authorizing the execution of this instrument has not been revoked and that said principal is now living.

Given under my hand and official seal the day and year last above written.



Jane Zillig
Notary Public in and for the state of
Washington, residing at Sedro Woolley
My commission expires: 3-10-11
Printed Name: JANE ZILLIG



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

Grantee: Skagit Land Trust

Marlene V. Moore

By: Marlene V. Moore, President

Dated: 12/19/07

Attestation:

Janice Martin

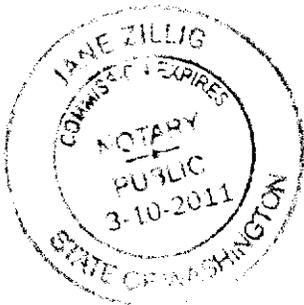
Janice Martin, Secretary

Dated: 12/19/07

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day before me personally appeared Marlene V. Moore, 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 she is authorized to execute the said instrument.

Given under my hand and official seal the day and year last above written.



Jane Zillig
Notary Public in and for the state of
Washington, residing at Seora Woolley
My commission expires: 3-10-11
Printed Name: JANE ZILLIG

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EXHIBIT A
Legal Description of Property Subject to Conservation Easement

Government Lots 1 and 2, Section 30, Township 36 North, Range 1 East, W. M.

Except that portion of Government Lot 1, Section 30, Township 36 North, Range 1 East, W. M. described as follows:

Commencing at the North $\frac{1}{4}$ corner of said Section 30; thence West along the North line of said Section 30, a distance of 325 feet, more or less to the thread of an unnamed creek; thence Southerly and Southeasterly along the thread of said unnamed creek 342 feet, more or less, to the center line of an old skid road; thence Easterly along said center line 175 feet, more or less, to the Easterly line of said Government Lot 1; thence Northerly along said Easterly line 312 feet, more or less, to the Point of Beginning.

Together with that portion of Government Lot 4, Section 19, Township 36 North, Range 1 East, W. M. lying westerly of the thread of that unnamed creek running in a Northwesterly and Southeasterly direction through said Government Lot 4 and intersecting the South line of said Government Lot 4 at a point that is 325 feet, more or less west of the North $\frac{1}{4}$ corner of Section 30, Township 36 North, Range 1 East, W. M.

Situate in the County of Skagit State of Washington.

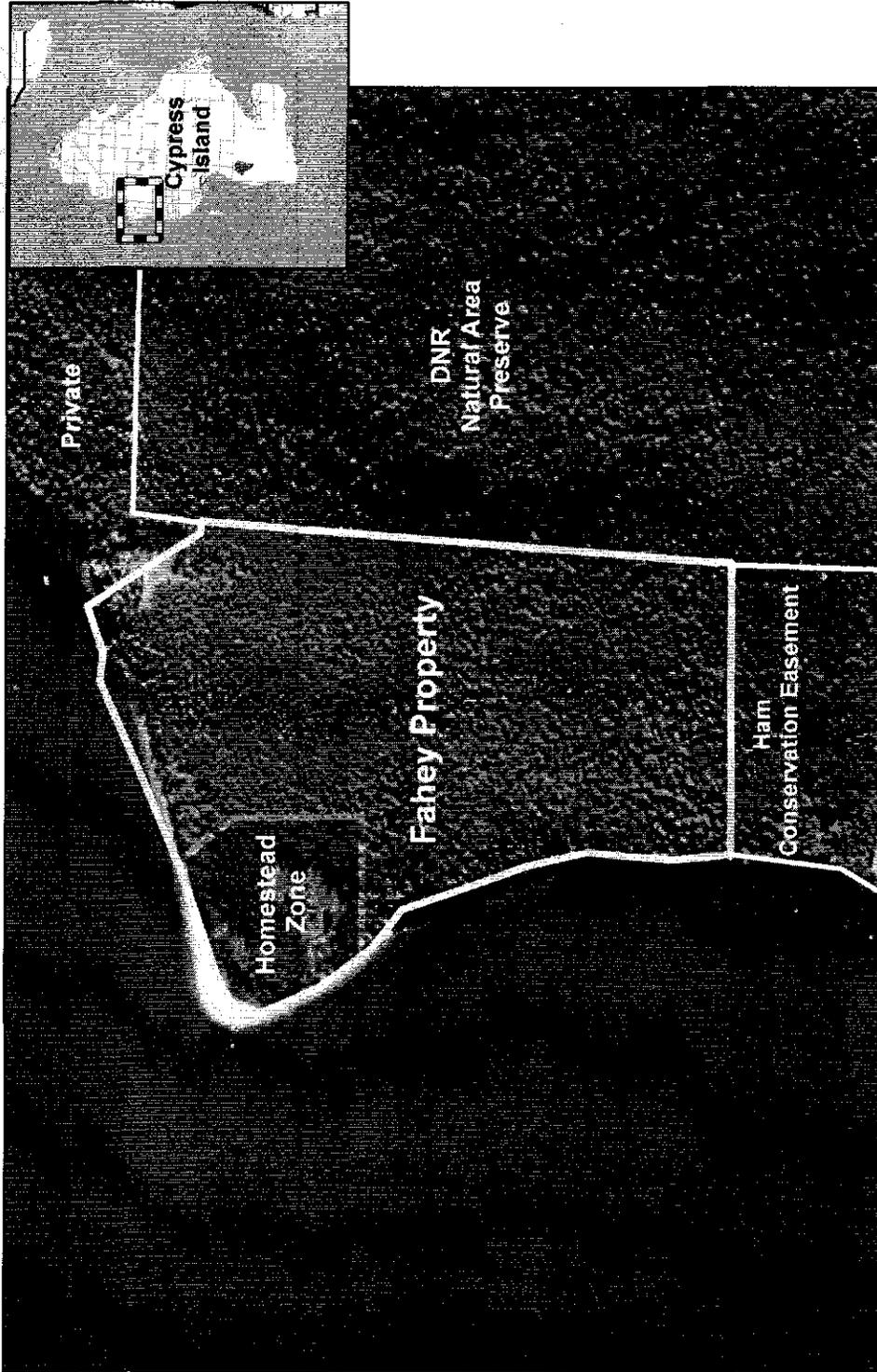


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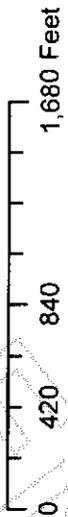
EXHIBIT B - Site Map

Fahey / Cypress Island Conservation Easement

Sections 19 & 30 Township 36N Range 1 E.M
P46456, P46714, P46716, P46717, P46718, P46719, P46720



Note: This map intended to show general location only. No representation or warranty is made concerning the accuracy or quality of the features and data depicted.



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EXHIBIT C

Baseline Report Summary Fahey / Cypress Island

Date Prepared: December 20, 2007 by Michael Kirshenbaum, Stewardship Director

Location: Sections 19 and 30, Township 36N, Range 1 E.M.

Abbreviated Legal Description: Ptn Gov. Lot 4, 19-36-1 E WM. & Ptn Gov. Lots 1 & 2, 30-36-1 E W.M.

Skagit County Assessor's Parcel Numbers: P46456; P46714; P46716; P46717; P46718, P46719, P46720

Acres: Approximately 100

Habitat types and acres of each: 95 acres mature forest; 3.5 acres cleared pasture with buildings; approximately 4,500' saltwater shoreline; < 1 acre enhanced wetland / shoreline pond; adjacent tidelands, with ownership extending along the north shoreline an additional 3,000 feet (tidelands not included in the Conservation Easement or in the overall acreage calculations). Elevation extends from sea level to approximately 300 feet.

Structures: 1 house, 1 cabin, 1 barn, 1 sawmill, 1 wood shed, 1 boat house, 1 log chicken house. Approximate locations of structures and existing logging roads are shown in attached schematic map provided by landowner. Approximate square footage of impervious surface currently is: 3745 sq. ft. (Additional details in Buildings section below).

County Zoning: Rural Reserve

Land Use Tax Classification: 95 acres are 'Designated Forest'; 5 acres not enrolled in any current use taxation program

Soil Types: see attached soil survey map and descriptions (USDA 1989)
Guemes Very Gravelly Loam (64 on 1989 USDA Soil Survey map): ~80%
Guemes Very Stony Loam (63 on 1989 USDA Soil Survey map) ~ 20%

County Critical Areas maps: One Type 4 stream on northeast boundary of property; one other unmapped and undesignated stream.

Shoreline Management Program Designation: "Conservancy"

Fahey CE / Baseline Summary /Page 1 of 6



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Federally Listed Endangered and Threatened Species found on property (USFWS 2005): An active bald eagle nest exists on adjoining property to the northeast, and the protected property is likely utilized for roosting and foraging. Additionally, marbled murrelet habitat may be present on the protected property in certain areas (Hamilton 2007).

Washington Department of Fish and Wildlife (WDFW) Priority Species & Habitat Classifications and Presence on Protected Property: *Priority species* include State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations considered vulnerable; and those species of recreational, commercial, or tribal importance that are vulnerable. *Priority habitats* are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element.

Washington State Priority Species found on Protected Property

An active bald eagle nest exists on adjoining property to the northeast, and the protected property is likely utilized for roosting and foraging. Additionally, marbled murrelet habitat may be present on the protected property in certain areas (Hamilton 2007).

Washington State Priority Habitats found on Protected Property

Marine/Estuarine Shoreline

Washington State defines Marine / Estuarine Shoreline as: "Shorelines include the intertidal and subtidal zones of beaches, and may also include the backshore and adjacent components of the terrestrial landscape (e.g., cliffs, snags, mature trees, dunes, meadows) that are important to associated fish and wildlife and that contribute to shoreline function (e.g., sand/rock/log recruitment, nutrient contribution, erosion control) (WDFW Priority Habitats List, 2007)." The protected property is in the watershed of Rosario Strait, a part of Puget Sound. The Washington State legislature in RCW 90.70.001 has recognized "that Puget Sound and related inland marine waterways of Washington State represent a unique and unparalleled resource. A rich and varied range of marine organisms, composing an interdependent, sensitive communal ecosystem reside in these sheltered waters." The saltwater shoreline on the protected property includes areas of mixed coarse and fine sediment beaches suitable for forage fish spawning; these beaches are also important to numerous invertebrate species that, in turn, are an important food source for many higher forms of life. The deep near shore marine habitat support bull kelp "forests" and are used by foraging salmon and harbor seals. Numerous species of waterfowl, including Harlequin ducks, scoters (surf, white-winged, and black), loons (common, Pacific, and red-throated), scaup, red-breasted mergansers, grebes (Western, horned and red-necked), cormorants, pigeon guillemots, marbled murrelets, auklets, and gulls (glaucous-winged, Bonaparte's, Thayer's, Hermann's, Mew) forage in deep water off rocky shorelines such as is represented here. Surfbirds, oystercatchers, great blue herons, and kingfishers among other species of shorebirds, forage along such undisturbed rocky



coasts. These, and the deeper waters of Rosario Strait, are frequently used by marine mammals including orcas and minke whales, harbor porpoises, sea lions, otters and harbor seals.

Mature Forest

Washington State defines Mature Forest as: "Stands are comprised of trees with average diameters exceeding 53 cm (21 in) dbh; crown cover may be less than 100%; however, decay, decadence, numbers of snags, and quantity of large downed material is generally less than that found in old-growth; 80 - 200 years old west and 80 - 160 years old east of the Cascade crest (WDFW Priority Habitats List, 2007)." The mature forest of the protected property consists of second and third growth coniferous forest stands, and mixed coniferous and hardwood stands that are growing within the dry maritime coastal Hemlock zone. Douglas-fir is the dominant species. Red Alder is the dominant hardwood species. There is an unusually large number of Birch, the presence of which is unique in relation to other islands in the San Juan archipelago. Additional species include: Western redcedar, Western Hemlock, Grand Fir, Lodgepole Pine, Bitter Cherry and Pacific Madrone. Because of the rain shadow effect, the forest communities on Cypress Island have evolved in a more arid environment than most of the Puget Sound region and are identified as rare by the Washington State Natural Heritage Program. A permanent unnamed stream flows northwesterly from the southeast corner of the protected property to the saltwater shoreline, which supplies surface water for domestic use and irrigation in the Homestead Zone. Another small, permanent and unnamed stream, designated as a Type 4 stream by Skagit County, flows along the northeast corner of the Protected Property and is the boundary between the adjacent private property to the northeast. There is also a small freshwater wetland centrally located within this designated forest zone (Hamilton 2007). Species observed in the forested areas by the landowner include raccoon, mink, and red fox.

Additional Special Features and Conservation Values:

Adjacency to Protected Public Land

The Protected Property adjoins the Cypress Island Natural Area Preserve ("NAP") to the east, sharing a common boundary for approximately 2,330 feet. NAP is a state designation under Chapter 79.70 RCW. One of the purposes of the NAP is "to protect outstanding examples of rare or vanishing terrestrial or aquatic ecosystems, rare plant and animal species and unique geologic features". The majority of Cypress Island uplands are designated Natural Resource Conservation Area under Chapter 79.71 RCW. Together the Cypress Island NAP and NRCA include 5,100 acres of protected state lands, which is more than ninety percent of the island. The Protected Property is the largest remaining parcel in private ownership on the island. It is also adjacent to the 5,910 acre Cypress Island Aquatic Reserve to the west, these are state owned aquatic lands that are being "utilized primarily for their natural ecological systems," and withdrawn "from all uses that conflict with this purpose". Collectively these designations on and surrounding Cypress Island provide to the people of Washington outstanding scenic and ecological values and low impact public recreation. The NAP, NRCA and Aquatic Reserve, would



benefit from this easement because the restrictions would be similar to the State's plan to preserve the area in its natural state. Restrictions on the use of the property will provide a protected buffer to the more sensitive habitats of the NAP, and will create contiguous protection from the shoreline to the Cypress Island highlands. In addition the Department of Natural Resources which is managing these State protected lands is actively endeavoring to preserve as much of Cypress Island as possible through conservation easements and land acquisition.

Outstanding scenic characteristics

The Protected Property has scenic, ecological, open-space, and forest land values. The Protected Property enhances the open-space character of Skagit County, and provides a natural coastline and wooded setting that can be enjoyed by the public traveling through Rosario Strait west of Cypress Island. Cypress Island is the last large undeveloped island in the San Juan archipelago, and contains relatively intact coastal and upland ecosystems

History of Previous Ownership and Land Uses:

The protected property has a long history of human use. There are many visible indicators of human presence, including spring-board notched stumps, an old orchard, roads, and structures. The pre-European populations of this area consisted of Northern Straits Salish, ancestors of the Lummi, Samish, Saanich, Semiahmoo, and Songhee nations. It is probable that native peoples fished, hunted, gathered, and camped on Cypress Island.

The following history of the property was compiled by the current landowner Nick Fahey and Will Hamilton, a forester under contract by the Fahey family: "The protected property was first homesteaded in 1891 by a John Mitchell at which time the orchard was established and the point area was cleared. In 1900, Mitchell sold Tide Point to an unknown logging company who presumably harvested the property at the turn of the last century. In 1910, John Mitchell repurchased the property and then re-sold the property a year later to two individuals from New York. George Fahey first visited the property in 1925 (at the age of 14) and then purchased the property in 1930 for \$273 at auction from Skagit County. In 1947, W.B. Lewis moved on to the property from Guemes Island and constructed a log cabin and barn and continued clearing the property until 1957. Active forest stewardship by the Fahey family began in 1958 with Nick Fahey thinning approximately 5 acres of the forest under a federal cost-share program. The property was reportedly placed in the DFL program in the 1960's. The small sawmill operation began in 1978 and continues to the present day (Hamilton 2007, "Chronology of Tide Point" compiled by Nick Fahey attached.)

Early timber resources harvested from the island were likely used for construction and for lime kilns on San Juan Island. In the San Juan archipelago, logged areas were often burned, either intentionally or unintentionally, to facilitate land clearing for settlement or to improve livestock forage.



Condition of Property:

In addition to the previously described conditions of the forest and shoreline areas of the property, there is an approximately 3.5 -acre clearing featuring a fruit-orchard and several buildings (see below). Light grazing occurs in the pasture by domestic animals; livestock on the protected property currently consists of one horse.

Buildings:

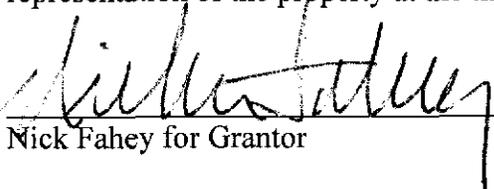
The following is a building inventory, with approximate square footage for each:

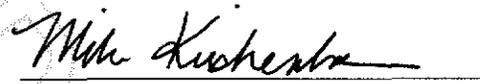
- House - 950 sq. ft.
- Barn - 1150 sq. ft.
- Sawmill - 300 sq. ft.
- Cabin - 420 sq. ft.
- Boat house - 550 sq. ft.
- Woodshed - 275 sq. ft.
- Chicken coop - 100 sq. ft.

Total approximate square footage of buildings / impervious surfaces: 3745 sq. ft.

GRANTOR AND GRANTEE STATEMENT:

This property characterization and natural resources inventory is an accurate representation of the property at the time of conservation easement donation.


 Nick Fahey for Grantor


 Stewardship Director for Grantee

date: 21 DEC 07

date: 12/21/07



References used to prepare this report:

- Hamilton, W. (Hamilton Resource Management Inc.) *Forest Stewardship Plan: To Support the Forest Stewardship Provisions of the Fahey / Cypress Island Conservation Easement For the Period 2007-2023*, Friday Harbor, WA, 2007.
- Washington Department of Fish and Wildlife (WDFW) *Priority Species and Habitats*:
<http://wdfw.wa.gov/hab/phshabs.htm>
- Washington Department of Natural Resources (WADNR) *Cypress Island Comprehensive Management Plan*, August 2007
- US Department of Agriculture (USDA) *Soil Survey of Skagit County Area, Washington*, Sept. 1989
- US Fish and Wildlife Service (USFWS) Western Washington Office:
<http://www.fws.gov/westwafwo/>

Attachments (available in Baseline file)

- √ Orthophoto
- √ Assessor's maps
- √ Site map
- √ Soil Survey map and descriptions
- √ Forest Vegetation Inventory – In Forest Stewardship Plan
- √ Title Report
- √ Schematic Map by landowner of existing structures and forest roads
- √ "Chronology of Tide Point" (property history compiled by landowner)
- √ Forest Stewardship Plan

Additional Baseline Documentation to be compiled:

- ___ Ground photos (photopoint collection)
- ___ Landscape photos
- ___ Characterization of Shoreline Buffer within Homestead Zone
- ___ Documentation of boundary between land use zones
- ___ Characterization of existing forest roads
- ___



Exhibit D

Legal Description of Designated Land Use Zones

*To be determined by survey or site reconnaissance pursuant to
Section XII.B ('Amendment to Include Legal Description')*



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Exhibit E

Summary of the Forest Stewardship Plan for Fahey Family Property on Cypress Island
For the Period 2007 to 2023

Grantor and Grantee have reviewed and approved the Forest Stewardship Plan ("Plan") dated December 2007, prepared by Will Hamilton, Forester. The Plan was prepared to support the Forest Stewardship Provisions of Fahey /Cypress Island Conservation Easement ("Easement"). The full Plan is on file at the offices of Grantee, and is incorporated and enforceable to the extent described in the Easement until such time as Grantor and Grantee mutually agree to a revised plan.

The Plan includes the following requirements regarding timber harvest and forest management on the Protected Property:

- 1) timber harvest is limited to sixty-five percent (65 %) of the estimated maximum sustainable harvest level, which is no more than an average of 20,000 board feet per year, or maximum of 100,000 board feet in any 5 years, provided the total volume harvested during the fifteen-year planning period does not exceed 300,000 board feet;
- 2) opening size is limited to one-quarter-acre;
- 3) dominant trees are to be left standing and undamaged;
- 4) the Plan shall be reviewed and revised if necessary no later than 2023;
- 5) in case of a catastrophic forest loss from events such as wind, fire or pest outbreak, the plan shall be revised as soon as practicable.

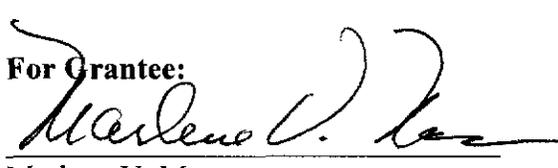
Grantor and Grantee have read and approved the above referenced Forest Stewardship Plan, and hereby agree to its requirements, and to the summary of requirements described above.

For Grantor:


Nicholas DeGraaf Fahey

21 DEC 07
date

For Grantee:


Marlene V. Moore

12/19/07
date



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EXHIBIT F
Minimum Requirements for
Forest Stewardship Plans and Specific Activity Plan
page 1 of 1

At a minimum, the forest stewardship plan shall:

- 1) describe the Grantor's stewardship objectives for the property (consistent with the performance goal established in this easement
- 2) describe the history of human use of the forest, and to the extent known or surmised, the pre-settlement conditions of the forest including the role of natural disturbance
- 3) describe existing forest conditions including forest types and species composition, forest health, stocking levels, and factors that may relate to resource opportunities, needs or problems;
- 4) map and characterize existing and planned roads;
- 5) describe other biological features and physical factors including soils, riparian areas, wetlands, fish and wildlife habitat, and sensitive, threatened and endangered species;
- 6) document any known cultural resources;
- 7) generally describe intended harvest activities of timber or other forest products and intended reforestation methods;
- 8) describe any other intended habitat management/enhancement activities;
- 9) describe any planned monitoring of the forest resources conditions or plans to evaluate the implementation and effectiveness of the stewardship plan.
- 10) describe management techniques including: maximum harvest volumes, maximum opening size, minimum leave stand; reforestation; fire management (including maps as appropriate)
- 11) describe response to major disturbance event (wind, fire, large patch die-off, etc.)

Specific Activity plan shall include:

- o maps showing location of proposed activities and sensitive areas
- o tree selection criteria for harvest activities
- o logging methods to be used
- o volume of timber or quantity of material to be extracted
- o reforestation techniques



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EXHIBIT G
Revocable licenses to Fahey Neighbors
Page 1 of 4

REVOCABLE LICENSE

GRANTORS, NICHOLAS DEGRAAF FAHEY, an unmarried man and tenant in common and SKAGIT LAND TRUST, a not-for-profit Washington Corporation and holder of a Grant Deed Conservation Easement, grant to GRANTEE, JAY HAM, owner of benefited premises legally described as the North ½ of Government Lot 3, Section 30, Township 36 North, Range 1 East, W. M. situate on Cypress Island, Skagit County, Washington, a non-exclusive right and license to cross over Grantors' real property described in Exhibit "A" hereto ("Grantors' Property") for the purpose of transporting heavy loads which are difficult to land on the beach fronting said Government Lot 3. This license to travel from the north beach on Tide Point in Government Lot 1, Section 30, Township 36 North, Range 1 East, W.M. to the North ½ of said Government Lot 3, provided however that Grantor Nicholas DeGraaf Fahey be present when this license is used and that no structure shall be built nor any personal property of the Grantee/Licensee shall be stored on the Grantors' premises. Grantee utilizes this license at their sole risk and waives any claim against the Grantors and Grantors' assigns for any claim of personal injury, death or property damage including claims based on Grantors' sole negligence.



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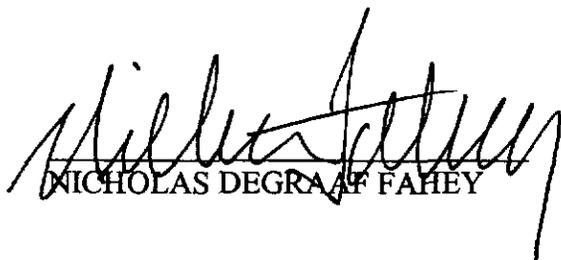
EXHIBIT G
Revocable licenses to Fahey Neighbors
Page 2 of 4

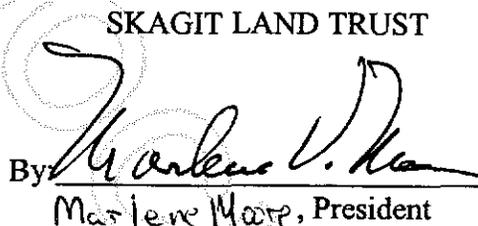
This license shall terminate upon the occurrence of any of the following events:

1. Damage or harm to Grantors' property, real or personal in any manner;
2. Occurrence of any violation of the limits placed on this license; or
3. Any attempt to extend the rights conveyed hereby to any third person or entity.

This license is also limited to the lifetime and presence of the Grantees and when the Grantees no longer own the adjacent real property described above all rights under this license shall terminate.

DATED this 17th day of December 2007


NICHOLAS DEGRAAF FAHEY

SKAGIT LAND TRUST
By 
Marlene Mare, President



200712280057
Skagit County Auditor

EXHIBIT G
Revocable licenses to Fahey Neighbors
Page 3 of 4

REVOCABLE LICENSE

GRANTORS, NICHOLAS DEGRAAF FAHEY, an unmarried man and tenant in common and SKAGIT LAND TRUST, a not-for-profit Washington Corporation and holder of a Grant Deed Conservation Easement, grant to GRANTEE, THOMAS ALLISON, owner of benefited premises legally described as that portion of Government Lot 1, Section 30, Township 36 North, Range 1 East, W. M.:

Commencing at the North $\frac{1}{4}$ corner of said Section 30; thence West along the North line of said Section 30, a distance of 325 feet, more or less to the thread of an unnamed creek; thence Southerly and Southeasterly along the thread of said unnamed creek 342 feet, more or less, to the center line of an old skid road; thence Easterly along said center line 175 feet, more or less, to the Easterly line of said Government Lot 1; thence Northerly along said Easterly line 312 feet, more or less, to the Point of Beginning.

Situate in the County Skagit, State of Washington

a non-exclusive right and license to cross over Grantors' real property described in Exhibit "A" hereto ("Grantors' Property") for the purpose of transporting heavy loads which are difficult to land on the beach fronting said Government Lot 3. This license to travel from the north beach on Tide Point in Government Lot 1, Section 30, Township 36 North, Range 1 East, W.M. to the North $\frac{1}{2}$ of said Government Lot 3, provided however that Grantor Nicholas DeGraaf Fahey be present when this license is used and that no



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EXHIBIT G
Revocable licenses to Fahey Neighbors
Page 4 of 4

structure shall be built nor any personal property of the Grantee/Licensee shall be stored on the Grantors' premises. Grantee utilizes this license at their sole risk and waives any claim against the Grantors and Grantors' assigns for any claim of personal injury, death or property damage including claims based on Grantors' sole negligence.

This license shall terminate upon the occurrence of any of the following events:

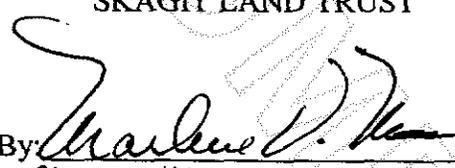
1. Damage or harm to Grantors' property, real or personal in any manner;
2. Occurrence of any violation of the limits placed on this license; or
3. Any attempt to extend the rights conveyed hereby to any third person or entity.

This license is also limited to the lifetime and presence of the Grantees and when the Grantees no longer own the adjacent real property described above all rights under this license shall terminate.

DATED this 12/17/07 day of December 2007


NICHOLAS DEGRAAF FAHEY

SKAGIT LAND TRUST

By: 
Markene Moore, President



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Skagit County Auditor