

When recorded return to:

Skagit County Public Works Department
ATTN: Ann Marie Gutwein
1800 Continental Place
Mount Vernon, WA 98273



200803070075

Skagit County Auditor

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Contract # C20080020

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DOCUMENT TITLE: CONSERVATION EASEMENT

GRANTOR(S): Kori R. Turk and Carolyn J. Turk, husband and wife,

GRANTEE: Skagit County, a political subdivision of the State of Washington

LEGAL DESCRIPTION (abbreviated): N1/2 S1/2 NW1/4 NE1/4 LESS RD, ALSO NE1/4 NE1/4
SEC 17 T 35 N R 5 E, W.M. LY NLY ST HWY EXC E 784 FT

ASSESSOR'S PARCEL NUMBER/S: P39253, P39251

TAX I.D. NUMBER/S: 350517-1-003-0000, 350517-1-001-0002

716
SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

MAR 07 2008

CONSERVATION EASEMENT

Amount Paid \$ 400.42
Skagit Co. Treasurer
By MAM Deputy

THIS CONSERVATION EASEMENT ("Easement") is made this 15 day of December, 2007, by **Kori R. Turk and Carolyn J. Turk**, husband and wife, (hereinafter referred to as "**Grantor**"), in favor of **Skagit County**, a political subdivision of the State of Washington (hereinafter referred to as "**Grantee**"). Grantor and Grantee may be individually referred to herein as a "party" and may be collectively referred to herein as the "parties."

I. RECITALS

- A. Grantor is the sole owner in fee simple of that certain real property commonly described as 25588 Helmick Road, Sedro-Woolley, WA 98284 (Skagit County Assessor's Parcel Number: P39253), which is more particularly described by the Legal Description attached hereto as Exhibit "A", and is incorporated by reference (the "Grantor's Property"). A portion of the Grantor's Property is encumbered by and subject to the conservation terms of this Easement (the "Protected Property"). The Protected Property is more particularly described in Exhibit "B" (Protected Property Legal Description) and is shown on Exhibit "C" (Site Plan), attached to and incorporated by reference. The Protected Property is approximately 1.28 acres in size and is being protected as riparian habitat, subject to the terms herein.
- B. The Protected Property is of significant natural value to Grantor, the people of Skagit County and the people of the State of Washington (collectively, "Conservation Values"). The Conservation Values include protection of wetlands, fish and wildlife habitat conservation areas, and environmentally sensitive areas on the Protected Property. This Easement establishes the limits

of the Protected Critical Area, under Skagit County Critical Area Ordinance 14.24, over, along and across the Protected Property as described herein.

- C. The Protected Property is zoned Rural Reserve under the Skagit County Zoning Ordinance. Skagit County Zoning Ordinance 14.16.320 states that the purpose of the Rural Reserve zone is to "preserve the open space character" and "establish long-term open spaces and critical area protection."
- D. The specific Conservation Values and characteristics of the Protected Property are further documented in an inventory of relevant features of the Protected Property, dated September, 2006, attached hereto as Exhibit "D" and incorporated into this Easement by this reference ("Habitat Assessment Report, Lower Red Creek"). 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.
- E. Grantor, as owner of the Protected Property, has the right to protect and preserve the Conservation Values of the Protected Property, and desires to transfer such rights to Grantee in perpetuity.
- F. The foregoing recitals are incorporated into this Easement by this reference.

II. CONVEYANCE AND CONSIDERATION

- A. For the reasons stated above, in consideration of the mutual covenants, terms, conditions, and restrictions contained in this Easement, and in consideration of payment of Ten Dollars and other good and valuable consideration by Grantee to Grantor, the receipt of which is acknowledged, Grantor hereby grants, conveys and warrants to Grantee a conservation easement in perpetuity over the Protected Property, consisting of certain rights in the Protected Property, as defined in this Easement, subject to the terms and restrictions contained in this Easement.
- B. This conveyance is a conveyance of an interest in real property under the provisions of RCW 64.04.130, subject only to the mutual covenants, terms, conditions and restrictions set forth in this Easement and to title matters of record as of the Effective Date of this Easement.
- C. Grantor expressly intends that this Easement run with the land and that this Easement shall be binding upon Grantor's personal representatives, heirs, successors, and assigns in perpetuity.

III. PURPOSE

It is the purpose of this Easement to assure that the Protected Property will retain forever the open space and rural character, to ensure riparian habitat, and to prevent any use of, or activity on, the Protected Property that will significantly impair or interfere with its rural and open space values, character, use or utility. It is also the purpose of this Easement to assure protection of Critical Areas, wetlands and fish and wildlife habitat protection areas on the Protected Property, and to prevent any use of, or activity on, the Protected Property that will significantly impair or interfere with these natural values. Grantor intends that this Easement will confine the use of, or activity on, the Protected Property to such uses and activities that are consistent with the purposes described above (the "Purpose").

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IV. RIGHTS CONVEYED TO GRANTEE

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

- A. **Protection.** To preserve and protect in perpetuity, and to enhance by mutual agreement, the Conservation Values of the Protected Property.
- B. **Access for Riparian Restoration Activity.** To enter the Protected Property to perform Riparian Restoration Activities, which include, but are not limited to, removal of non-native plants and grasses, channel excavation, placement of stream bed gravel, seeding, planting, plant care and replacement, removal, installation and repair of fencing and culvert replacement (the "Riparian Restoration Activities").
- C. **Access for Monitoring and Enforcement.**
1. To enter the Protected Property annually, upon prior written notice to Grantor, for the purpose of making a general inspection to monitor compliance with this Easement.
 2. To enter the Protected Property at such other times as are necessary if Grantee has a reason to believe that a violation of the Easement is occurring or has occurred, for the purpose of mitigating or terminating the violation and otherwise enforcing the provisions of this Easement. Such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not in any case otherwise unreasonably interfere with Grantor's use and quiet enjoyment of the Protected Property.
- D. **Injunction and Restoration.** To enjoin any use of, or activity on, the Protected Property that is inconsistent with the Purpose of this Easement, including trespasses by members of the public, and to require or undertake the restoration of such areas or features of the Protected Property as may be damaged by uses or activities inconsistent with the provisions of this Easement, all in accordance with Section X.
- E. **Enforcement.** To enforce the terms of this Easement, consistent with Section X.
- F. **Assignment.** To assign, convey or otherwise transfer Grantee's interest in the Protected Property in accordance with Section XV.

V. PERMITTED USES AND ACTIVITIES

- A. **General.** Grantor reserves for itself and its personal representatives, heirs, successors and assigns, all rights accruing from ownership of the Protected Property, including the right to engage in, or permit or invite others to engage in, any use of, or activity on, the Protected Property that is not inconsistent with the Purpose of the Easement and that is not specifically prohibited or otherwise limited by this Easement. Without limiting the generality of this subsection, Grantor specifically reserves for itself and its personal representatives, heirs, successors, and assigns, the following uses and activities, which shall be limited in the manner provided below.



B. Retained Uses.

1. **Open Space and Rural.** Grantor retains the right to use the Protected Property for access across the Protected Property to adjacent property and to install and maintain utilities to said adjacent property, identified on the map attached as Exhibit "C".
2. **Recreational.** Grantor retains the right to use the Property for otherwise lawful recreational uses, including, but not limited to, hunting and fishing (if allowed by law).

C. Construction of Buildings and Improvements. Except as otherwise specifically provided for in this Easement, Grantor may undertake construction, reconstruction or other improvement of the Protected Property only as provided below. Grantor shall advise Grantee prior to undertaking any construction, reconstruction or other improvement on the Protected Property that requires a development permit from Skagit County as provided for in Section VIII, so as to enable Grantee to review the proposed activity for compliance with the terms and conditions of this Easement.

1. **Fences.** Existing fences may be repaired and replaced, and new fences may be built on the perimeter of the Protected Property, for purposes of reasonable and customary management and protection of crops, livestock, and wildlife.
2. **New Private Outdoor Recreational Improvements.** New private outdoor recreational improvements may be built within the area identified on Exhibit "C". Provided, that any new private outdoor recreational improvements for locations within the Protected Property identified on Exhibit "C" may be built only with permission of Grantee as provided for in Section VIII and subject to the limitations set forth in Subsection VI.E.
3. **Utility Services and Septic Systems.** Wires, lines, pipes, cables or other facilities providing electrical, gas, water, sewer, communications, or other utility services to the improvements permitted under or across this Easement may be installed, maintained, repaired, removed, relocated and replaced, and Grantor may grant easements over and under the Protected Property for such purposes. Septic or other underground sanitary systems serving the improvements permitted under this Easement may be installed, maintained, repaired or improved.

D. Roads and Paving. Grantor may maintain, renovate, expand 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; provided that any roads paved or otherwise covered with concrete, asphalt, or any other impervious paving material shall be subject to the surface coverage limitations set forth in Subsection VI.D.

E. Drainage structures. Grantor may construct and maintain drainage structures, including ditches, tubes, pipes, pumps, gates or other facilities and appurtenances for enhancement of drainage systems in support of uses and activities permitted under this easement; provided, that Grantor does not materially impair the natural course of the surface water drainage or runoff flowing over the Protected Property and that existing natural water courses, ponds, lakes and wetlands are preserved in their natural state.

F. Forest Management. Grantor may remove trees and cut or otherwise manage trees to control insects and disease, to prevent personal injury and property damage, and to construct permitted improvements and fences on the Protected Property.

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G. Creation of Mortgage Liens. Grantor may create consensual liens, whether by mortgage, deed of trust, or otherwise, for the purpose of indebtedness of Grantor, so long as such liens remain subordinate to the Easement.

H. Emergencies. Grantor may undertake other activities necessary to protect public health or safety on the Protected Property, or that are actively required by and subject to compulsion of any governmental agency with authority to require such activity; provided that any such activity shall be conducted so that interference with the Conservation Values of the Protected Property is avoided, or, if avoidance is not possible, minimized to the extent possible.

VI. PROHIBITED USES AND ACTIVITIES

A. General. Any use of, or activity on, the Protected Property inconsistent with the Purpose of this Easement is prohibited, and Grantor acknowledges and agrees that it will not conduct, engage in or permit any such use or activity. Without limiting the generality of this subsection, the following uses of, or activities on, the Protected Property, though not an exhaustive list, are inconsistent with the Purpose of this Easement and shall be prohibited; except as permitted in Section V.

B. Subdivision and Development Rights. The legal or *de facto* division, subdivision, platting, partitioning or planned unit development of the Protected Property is prohibited even if that portion of the Protected Property constitutes a separate legal parcel. This restriction does not prohibit boundary line adjustments with adjoining rural reserve land, provided that such boundary line adjustments do not result in any net loss of acreage to the Protected Property and that 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. Grantor shall not exercise its development rights in the Protected Property, 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 otherwise, nor use such development rights or the area of the Protected Property for the purpose of calculating permissible lot yield of the Protected Property or any other property.

C. Construction. The placement or construction of any buildings, structures, or other improvements of any kind is prohibited, except as permitted in Subsection V.C.

D. Impervious surface. The total area covered by structures of any kind and impervious surfaces, such as rooftops, asphalt, or concrete shall be limited to no more than ten percent (10%) of the area of the Protected Property. The total area covered by gravel shall be subject to this ten percent (10%) limitation unless Grantor obtains prior approval from Grantee as provided in Section VIII to increase the percentage of total surfaces covered by gravel and other impervious surfaces above the ten percent (10%) limitation, provided that the total amount of gravel and other impervious surfaces shall never exceed ten percent (10%) of the total area of the Protected Property.

E. Recreation. The following forms of recreation are prohibited on the Protected Property: golf courses; commercial use of motorized or mechanized recreational vehicles such as motorcycles, snowmobiles and dune buggies; commercial overnight camping; athletic fields; use of the property for any commercial public recreation; and other developed recreational uses of the property which require special buildings, structures, or facilities. Undeveloped recreational uses,



and the leasing of such uses for economic gain, may be permitted insofar as they are consistent with the Purpose and terms of this Easement.

- F. Erosion or Water Pollution.** Any use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or subsurface waters is prohibited, including the use of manure lagoons or disposal of wastewater in manners inconsistent with the terms of this Easement.
- G. Waste Disposal.** Except as expressly permitted in Section V, the disposal or storage of rubbish, garbage, debris, vehicles, abandoned equipment, parts thereof, spreading of sludge and wastewater, or other unsightly, offensive, or hazardous waste or material on the Protected Property is prohibited.
- H. Commercial Signs.** The placement of commercial signs, billboards, or other advertising material on the Protected Property is prohibited; except in connection with the on-site sale of agricultural products, sale or lease of the Protected Property, or to state the conditions of access to the Protected Property.
- I. Mining.** The exploration for, or development and extraction of, minerals and hydrocarbons on or below the surface of the Protected Property is prohibited. The extraction of rock, dirt, sand, and gravel shall be permitted only if removal of such material is necessary to carry out other permitted activities on the Protected Property, and is limited to no more than two percent (2%) of the total surface area of the Protected Property, and shall not interfere with the Conservation Values of the Protected Property. Grantor shall use all reasonably practical means to mitigate any adverse effect on the Conservation Values of the Protected Property in carrying out any permitted extraction activities, and upon completion of said permitted extractive activities, Grantor shall promptly restore any portion of the Protected Property affected thereby as nearly as possible to its condition existing prior to commencement thereof.
- J. Kennels.** Kennels as defined in the Skagit County Zoning Ordinance are prohibited.
- K. Alteration of Wetlands and Watercourses.** The draining, filling, dredging, ditching or diking of wetland areas shown on Exhibit "D", or any other action that would reduce the wetland area is prohibited, except as necessary to maintain existing drains consistent with the Purpose of this Easement and permitted by applicable law.
- L. Introduced Vegetation.** The intentional introduction of any nonnative species of vegetation is prohibited; except as subordinate to and directly supportive of the use of the land as rural or open space or as deemed necessary by Grantor and Grantee to preserve, protect or enhance the Conservation Values of the Property.
- M. Removal of Trees and Other Vegetation.** The pruning, cutting down or other destruction or removal of live trees and other vegetation is prohibited; except as specifically provided for in Section V, or as subordinate to and directly supportive of the use of the land as a farm for farming purposes, or as deemed necessary by Grantor and Grantee to protect health and safety, or as deemed necessary by Grantor and Grantee to preserve, protect or enhance the Conservation Values of the Property.
- N. Water Rights.** Grantor shall not transfer, encumber, sell, lease or otherwise separate any water rights historical use on or otherwise appurtenant to the Protected Property or change the historic

use of such water rights without the permission of Grantee as provided for in Section VIII. Grantor shall not abandon or allow the abandonment of, by action or inaction, any of the water rights without the permission of Grantee.

VII. STEWARDSHIP

Grantor agrees to maintain the rural and open space character of the Protected Property. No activities violating sound agricultural soil and water conservation management practices shall be permitted. All agricultural operations shall be conducted in accordance with applicable law.

VIII. NOTICE

- A. **Notice.** The following permitted uses and activities require Grantor to notify Grantee in writing prior to undertaking the use or activity:
1. construction of any buildings, structures or improvements requiring a permit from Skagit County (as required under Subsection V.C);
 2. grading activities requiring a permit from Skagit County (as required under Subsection VI.D);
 3. certain activities involving water rights (as required under Subsection VI.N).

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

- B. **Approval.** Where approval by one of the parties to this Easement is required (e.g., Subsection V.D, Impervious Surfaces), such approval shall be granted or denied in writing within thirty (30) days of receipt of a written notice of the proposed use or activity, and such approval shall not be unreasonably withheld. Grantee's approval may include reasonable conditions which, if satisfied, would be the minimum necessary to assure that the proposed use or activity would not be inconsistent with the Purpose of this Easement. Failure by a party to grant or deny approval within the time provided shall create a presumption of approval.
- C. **Optional Consultation.** If Grantor is unsure whether a proposed use or activity is prohibited by this Easement, Grantor may consult Grantee by providing Grantee a written notice describing the nature, scope, design, location, timetable, and any other material aspect of the proposed use or activity in sufficient detail to permit Grantee to make an informed judgment as to the consistency with the Purpose of this Easement and to provide comments thereon to Grantor for the purposes of this Easement only. This Subsection does not itself impose a requirement of prior approval of the activity described in any such notice; however, if Grantee does not provide written objections within thirty (30) days after Grantee's receipt of Grantor's notice, Grantee shall be deemed to have approved the proposed use or activity.

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

To Grantor: Kori and Carolyn Turk
25588 Helmick Road
Sedro-Woolley, WA 98284

To Grantee: Skagit County Public Works Department
ATTN: Ann Marie Gutwein.
1800 Continental Place
Mount Vernon, WA 98273

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

IX. DISPUTE RESOLUTION: GRANTEE'S REMEDIES

- A. Preventive Discussions.** Grantor and Grantee will promptly give the other notice of problems or concerns arising in connection with the other's actions under this Easement or the use of or activities or conditions on the Protected Property, and will make reasonable efforts to meet as needed and make good faith efforts to resolve and/or address any disputes and/or concerns of the Grantor and/or Grantee.
- B. Optional Alternative Dispute Resolution.** If after fifteen (15) days, a dispute is not resolved through preventive discussions under subsection A, Grantor and Grantee may (but shall not be required), by mutual agreement submit the matter to mediation or arbitration upon such rules of mediation or arbitration as Grantor and Grantee may agree.

X. ENFORCEMENT; GRANTEE'S REMEDIES

- A. Notice of Violation, Corrective Action.** If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee (at Grantee's sole judgment, option, and discretion) shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the Purpose of this Easement, to restore the portion of the Protected Property so injured to its prior condition in accordance with a plan approved by Grantee.
- B. Grantor's Failure to Respond.** Grantee may bring an action as provided in Subsection X.C if Grantor:
1. Fails to cure the violation within thirty (30) days after receipt of a notice of violation from Grantee; or
 2. Under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing the violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.



C. Grantee's Action.

1. **Injunctive Relief.** Grantee may bring an action at law or in equity in a court having jurisdiction to enforce the terms of this Easement:
 - a. To enjoin the violation, ex parte as necessary, by temporary or permanent injunction; and
 - b. To require the restoration of the Protected Property to the condition that existed prior to any such injury.
2. **Damages.** Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of Conservation Values. Without limiting Grantor's liability in any way, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking corrective or restoration action on the Protected Property.

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

E. Scope of Relief. Grantee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

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

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

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

- H. Waiver of Certain Defenses.** Grantor acknowledges that it has carefully reviewed this Easement and has consulted with and been advised by counsel of its terms and requirements. In full knowledge of the provisions of this Easement, Grantor hereby waives any claim or defense it may have against Grantee or its successors or assigns under or pertaining to this Easement based upon waiver, laches, estoppel, or prescription; except to the extent the defense is based upon an approval or deemed approval by Grantee pursuant to Section VIII of this Easement. Except for the foregoing, Grantor specifically retains any and all rights it has under the law as owner of the Protected Property, including but not limited to, the right to make claims against Grantee for any breach by Grantee of the terms of this Easement.
- I. Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor to abate, correct, or restore any condition on the Protected Property or to recover damages for any injury to or change in the Protected Property resulting from causes beyond Grantor's control, including, without limitation, natural changes, fire, flood, storm, earth movement or climate change, or from acts of trespassers, that Grantor could not reasonably have anticipated or prevented or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes. In the event the terms of this Easement are violated by acts of trespassers that Grantors could not reasonably have anticipated or prevented, Grantor agrees, at Grantee's option, to join in any suit, to assign its right of action to Grantee, or to appoint Grantee its attorney in fact, for the purpose of pursuing enforcement action against the responsible parties.
- J. Compliance Certificates.** Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor, or to any party designated by Grantor, any document, including a certificate, that certifies, to the best of Grantee's knowledge, Grantor's compliance or lack of compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement. Such certification shall be limited to the condition of the Protected Property as of Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within thirty (30) days of receipt of Grantor's written request.

XI. ACCESS BY PUBLIC NOT REQUIRED

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

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

- A. Costs, Legal Requirements, Liabilities and Insurance.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Protected Property, including the maintenance of adequate liability insurance coverage. Grantor remains solely responsible for obtaining any applicable governmental permits and approval for any construction or other activity or use permitted by this Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal,

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state, and local laws, regulations, and requirements. Grantor shall prevent the perfection of any liens against the Protected Property arising out of any work performed for, material furnished to, or obligations incurred by Grantor; provided that the Protected Property shall be deemed to be free of such liens if Grantor, as the case may be, is diligently challenging the application of such liens to the Protected Property.

B. Taxes. Grantor shall pay before delinquency or file timely appeal of 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. If Grantor fails to pay any taxes when due, Grantee is authorized, but in no event obligated, to make or advance such payment of taxes upon three (3) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the maximum rate allowed by law.

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

1. Grantor and the Protected Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Protected Property and its use;
2. There has been no release, dumping, burying, abandonment or migration from off-site on the Protected Property of any substances, materials, or wastes that are hazardous, toxic, dangerous, or harmful or are designated as, or contain components that are, or are designated as, hazardous, toxic, dangerous, or harmful and/or that are subject to regulation as hazardous, toxic, dangerous, or harmful in violation of any federal, state or local law, regulation, statute, or ordinance;
3. 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 Superfund (42 U.S.C. § 9601 et seq.) or state Model Toxics Control Act (RCW 70.105D.010 et seq.) ("MTCA") sites; and
4. There is no pending or threatened litigation affecting the Protected Property or any portion of the Protected Property that will materially impair the Conservation Values of any portion of the Protected Property. No civil or criminal proceedings have been instigated or are pending against Grantor or its predecessors by government agencies or third parties arising out of alleged violations of environmental laws, and Grantor has not received any notices of violation, penalties, claims, demand letters, or other notifications relating to a breach of environmental laws.

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

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

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

1. Injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Protected Property, regardless of cause unless due solely to the negligence of any of the Indemnified Parties; and
2. The obligations, covenants, representations and warranties in Subsections A, B, C, and D of this section.

XIII. EXTINGUISHMENT, CONDEMNATION AND SUBSEQUENT TRANSFER

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

B. Valuation. In the event of an extinguishment pursuant to Subsection A, or the taking of all or part of the Protected Property by the exercise of the power of eminent domain, then Grantee is entitled to its share of gross sale proceeds or condemnation award representing an amount equal to the appraised value of this Easement to the unrestricted fair market value of the Property as these values are determined on the date of this Easement.

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

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

E. Subsequent Transfers. Grantor agrees to:

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

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

XIV. AMENDMENT

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

XV. ASSIGNMENT

This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to the Grantee's judicial appointed successor. As a condition of such transfer, Grantee shall require that the transferee exercise its rights under the assignment consistent with the Purpose of this Easement. Grantee shall notify Grantor in writing, at Grantor's last known address, in advance of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

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XVI. RECORDING

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

XVII. SUBORDINATION

At the time of conveyance of this Easement, the Protected Property is subject to certain deed(s) of trust dated March 24, 2004 and March 28, 2005, which were recorded under Auditor's File No. 200404210053 and 200504110144 ("Deed(s) of Trust"). The beneficiary of the Deed(s) of Trust has agreed by separate instrument at Exhibit "E" hereto, which will be recorded concurrently with this Easement, to subordinate its rights in the Protected Property to this Easement to the extent necessary to permit Grantee to enforce the Purpose of the Easement in perpetuity and to prevent any modification or extinguishment of this Easement by the exercise of any rights of the beneficiary under the Deed(s) of Trust.

XVIII. GENERAL PROVISIONS

- A. **Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the State of Washington. Venue for any action shall be Skagit County, 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 Grantee 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. Each of the terms and provisions of this Easement have been reviewed and negotiated, and represents the combined work product of the parties hereto. The parties represent that they have had a full and fair opportunity to seek legal advice with respect to the terms of this Easement and have either done so, or have voluntarily chosen not to do so. The parties represent and warrant that they have fully read this Easement, that they understand its meaning and effect, and that they enter into this Easement with full knowledge of its terms. The parties have entered into this Easement without duress or undue influence.
- C. **Severability.** If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.
- D. **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Protected Property and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Protected Property, all of which are merged into this Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section XIV.
- E. **No Forfeiture.** Nothing contained in this Easement will result in a forfeiture or reversion of Grantor's title in any respect.



- F. "Grantor" - "Grantee".** The terms "Grantor" and "Grantee," wherever used in this Easement, and any pronouns used in their place, shall be held to mean and include, respectively the above-named Grantor, and its personal representatives, agents, heirs, successors, and assigns, and the above-named Grantee, its personal representatives, agents, successors and assigns.
- G. Successors and Assigns.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties to this Easement and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.
- H. Termination of Rights and Obligations.** A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
- I. Joint and Several.** The obligations imposed by this Easement upon Grantor shall be joint and several.
- J. Counterparts.** The parties may execute this instrument in two or more counterparts, which shall be signed by both parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.
- K. Effective Date.** The effective date of this Easement is the date of recording in the records of Skagit County, Washington.

XIX. SCHEDULE OF EXHIBITS

- Exhibit "A"** - Legal Description for Grantor's Property.
- Exhibit "B"** - Legal Description of Property Subject to Easement (the "Protected Property").
- Exhibit "C"** - Site Plan
- Exhibit "D"** - Baseline Documentation "Habitat Assessment Report, Lower Red Creek".
- Exhibit "E"** - Subordination Agreement(s).

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

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument this 15 day of December, 2007.

GRANTOR(S):

Signed: Kori R. Turk
Kori R. Turk

Carolyn J. Turk
Carolyn J. Turk

SKAGIT COUNTY
Contract # C20080020

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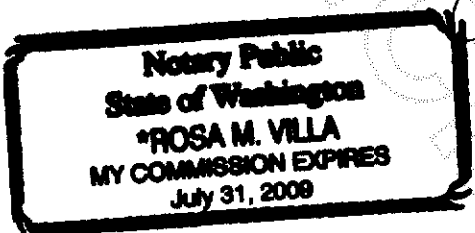


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Skagit County Auditor

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Kori Robert Turk is (are) the person(s) who appeared before me, and said person(s) acknowledged that she (he) signed this instrument and acknowledged it to be her (his) free and voluntary act for the uses and purposes mentioned in the instrument.

Date: December 15, 2007 [Signature]
(Signature)

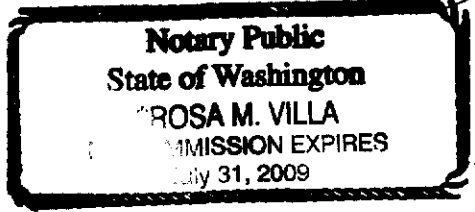


NOTARY PUBLIC in and for the State of Washington, residing at Seattle
My appointment expires July 31, 2009.

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Carolyn Jean Turk is (are) the person(s) who appeared before me, and said person(s) acknowledged that she (he) signed this instrument and acknowledged it to be her (his) free and voluntary act for the uses and purposes mentioned in the instrument.

Date: December 15, 2007 [Signature]
(Signature)



NOTARY PUBLIC in and for the State of Washington, residing at Seattle
My appointment expires July 31, 2009.

SKAGIT COUNTY
Contract # C20080020



The BOARD OF COUNTY COMMISSIONERS does hereby accept the above Conservation Easement.

Signed this 8th day of January, 2008.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Don Munks
DON MUNKS, Chairman

Kenneth A. Dahlstedt
KENNETH A. DAHLSTEDT, Commissioner

Sharon D. Dillon
SHARON D. DILLON, Commissioner

Approved:

By: James E. Voetberg
James E. Voetberg
Director, County Engineer

By: Billie Kadmas
Billie Kadmas
Risk Manager

By: Trisha Logue
Trisha Logue, CPA
Budget/Finance Administrator

Approved as to Form:

By: [Signature]
Civil Deputy

ATTEST:

JoAnne Giesbrecht
JoAnne Giesbrecht, Clerk of the Board

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EXHIBIT "A"

Legal Description for Grantor's Property

The North $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ (NW $\frac{1}{4}$ of NE $\frac{1}{4}$) of Section 17, Township 35 North, Range 5 East, W.M., EXCEPT Helmick Road;

TOGETHER WITH that portion of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 17, Township 35 North, Range 5 East, W.M., lying Northerly of the State Highway right-of-way as conveyed to the State of Washington by deed recorded under Auditor's File No. 415708, records of Skagit County, Washington; EXCEPT the East 784 feet thereof.

Situate in the County of Skagit, State of Washington.

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EXHIBIT "B"

Legal Description of Protected Property.

That portion of the North ½ of the South ½ of the Northwest Quarter of the Northeast Quarter (NW1/4 of NE1/4) of Section 17, Township 35 North, Range 5 East, W.M., described as follows:

Commencing at the Northwest corner of said North ½ of the South ½ of the Northwest Quarter of the Northeast Quarter (NW1/4 of NE1/4) of Section 17, thence South 89° 29'10" East along the North line of said subdivision a distance of 536.45 feet to the Point of Beginning;
thence South 08° 26'25" East a distance of 93.44 feet;
thence South 34° 52'03" East a distance of 143.57 feet;
thence South 02° 11'32" East a distance of 111.51 feet, more or less, to the South line of said North ½ of the South ½ of the Northwest ¼ of the Northeast ¼;
thence South 89° 39'13" East along said South line of said North ½ of the South ½ of the Northwest ¼ of the Northeast ¼ a distance of 195.72 feet;
thence North 22° 23'18" West a distance of 347.56 feet, more or less, to a point on the North line of said North ½ of the South ½ of the Northwest ¼ of the Northeast ¼ lying South 89° 29'10" East a distance of 163.40 feet from the Point of Beginning;
thence North 89° 29'10" West along said North line a distance of 163.40 feet to the Point of Beginning.

EXCEPT Helmick Road.

Situate in the County of Skagit, State of Washington.

Contains 1.28 acres or 55,670.0 square feet more or less within Skagit County Assessor's Parcel No. P39251.



EXHIBIT "C"

Site Plan

UNOFFICIAL DOCUMENT

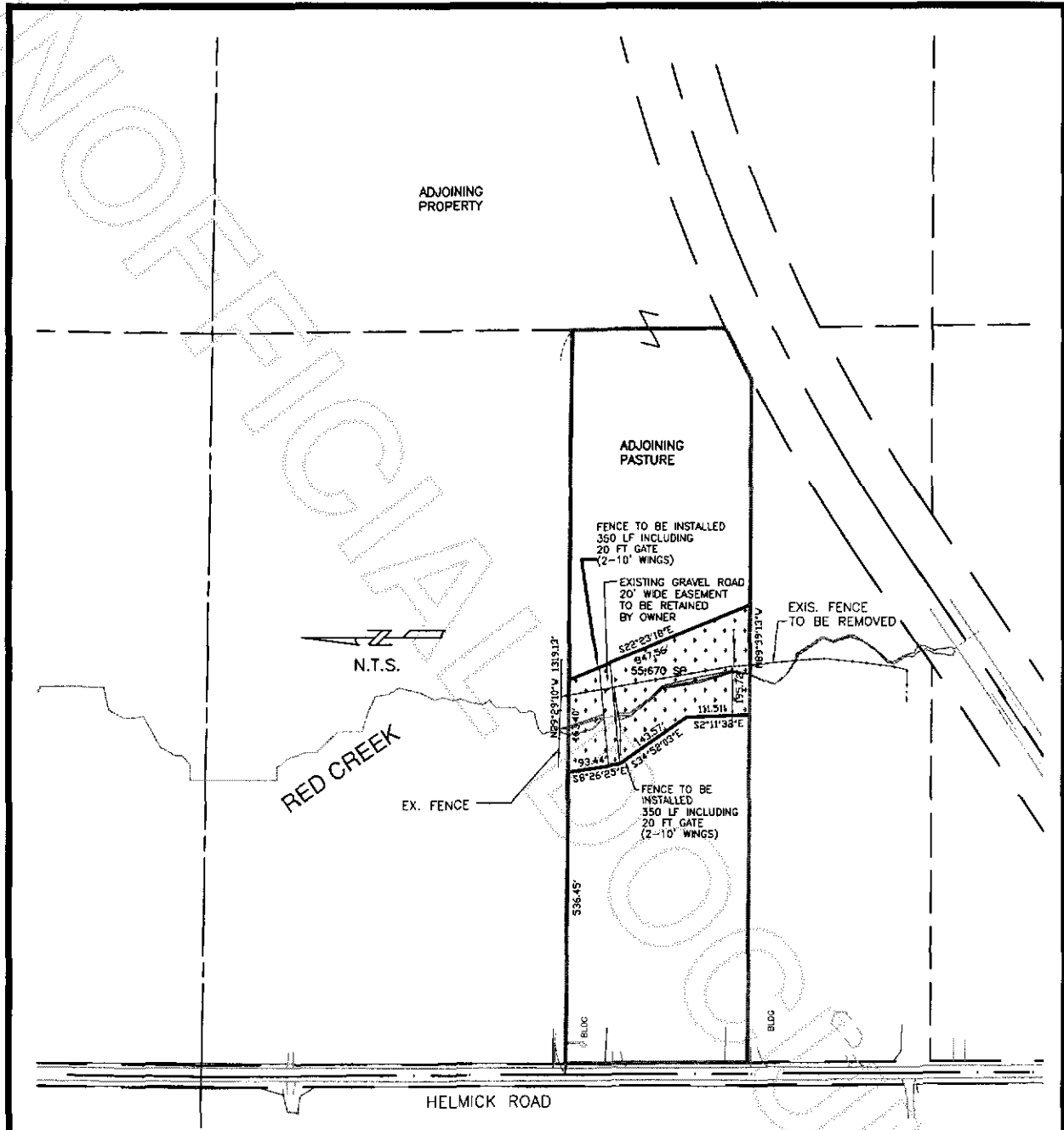
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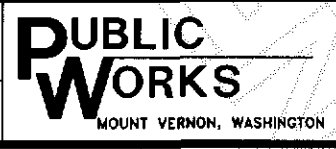
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LEGEND	OWNER	PARCEL AREA
CONS. EASEMENT	KORI R./CAROLYN J. TURK 25588 HELMICK ROAD SEDRO-WOOLLEY, WA 98284	TOTAL PARCEL 414,690 SF EASEMENT AREA 55,670 SF PARCEL REAINDER 359,020 SF
PROPERTY LINE		
	PARCEL NO. P39253 and PARCEL NO. P39251	

DATE: 8/17/07

SKAGIT COUNTY
EXHIBIT C - SITE PLAN
CONSERVATION EASEMENT



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EXHIBIT "D"

BASELINE DOCUMENTATION

UNOFFICIAL DOCUMENT

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Skagit County Auditor

Habitat Assessment Report Lower Red Creek



Habitat Restoration Site

Prepared for:

Skagit County Public Works
1800 Continental Place
Mount Vernon, WA 98273

Prepared by:

Widener & Associates
08 32nd Ave W, Ste D
Everett, WA 98204

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1 Introduction

Skagit County Public Works, in cooperation with the Upper Skagit Indian Tribe, is proposing to restore riparian habitat on a privately owned agricultural parcel along Helmick Road east of Sedro-Woolley, Washington (Figure 1). The project is anticipated to include some reduction of invasive and nonnative vegetation, installation of protective fencing, establishment of native riparian plants, and potentially a future culvert replacement to remove a flow impediment and to improve the stream bed. The proposed habitat restoration is part of a larger, landscape-scale ecosystem enrichment effort to reinstate environmental processes at the landscape scale to a more natural self-sustaining system. Other initiatives which are part of the effort include expansion of the riparian corridor, riparian enhancement of Hansen Creek northwest of the project site and habitat improvements within the USIT Reservation north of the Red Creek crossing at Helmick Road.

The site is located along Red Creek, a Type III stream, running through parcel ID P39253, P39254, and P39249 within the following legal geographic location: T35N, R05E, S8 and 17 (Figure 1). Red Creek is a Protected Critical Area (PCA) under the Fish and Wildlife Habitat Conservation Area definition of the Skagit County Critical Areas Ordinance¹. It is a fish bearing stream; Coho (a Federal species of concern) were historically present in the area and efforts are being made to restore them and other salmonids to Red Creek.

¹ Fish and wildlife habitat conservation areas shall be protected in accordance with Skagit County's determination of appropriate conditions considering the site-specific recommendations from agencies with jurisdictions over the specific area, which may include but not be limited to the Washington State Department of Fish and Wildlife, Department of Ecology, Federally recognized Indian Tribes located within Skagit County, WDFW Management Recommendations for Washington Priority Habitats and Species, and site-specific information supplied by the Applicant. (Skagit County, WA. Last updated April, 2006. Planning and Development Services. Skagit County Code. Chapter 14.24: Critical Areas Ordinance)

Habitat Assessment: *Helmick Road Improvement Project*
Skagit County

SKAGIT COUNTY
Contract # C20080020

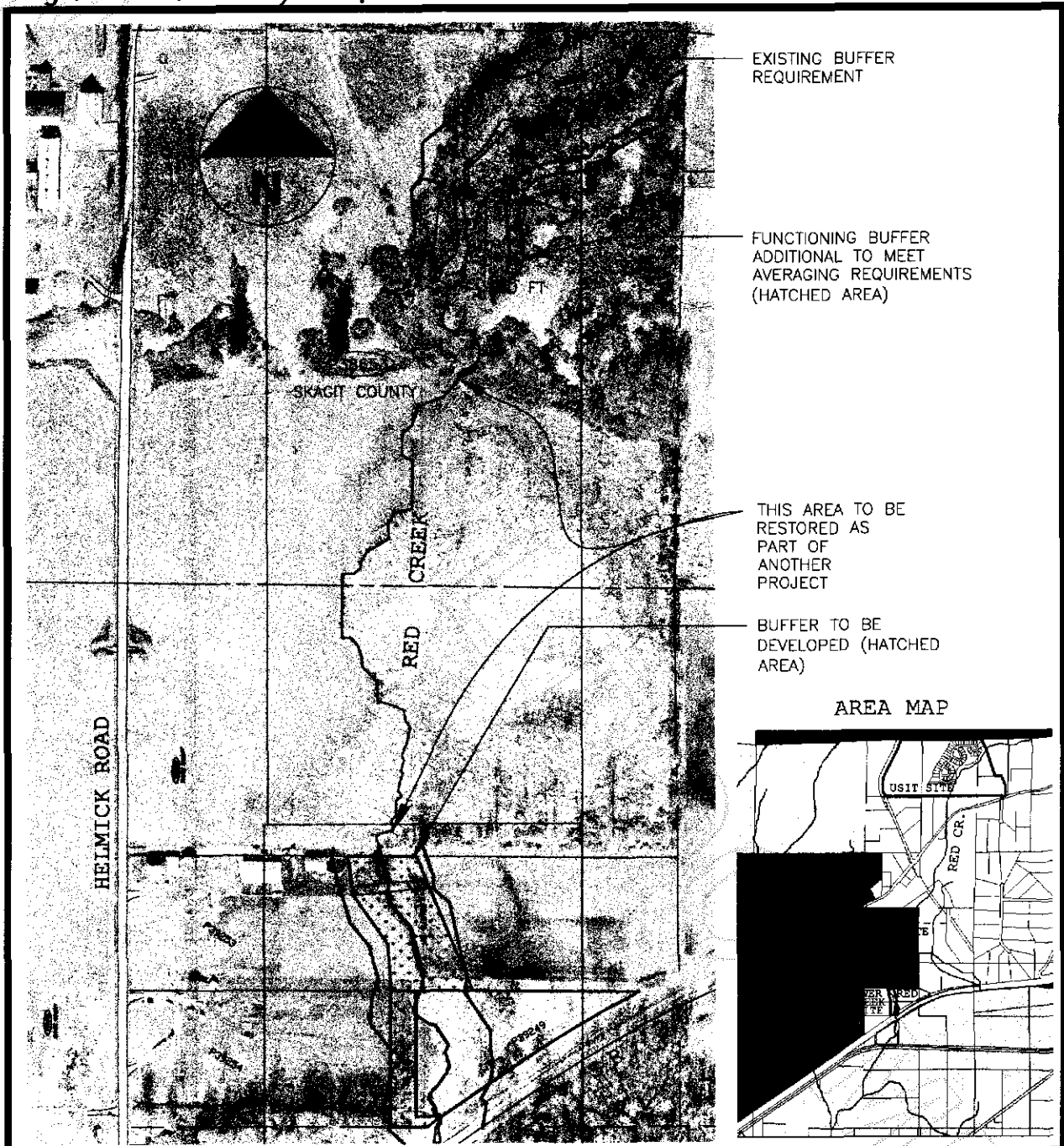
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Figure 1: Vicinity Map



SCALE: N.T.S.	SKAGIT COUNTY	 PUBLIC WORKS MOUNT VERNON, WASHINGTON
LOWER RED CREEK RESTORATION PROJECT		
VICINITY MAP		DATE: 8-15-06
		SHEET 1 OF 1

2 Relationship to Critical Areas Ordinance

According to Skagit County Code (SCC), the standard riparian buffer required for a Type III stream is 100ft. Currently the buffer is severely degraded due to stock trampling. According to the SCC, buffer width averaging shall be allowed only where the Applicant demonstrates to the Administrative Official that the habitat contains variations in sensitivity due to existing physical characteristics and all of the following criteria are met:

- (i) Width averaging will not adversely impact the functional values of wildlife habitat
- (ii) Width averaging meets performance standards for protecting fish species
- (iii) The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging

Criteria i, ii, and iii are met for the following reasons:

- (i) Width averaging will not adversely impact the functional values of wildlife habitat. The standard buffer would be placed in a severely degraded area. A 76,042ft² buffer would be placed in the degraded area and an additional 21,660ft² buffer would be added to a northern portion of the stream in a more highly functioning area of habitat.
- (ii) Width averaging meets performance standards for protecting fish species. The 21,660ft² buffer provides shade and runoff filtration while the creation of a 76,042ft² buffer will stabilize the bank and eventually provide habitat for fish
- (iii) The total area contained within the buffer after averaging is equal to that contained within the standard buffer prior to averaging

Habitat Assessment: *Helmick Road Improvement Project*
Skagit County

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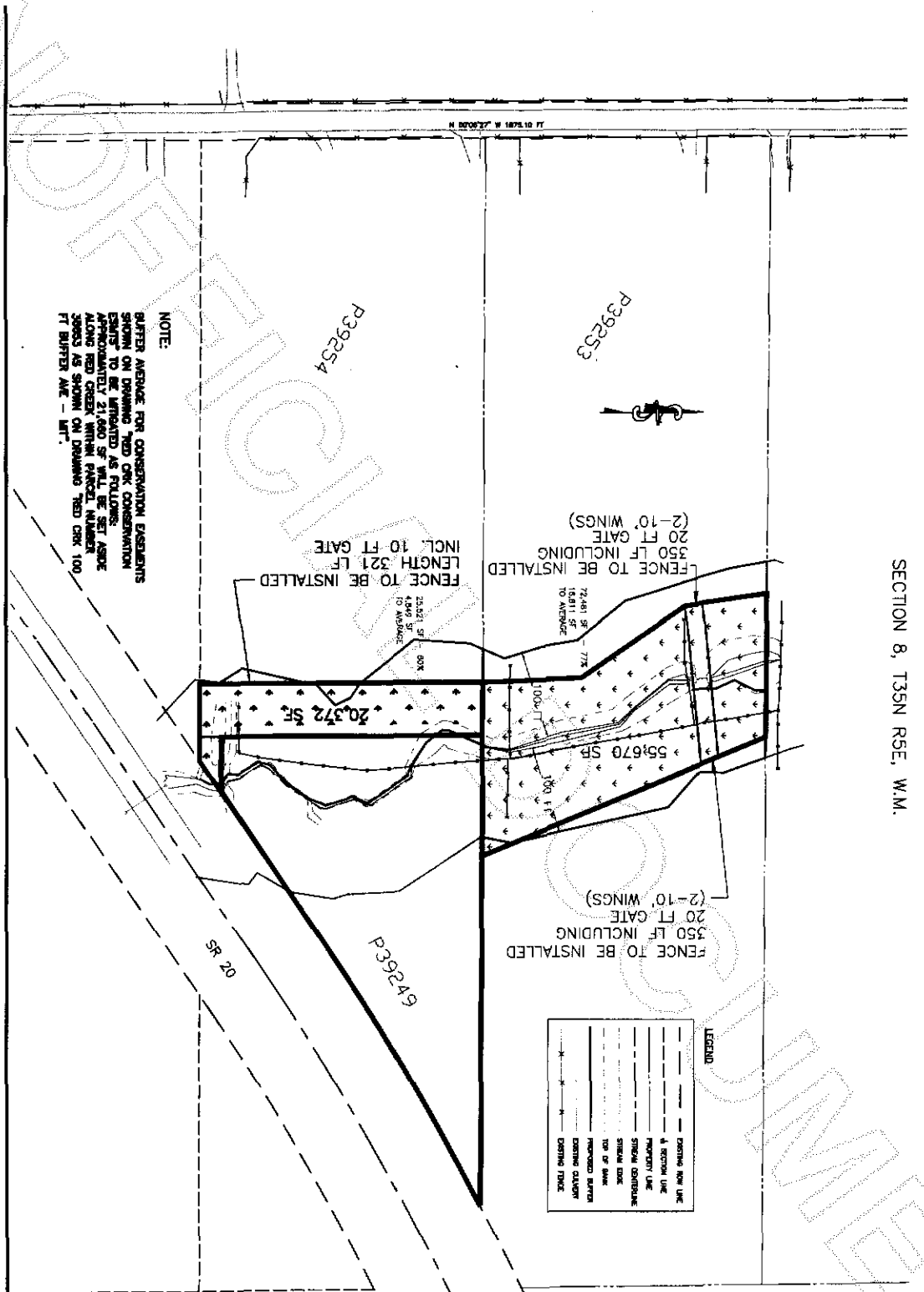
The purpose of this report was to assess if buffer width averaging a 76,042ft² buffer on-site, and a 21,660ft² buffer off-site, in lieu of the standard 100ft buffer (98,002ft² for our purposes) would meet criteria (i) and (ii) above, as well as restore the buffer to SCC riparian standards. The current location is severely degraded and provides little to no functions and values. For this assessment a highly functioning 21,660ft² buffer, located approximately 0.5 miles north of the site (Figure 2), and an on-site 76,042ft² buffer (Figure 3) will be evaluated. In the belief that the on-site 76,042ft² buffer will be mowed and replanted in order to provide habitat features. It was determined that buffer width averaging would be acceptable. Details of the assessment and a rationale for the decision follow.

3 Site Assessment

Widener and Associates biologists performed several site visits to document the current habitat conditions in order to determine if criteria (i) and (ii) above would be met. The likelihood of a newly developed 76,042ft² buffer, along with a highly functioning 21,660ft² buffer, being sufficient to achieve the following riparian performance standards as outlined in the SCC was also considered.

- (a) **Recruitment of large woody debris (LWD) to the stream:** LWD recruitment creates habitat structures necessary to maintain salmon/trout productive capacity and species diversity.
- (b) **Shade:** Shading by the forest canopy maintains cooler water temperatures and influences the availability of oxygen for salmon/trout.
- (c) **Bank Integrity (Root Reinforcement):** Bank integrity helps maintain habitat quality and water quality by reducing bank erosion and creating habitat structure and instream hiding cover for salmon and trout.
- (d) **Runoff Filtration:** Filtration of nutrients and sediments in runoff (surface and shallow subsurface flows) helps maintain water quality.
- (e) **Wildlife Habitat:** Functional wildlife habitat for riparian-dependent species is based on sufficient amounts of riparian vegetation to provide protection for nesting and feeding.

Figure 2: On-site 76,042 s.f. buffer



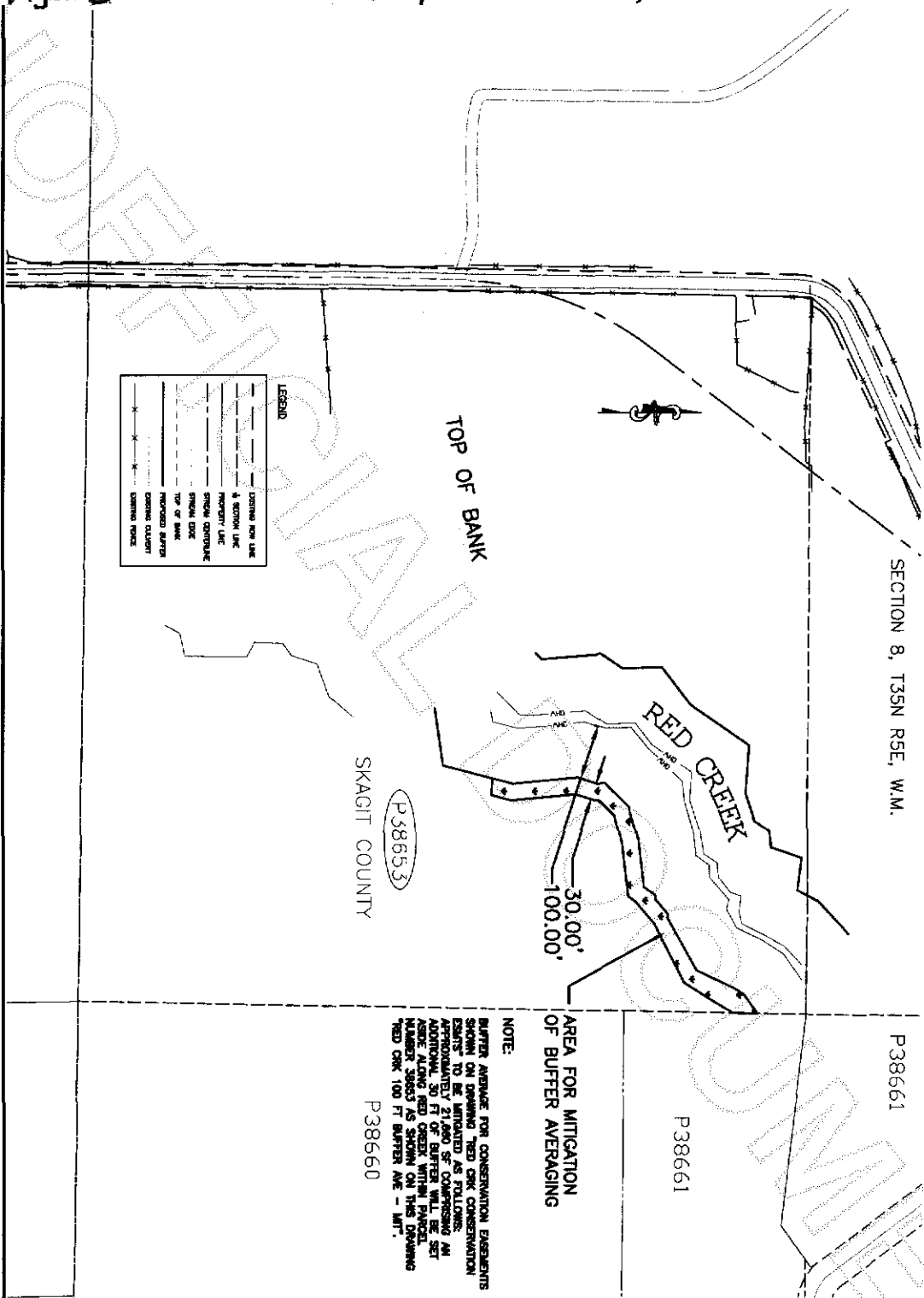
PROJECT TITLE:
**RED CREEK
 IMPROVEMENT PROJECT**
 LOCATED IN
 SEDRO-WOOLLEY, WA
 SEC 8, S. 9, 17, T35N R5E
RED CRK CONSERVATION ESMTS

COUNTY ENGINEER _____ DATE _____

SKAGIT PUBLIC WORKS
 CONTACT:
 JANICE MARLEGA, P.E.
 1800 CONTINENTAL PLACE
 MOUNT VERNON, WA 98273
 PH: 360-336-9400 FAX: 360-336-9369

C.R.P. NO. 0808104	ROAD NO. 0000
FEDERAL AID NO. 874	
DESIGNED BY: SA	
DRAWN BY: P.L.C. & B.S.	
CHECKED BY:	
APPROVED BY:	
DESIGNED	
NO. BY: J.S.B. PRODUCTION	

Figure 3: Location of highly functional 21,660 s.f. buffer



PROJECT TITLE:
RED CREEK
IMPROVEMENT PROJECT
 LOCATED IN
 BEDRO-WOOLLEY, WA
 SEC 8, 9, 17, TN 35N, R10 SE
RED CRK 100FT BUFFER AVE - MIT

SKAGIT PUBLIC WORKS
 COUNTY ENGINEER DATE
 CONTACT:
 JANICE MARLEGA, P.E.
 1000 CONTINENTAL PLACE
 MOUNT VERNON, WA 98273
 PH: 360-336-9400 FAX: 360-336-9360

C.E.P. NO. ENGINEER	RD#C NO. 0000
FEDERAL REG. NO. E.P.C.	
DESIGNED BY	MA
CHECKED BY	MA
APPROVED BY	
DATE	BY DATE DESCRIPTION

DATE
 TIME
 COUNTY ENGINEER

3.1.0 Conditions

3.1.1 Current

As mentioned in the introduction, the Red Creek buffer is severely degraded (cover photo). The site was historically grazed and although grazing was suspended the buffer is still trampled by stock to access the creek for watering. Therefore, banks are raw, species richness is low and sediment and bacteria can enter the stream with minimal filtering. There are no sources for future LWD, no shade to keep in-stream temperatures low and no overhang to provide cover for fish. In short, the site is severely degraded and meets none of the riparian buffer standards listed above. Consequently the area is incapable of supporting riparian dependent species.

3.1.2 Proposed

Since the riparian zone is basically non-existent, the project proposes to establish a 76,042ft² buffer with native vegetation, artificial habitat features and fencing to protect the newly created habitat functions and values (Figure 4). Due to trampling, invasive and nonnative species have encroached on the site and will be managed by mowing in order to reduce competition for the native plantings until the native plantings are established. Included in the plant mix will be species which will eventually provide fish proper habitat features such as shade, cool temperatures, LWD and cover. The planting plan will stabilize the banks and filter bacteria and other run-off from surrounding areas. A future potential culvert replacement to remove a flow impediment and to improve the stream bed will facilitate return of historically present salmon. Because stock currently uses the creek for water, a well source would be provided. All of these improvements will greatly increase available habitat for riparian dependent species.

4 Conclusion

The project clearly meets criteria (i) and (ii) since currently no buffer exists and the project proposes to not only enhance but create an additional buffer area. Also, at maturity, the buffer is anticipated to meet the riparian performance standards of SCC. By managing invasive vegetation and replanting the site with native riparian vegetation the following habitat features would be provided for fish and wildlife:

Habitat Assessment: *Helmick Road Improvement Project*
Skagit County



- eventual recruitment of LWD,
- future nest sites,
- species diversity
- shade to reduce stream temperatures,
- cover for fish,
- easier passage,
- cleaner water, and
- bank stability.

Based on the above information, it was determined that a newly developed 76,042ft² buffer on-site and a 21,660ft² buffer off-site (located approximately 0.5 miles upstream) would be more than sufficient, to meet the requirements for Skagit County Code 14.24.530, in lieu of a 98,002ft². This report documents the investigation, best professional judgment and conclusions of the investigator(s).

Habitat Assessment: *Helmick Road Improvement Project*
Skagit County

SKAGIT COUNTY
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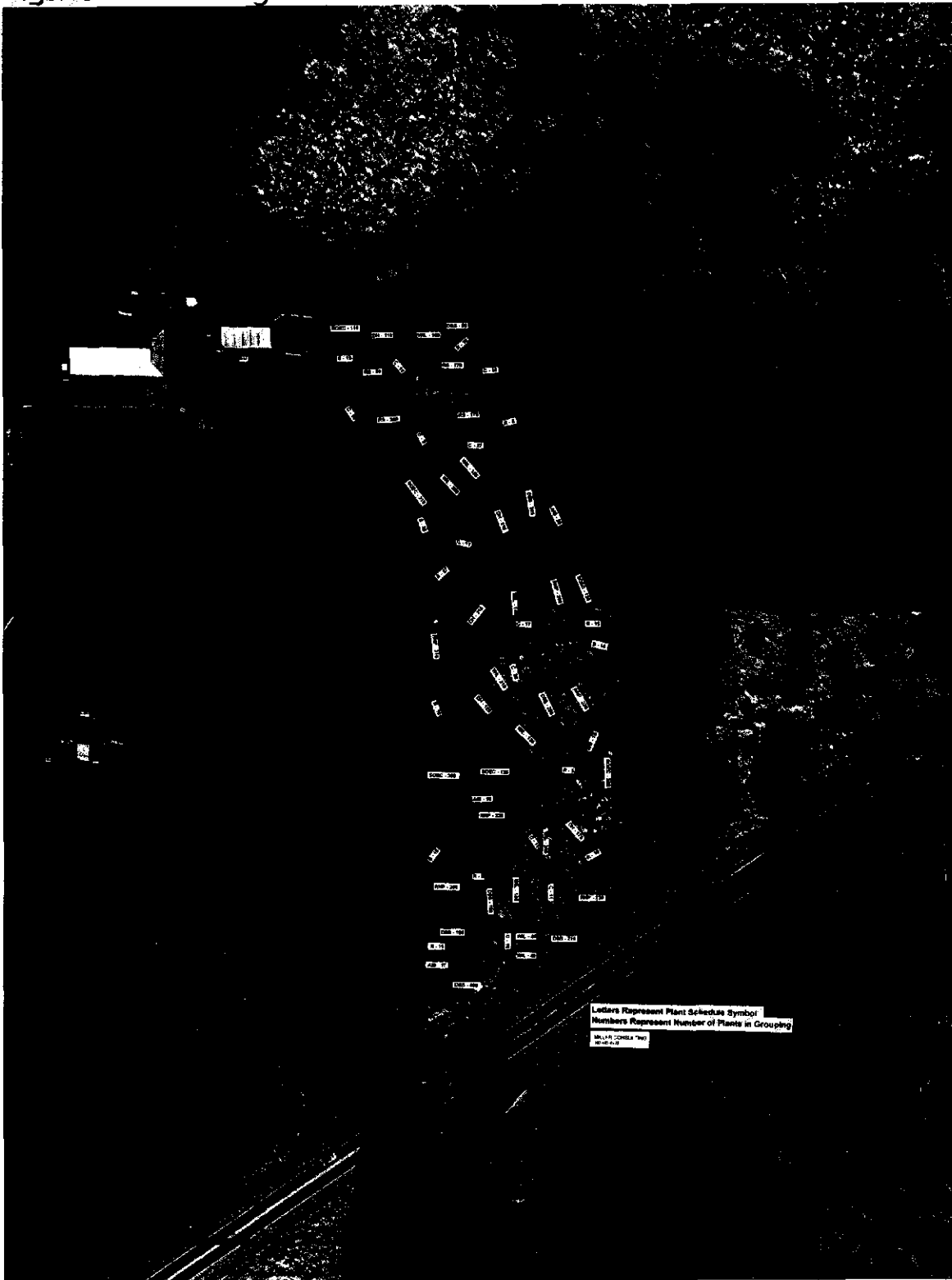
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Figure 4: Planting Schedule for 76,042 s.f. buffer



Letters Represent Plant Schedule Symbol
Numbers Represent Number of Plants in Grouping

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EXHIBIT "E-1"

Subordination Agreement(s).

When recorded return to:

Skagit County Public Works Department
Attn: Surface Water Management Dept.
1800 Continental Place
Mount Vernon, WA 98273

GRANTOR(S): Kori R. Turk and Carolyn J. Turk, husband and wife,

GRANTEE: Skagit County, a political subdivision of the State of Washington

LEGAL DESCRIPTION (abbreviated): N1/2 S1/2 NW1/4 NE1/4 LESS ST RD

ASSESSOR'S PARCEL NUMBER/S: P39253

TAX I.D. NUMBER/S: 350517-1-003-0000

Reference number(s) of related/assigned/released documents: _____

Reference(s) to document(s) appears on page(s) _____

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER INSTRUMENT.

The undersigned subordinator agrees as follows:

1. WASHINGTON MUTUAL BANK, FA ("Subordinator") is the owner and holder of a mortgage or deed or trust dated 3/28/2005, which was recorded under Auditor's File No. 200504110144, records of Skagit County;
2. Skagit County ("Grantee") is the holder of a conservation easement dated December 15, 2007 2007, executed by Grantor (as hereinafter defined) which will be recorded concurrently with this Subordination Agreement;

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200803070075
Skagit County Auditor

3. Kori R. Turk and Carolyn J. Turk, husband and wife, ("Grantor"), are the owners of all the real property described in the conservation easement identified above in Paragraph 2.
4. In consideration of benefits to Subordinator from Owner ("Grantor"), receipt and sufficiency of which is hereby acknowledged the Subordinator does hereby unconditionally subordinate the lien of the mortgage (or deed of trust) identified above in Paragraph 1 to the conservation easement identified above in Paragraph 2.
5. This Agreement shall be the whole and only agreement between the parties hereto with regard to the subordination of the lien or charge of the mortgage (or deed of trust) first above mentioned to the conservation easement in favor of Easement Holder ("Grantee") above referred to and shall supersede and cancel any prior agreements as to such, or any subordination including, but not limited to, those provisions, if any, contained in the mortgage or deed of trust first above mentioned, which provided for the subordination of the lien or charge thereof to a mortgage or deed of trust to be thereafter executed.
6. The heirs, administrators, assigns and successors in interest of the Subordinator shall be bound by this agreement. Where the word mortgage appears herein it shall also be considered as deed of trust, and gender and number of pronouns considered to conform to undersigned.

Executed this 31st day of JULY, 2007.

SUBORDINATOR
WASHINGTON MUTUAL BANK, FA
 By: W. Saludo
 Print Name: W.L. SALUDO
 Its: LIEN RELEASE ASSISTANT
SECRETARY

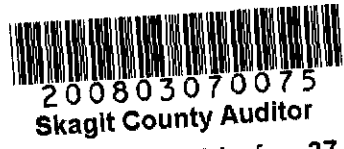
SUBORDINATOR
 By: _____
 Print Name: _____
 Its: _____

STATE OF _____)
) ss.
 COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is(are) the person(s) who appeared before me, to me known to be the _____ of _____ who(m) executed the within and foregoing instrument, and acknowledged that he/she/they signed the same as his/her/their free and voluntary act and deed, and that he/she/they is/are duly authorized to sign the foregoing instrument, for the uses and purposes therein mentioned.

Date: _____

 (Signature)
 Print name: _____
 NOTARY PUBLIC in and for the State of _____, residing at _____
 My commission expires: _____



ACKNOWLEDGMENT

State of TEXAS)
) §
County of HARRIS)

I certify that I know or have satisfactory evidence that **W L Saludo** is the person who appeared before me, and said person acknowledged that he/she signed this instrument on oath stated that he/she was authorized to execute the instrument and acknowledge it as the **Lien Release Assistant Secretary** of **Washington Mutual Bank, FA** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: JULY 3, 2007



Marylyn Malveaux
Notary Signature

Marylyn Malveaux
Typed or Printed Name of Notary Public

Notary Public

My Appointment expires: 02/05/2008

EXHIBIT "E-2"

When recorded return to:

Skagit County Public Works Department
Attn: Surface Water Management Dept.
1800 Continental Place
Mount Vernon, WA 98273

GRANTOR(S):

Kori R. Turk and Carolyn J. Turk, husband & wife.

GRANTEE:

Skagit County, a political subdivision of the State of
Washington

LEGAL DESCRIPTION (abbreviated): N1/2 S1/2 NW1/4 NE1/4 LESS ST RD

ASSESSOR'S PARCEL NUMBER/S: P39253

TAX I.D. NUMBER/S: 350517-1-003-0000

Reference number(s) of related/assigned/released documents: _____

Reference(s) to document(s) appears on page(s) _____

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER INSTRUMENT.

The undersigned subordinator agrees as follows:

1. "MERS" Mortgage Electronic Registration Systems, Inc ("Subordinator") is the owner and holder of a mortgage or deed or trust dated March 24, 2004, which was recorded under Auditor's File No. 200404210053, records of Skagit County;
2. Skagit County ("Grantee") is the holder of a conservation easement dated December 15, 2007, 2007, executed by Kori R. Turk and Carolyn J. Turk, which will be recorded concurrently with this Subordination Agreement;

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Skagit County Auditor

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3. Kori R. Turk and Carolyn J. Turk, husband and wife, are the owners of all the real property described in the conservation easement identified above in Paragraph 2.
4. In consideration of benefits to Subordinator ("Grantor") from Owner, receipt and sufficiency of which is hereby acknowledged the Subordinator does hereby unconditionally subordinate the lien of the mortgage (or deed of trust) identified above in Paragraph 1 to the conservation easement identified above in Paragraph 2.
5. This Agreement shall be the whole and only agreement between the parties hereto with regard to the subordination of the lien or charge of the mortgage (or deed of trust) first above mentioned to the conservation easement in favor of Easement Holder ("Grantee") above referred to and shall supersede and cancel any prior agreements as to such, or any subordination including, but not limited to, those provisions, if any, contained in the mortgage or deed of trust first above mentioned, which provided for the subordination of the lien or charge thereof to a mortgage or deed of trust to be thereafter executed.
6. The heirs, administrators, assigns and successors in interest of the Subordinator shall be bound by this agreement. Where the word mortgage appears herein it shall also be considered as deed of trust, and gender and number of pronouns considered to conform to undersigned.

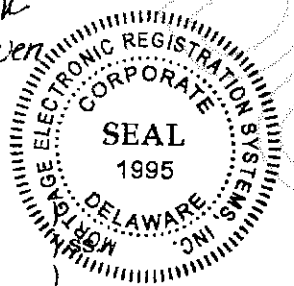
Executed this 21st day of September, 2007.

SUBORDINATOR

By: Wendy A. Van Leeuwen
 Print Name: Wendy A. Van Leeuwen
 Its: Vice President

SUBORDINATOR

By: Mary Ann Thompson
 Print Name: Mary Ann Thompson
 Its: Assistant Secretary

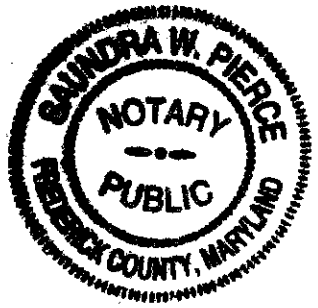


STATE OF Maryland
 COUNTY OF Frederick

I certify that I know or have satisfactory evidence that Wendy A. Van Leeuwen Mary Ann Thompson is(are) the person(s) who appeared before me, to me known to be the Vice President and Assistant Secretary of MERS Mortgage Electronic Registration Systems, Inc. who(m) executed the within and foregoing instrument, and acknowledged that he/she/they signed the same as his/her/their free and voluntary act and deed, and that he/she/they is/are duly authorized to sign the foregoing instrument, for the uses and purposes therein mentioned.

Date: September 21, 2007

Saundra W. Pierce
 (Signature)
 Print name: Saundra W. Pierce
 NOTARY PUBLIC in and for the State of Maryland, residing at 205 Diamond Dr, Walkersville, MD
 My commission expires: August 09, 2011



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SKAGIT COUNTY
 Contract # C20080020

