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Skagit County Auditor

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Document Title: ASSIGNMENT OF RIGHTS

Reference Number: 200807310098

Grantor(s): additional grantor names on page ____

1. SKAGIT CONSERVATION DISTRICT
- 2.

Grantee(s): additional grantee names on page ____

1. STATE OF WASHINGTON
- 2.

Abbreviated legal description: full legal on page(s) ____

Assessor Parcel / Tax ID Number: additional tax parcel number(s) on page ____

ASSIGNMENT OF RIGHTS

This ASSIGNMENT OF RIGHTS (this "Assignment") is executed as of the ____ day of July 31, 2008 __, by Skagit Conservation District ("Assignor"), to and in favor of THE STATE OF WASHINGTON ("State"), through the Landowner Incentive Program ("LIP") Grant Contract through the Washington Department of Fish & Wildlife ("WDFW").

RECITALS

A. Assignor has entered into a conservation easement ("Conservation Easement") with certain property owner[s] (collectively "Owner") in the lower portion of the Samish watershed (W.R.I.A. number #3 under WAC 173-500-040) in Sedro-Woolley, Washington. The names and addresses of the Owner and the recording number of the Conservation Easement are set forth in *Exhibit 1* attached hereto and incorporated herein. The legal description of the Property subject to the Conservation Easement are set forth in *Exhibit 2* attached hereto and incorporated herein.

B. The conservation purpose of the Conservation Easement is described in the Conservation Easement. That purpose is also described in the Project Agreement entered into between the recipient of LIP funds ("Sponsor") and the State through the WDFW entitled "Maksin Conservation Easement" Project Number 06-1852 dated November 1, 2006 and the application and supporting materials which are on file with the State in connection with the Project Agreement, which Project Agreement is incorporated herein by this reference. That purpose includes protection, restoration and enhancement of habitat, as defined in the Conservation Easement.

C. Owner has authorized Assignor to assign to the State certain rights for access to and stewardship of the property covered by the Conservation Easement. Assignment of such rights is a necessary condition to receipt of grant funding under the Project Agreement and the policies of the Landowner Incentive Program administered by the WDFW. Such rights are valuable to the State in connection with ensuring protection of habitat under the terms of the Conservation Easement, and are particularly valuable because Assignor and Owner have agreed that Assignor will retain all responsibility for obligations of the Assignor under the Conservation Easement.

D. These recitals are incorporated herein by this reference.

Now, therefore, Assignor and the State agree as follows:

AGREEMENT

1. **Assignment.** For and in consideration of monies coming in whole or in part from the State of Washington and in fulfillment of terms of the Project Agreement identified herein, Assignor does hereby assign, transfer, set over, convey and deliver to the State individually, and as the representative of all the people of the State, the following rights (collectively referred to as "Rights") under the Conservation Easement the recording number of which is listed in *Exhibit 1* attached hereto and incorporated herein by this reference:



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a. **Access.** To enter the Conservation Zone, as defined in the Conservation Easement, through the Property subject to the Conservation Easement at a reasonable time and upon prior arrangement with Assignor and Owner, in order to monitor and evaluate performance, compliance, and/or quality assurance under the Project Agreement.

b. **Injunction and Restoration.** In the event of the failure of Assignor to undertake such injunction and restoration, to enjoin any use of, or activity in, the Conservation Zone which is inconsistent with the terms of the Conservation Easement, including trespass by members of the public, and undertake or cause to be undertaken the restoration of such areas or features of the Conservation Zone as may be damaged by uses or activities contrary to the provisions of the Conservation Easement.

c. **Enforcement.** In the event of the failure of Assignor to undertake such enforcement, to enforce the terms of the Conservation Easement, and thereby assume the Assignor's remedies under the Conservation Easement.

d. **Amendments.** To review and approve any proposed amendments to the Conservation Easement. Review and approval by WDFW's Director will be for compliance with the terms of the Project Agreement.

e. **Termination For Reasons of Impracticability.** To review and approve any proposed agreements to terminate the Conservation Easement, or release a portion of the Conservation Zone from the terms of the Conservation Easement, before expiration of the term of the Conservation Easement for the reason that circumstances have rendered the conservation purpose of the Conservation Easement impractical to achieve.

f. **Stewardship Plans.** To review any Stewardship Plans, including habitat restoration and enhancement plans, as defined in the Conservation Easement. Review by WDFW's Director will be for compliance with the terms of the Project Agreement.

These Rights shall be held in common with Assignor or Assignor's successors and assigns.

2. **State's Exercise of Rights.** The State hereby represents and warrants that its exercise of rights under this Assignment will be consistent with the conservation purpose defined in the Conservation Easement and the Project Agreement.

3. **Representations and Warranties of Assignor.** Assignor hereby represents and warrants to the State that:

a. Owner, identified in *Exhibit I* attached hereto and incorporated herein, has authorized and approved this Assignment.

b. Assignor shall enforce the terms of the Conservation Easement as provided in the Conservation Easement.

c. Assignor shall comply with, and be responsible for determining compliance with, all applicable laws and regulations, and WDFW shall not be



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regulations, and policies in its administration of the Conservation Easement or the undertaking of any of its rights under the Conservation Easement.

d. Neither Assignor nor Owner has any claims or causes of action, at law or in equity, with respect to any Conservation Easement as of the date provided above.

4. **Obligations.** It is expressly understood and agreed that, by the acceptance of this Assignment, the State has not assumed, and shall not become obligated to keep, fulfill, observe, perform or discharge, any duty or obligation of Assignor under the Conservation Easement.

5. **Indemnity.** Assignor shall defend, protect and hold harmless the State, the LIP, the WDFW, or any employees thereof, from and against any and all costs, claims, fees and expenses arising out of or in any way relating to Assignor's representations and warranties under this Assignment, Assignor's obligations under the Conservation Easement, or the acts by or omissions of Assignor or Owner.

6. **Replacement Property.** The Conservation Easement may be extinguished in whole or in part before expiration of its term (if any) under certain circumstances identified in the Conservation Easement. Assignor may be entitled to compensation in such event. Assignor shall use all such proceeds for acquisition, restoration and/or enhancement of substantially equivalent property or property interests. Assignor hereby agrees to consult with, and receive the approval of, the LIP and the WDFW in the selection of any replacement property and to assign to the State the same or substantially equivalent rights for access to and stewardship of the replacement property as provided for in this Assignment.

7. **Restriction on Assignment.** Assignor shall not assign the Conservation Easement, or the performance of any obligations to the State under the Conservation Easement, without the express written consent of the WDFW's Director.

8. **Assignment Term.** The term of this Assignment shall be the same as the term of the Conservation Easement, and shall expire upon the expiration date of the Conservation Easement (if any).

9. **Disputes.** Any disputes between Assignor and the State under this Assignment shall be governed by the terms of the Project Agreement.

10. **Governing Law/Venue.** This Assignment shall be governed by the laws of the State of Washington. In the event of a lawsuit between Assignor and the State involving this Assignment, venue shall be proper only in Thurston County. Assignor by executing this Assignment, acknowledges the jurisdiction of the courts of the State of Washington in this matter.

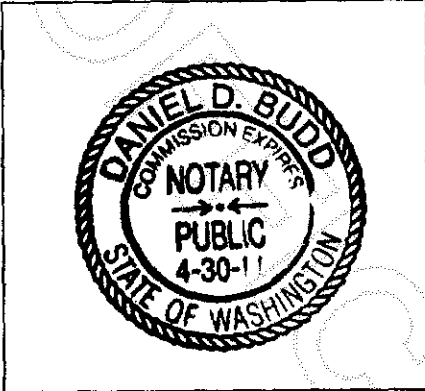
11. **Severability.** If any provision of this Assignment or any provision of any document incorporated by reference herein shall be held invalid, such invalidity shall not affect the other provisions of this Assignment which can be given effect without the invalid provision and to this end the provisions of this Assignment are declared to be severable.



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Lands Division Manager of
~~Landowner Incentive Program administered by~~ the Washington Department of Fish & Wildlife of the State of Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: September 4, 2008



(Use this space for notarial stamp/seal)

Daniel D. Budd

Notary Public

David D. Budd

Print Name

April 30, 2011

My commission expires

Residing in Olympia



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EXHIBIT 1

OWNER AND CONSERVATION EASEMENT RECORDING NUMBER

Name(s): Lawrence & Jeannette Maksin _____

Address: 4348 Blank Road _____

Sedro-Woolley, WA 98284 _____

Recording No.: 200807310098 _____

EXHIBIT 2

**LEGAL DESCRIPTION FOR PROPERTY
SUBJECT TO CONSERVATION EASEMENT**

That portion lying west of the Samish River as it lies July 12, 2007 of Track 5 of survey number 111-76 recorded under auditor's file number 840287 which is a portion of the East half of the Southeast quarter of the Northwest quarter and of the West half of the Southwest quarter of the Northwest quarter.



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