

When recorded return to:
Small Forest Landowner Office
Forest Practices Division
Dept. of Natural Resources
PO Box 47012
Olympia, WA 98504-7012



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Skagit County Auditor

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STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
DOUG SUTHERLAND, Commissioner of Public Lands

FORESTRY RIPARIAN EASEMENT
GUARDIAN NORTHWEST TITLE CO.
94892

Grantor(s): Ryan Tree Farm, L.L.C., a Washington Limited Liability Company
Grantee(s): State of Washington, Department of Natural Resources
Legal Description: Ptn. of Gov. Lot 5 and SW SW 27-35N-10E; and Ptn. N1/2 NW 34-35-10 E., W.M.
Assessor's Property Tax Parcels or Account Numbers: 351027-3-003-0007 (P45591) and 351034-2-001-0002 (P45724)
Easement No. 58-081583

THIS GRANT OF A FORESTRY RIPARIAN EASEMENT is made on this 7th day of October, 2008, by Ryan Tree Farm, L.L.C., a Washington Limited Liability Company, hereinafter called the "Grantor", having an address at 3541 NE 89th Street, Seattle, WA 98115, to and in favor of the STATE OF WASHINGTON, acting by and through the Department of Natural Resources, hereinafter called the "Grantee"

SECTION 1 RECITALS AND PURPOSE

1.1 This Easement is intended to implement the goals of the Forest Practices Salmon Recovery Act, ESHB 2091, sections 501 through 504, chapter 4, Laws of 1999 ("Salmon Recovery Act"). The goals include avoiding the further erosion of the small forest landowners' economic viability and willingness or ability to keep the lands in forestry use which would reduce the amount of habitat available for salmon recovery and conservation of other aquatic resources; through the establishment of a forestry riparian easement program to acquire easements from small forest landowners along riparian and other areas of value to the state for protection of aquatic resources.

1.2 This Easement is intended to protect all Qualifying Timber and the Riparian Functions associated with the Qualifying Timber located on the Easement Premises as provided by the terms of this Easement as set forth in Exhibit B while preserving all lawful uses of the Easement Premises by Grantor consistent with the Easement objectives, and to provide Grantee with the ability to enforce the terms thereof.

1.3 The Easement Premises and Qualifying Timber, are located as described in **Exhibit A**; that the encumbrances, if any, are as set forth in **Exhibit A**; that all Exhibits referenced herein and attachments thereto are incorporated into this Easement as part of this Easement; and Grantor wishes to execute this Forestry Riparian Easement.

SECTION 2 CONVEYANCE AND CONSIDERATION

2.1 In consideration of the mutual covenants contained herein, including without limitation the monetary consideration set forth in subsection 2.2 below, the Grantor does hereby voluntarily warrant and convey to the Grantee a Forestry Riparian Easement under the Salmon Recovery Act, which Easement shall remain in full force and effect from the date hereof until it expires on **September 10, 2051**, which Easement shall consist of the rights and restrictions expressly set forth herein.

2.2 In consideration of this Easement, Grantee shall pay to Grantor, or his/her/their assignee, the sum of **\$149,251.40**.

IN WITNESS WHEREOF Grantor and Grantee have executed this instrument on the day and year written.

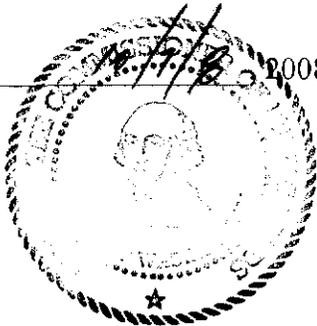
PAULINE L. RYAN, member of
Ryan Tree Farm, LLC

Dated: Sept. 16, 2008

By Pauline L. Ryan

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: 10/22/08 2008



Doug Sutherland
Commissioner of Public Lands

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

3459
OCT 22 2008

Amount Paid \$ 2661.68
Skagit Co. Treasurer
By man Deputy

Easement No. 58-081583

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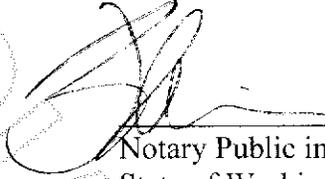
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ACKNOWLEDGEMENT

On this day personally appeared before me Pauline L. Ryan, to be known to be a member of Ryan Tree Farm, LLC, a Washington Limited Liability Company that executed the within and foregoing instrument, and acknowledged that said instrument to be in the free and voluntary act and deed of said Limited Liability Company, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute said deed.

Given under my hand and official seal this 16th day of September, 2008.




Notary Public in and for the
State of Washington, residing at: Seattle, WA

My appointment expires: 3-1-10

STATE OF Washington)
COUNTY OF King)§



EXHIBIT A

A1 DESCRIPTION AND LOCATION OF QUALIFYING TIMBER

The Qualifying Timber includes the following categories of trees located within the Easement Premises: Permanent Qualifying Timber. The Qualifying Timber is located as shown in the documentation attached hereto as Attachment A-1.

A2 DESCRIPTION AND LOCATION OF EASEMENT PREMISES

The Easement Premises is riparian area as shown in the documentation attached hereto as Attachment A-2 and is located in portions of the following tract described as follows:

Government Lot 5 and the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 27 and the North $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of Section 34, all in Township 35 North, Range 10 East, W.M., EXCEPT the County road right-of-way known as the Rockport-Cascade Road.

A3 BASELINE IDENTIFICATION, DESCRIPTION AND DOCUMENTATION OF EASEMENT PREMISES AND QUALIFYING TIMBER

The parties agree that the current use, condition of the Easement Premises and the condition of the Qualifying Timber are documented in the inventory of their relevant features and identified in Attachment A-3 ("Baseline Documentation"), and that this documentation provides, collectively, an accurate representation at the time of this grant and is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant.



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EXHIBIT B

FORESTRY RIPARIAN EASEMENT TERMS AND CONDITIONS

B1 DEFINITIONS

The terms used in this Easement, including without limitation the following, are defined by the forest practices rules in effect on the date of receipt of the forest practice application pertaining to this easement.

“Danger Tree”

“Easement Premises”

“Qualifying Timber”

“Hazard Substances”

“Riparian Areas”

“Riparian Function”

B2 RIGHTS OF GRANTEE

To accomplish the purposes of this Easement, the following rights are conveyed to Grantee by this Easement.

B2.1 To enforce the terms of this Easement as provided in subsection **B9**.

B2.2 To enter upon the Easement Premises, or to allow Grantee’s agents or any experts consulted by Grantee in exercising its rights under this Easement to enter upon the Easement Premises in order to evaluate Grantor’s compliance with this Easement, and to otherwise enforce the terms of this Easement.

B2.3 To convey, assign, or otherwise transfer Grantee’s interests herein to another agency of the State of Washington, as provided for and limited by Section 504 of the Salmon Recovery Act.

B3 RESTRICTIONS ON GRANTOR

B3.1 Inconsistent Uses of Riparian Easement Premises. Any use of, or activity on, the Easement Premises inconsistent with the purposes and terms of this Easement, including without limitation converting to a use incompatible with growing timber, is prohibited, and Grantor acknowledges and agrees that it will not conduct, engage in, or permit any such use or activity.

B3.2 Property Outside the Easement Premises. Grantor may change its use of the property on which the Easement lies to any lawful use. Grantor shall provide Grantee sixty (60) days notice prior to changing the use of the Property as a courtesy to Grantee.



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B3.3 Qualifying Timber. Grantor shall not engage in any activity which would result in the cutting of Qualifying Timber or the removal of that timber from the Easement Premises, except as provided in this Easement. The parties further agree that use, harvest, and treatment of the Qualifying Timber are restricted according to the forest practices rules in effect on the date of receipt of the forest practice application pertaining to this easement.

B3.4 Danger Trees and Salvage. Grantor may cut a Danger Tree, which shall be left in place within the Easement Premises or moved by Grantor inside the Easement Premises. Grantor shall notify DNR within seven (7) days that a Danger Tree has been felled. Grantor shall not engage in any activities pertaining to salvage of Qualifying Timber including without limitation blowdown except as provided for in the forest practices rules.

B4 RESERVED RIGHTS

Other than specifically provided herein, Grantor is not restricted in its use of the Easement Premises.

B5 PUBLIC ACCESS

No right of public access to or across, or any public use of, the Easement Premises or the property on which it lies is conveyed by this Easement.

B6 COSTS, LIABILITIES, TAXES, AND INDEMNIFICATION

B6.1 Costs, Legal Requirements, and General Liabilities. Except as is expressly placed on Grantee herein, Grantor retains full responsibility for the Qualifying Timber and Easement Premises. Grantor shall keep the Qualifying Timber and Easement Premises free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor. Grantor remains responsible for obtaining all permits required by law.

B6.2 Taxes and Obligations. Grantor shall remain responsible for payment of taxes or other assessments imposed on the Easement Premises or the Qualifying Timber. Grantor shall furnish Grantee with satisfactory evidence of payment upon request.

B6.3 Hold Harmless

B6.3.a Grantor. To the extent permitted by law, Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its employees, agents, and assigns from and against all liabilities, penalties, costs, charges, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including without limitation reasonable attorneys' fees arising from or in any way connected with: (a) injury or death of any person or any physical damage to property resulting from any act or omission, or other matter occurring on or relating to the Easement Premises or Qualifying Timber, caused solely by Grantor; (b) a breach by Grantor of its obligations under subsection B3; (c) the violation or



alleged violation of, or other failure to comply with, any state, federal, or local law or requirement by Grantor in any way affecting, involving, or relating to the Easement Premises or the Qualifying Timber; (d) the release or threatened release onto the Easement Premises of any substance now or hereinafter classified by state or federal law as a hazardous substance or material caused solely by Grantor.

B6.3.b Grantee. To the extent permitted by law, Grantee hereby releases and agrees to hold harmless, indemnify and defend Grantor and its employees, agents, and assigns from and against all liabilities, penalties, costs, charges, losses, damages, expenses, causes of action, claims, demands, orders, judgments or administrative actions, including without limitation reasonable attorneys' fees arising from or in any way connected with: (a) injury or death or any person or any physical damage to property resulting from any act or omission, or other matter occurring on or relating to the Easement Premises or Qualifying Timber, caused solely by Grantee; or (b) the release or threatened release onto the Easement Premises of any substance now or hereinafter classified by state or federal law as a hazardous substance or material caused solely by Grantee.

B7 SUBSEQUENT TRANSFERS

B7.1 Grantee. Grantee may assign, convey, or otherwise transfer its interest as evidenced in this Easement, but only to another agency of the State of Washington under any circumstances in which it determines, in its sole discretion, that such transfer is in the best interests of the state. Grantee shall give written notice to Grantor or the same within thirty (30) days of such conveyance, assignment, or transfer (provided that failure to give such notice shall not affect the validity of the assignment, conveyance, or transfer).

B7.2 Grantor. Grantor may assign, convey, or otherwise transfer without restriction its interest in the Easement Premises or the Qualifying Timber identified in Exhibit A hereto. Grantor agrees to incorporate the restrictions of the Easement in any deed or other legal instrument by which Grantor divests itself of all or a portion of its interests in the Easement Premises or Qualifying Timber. Grantor shall give written notice to the Grantee of the assignment, conveyance, or other transfer of all or a portion of its interest in the Easement Premises or the Qualifying Timber within thirty (30) days of such conveyance, assignment, or transfer (provided that failure to give such notice shall not affect the validity of the assignment, conveyance, or transfer).

B7.3 Termination of Grantor's Rights and Obligations. The Grantor's personal rights and obligations under this Easement terminate upon transfer of the Grantor's interest in the property on which the Easement lies or the Qualifying Timber, except that liability under the Easement for acts or omissions occurring prior to transfer shall survive transfer.

B8 DISPUTE RESOLUTION

The parties may at any time by mutual agreement use any nonbinding alternative dispute resolution mechanism with a qualified third party acceptable to Grantor and Grantee. Grantor



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and Grantee shall share equally the costs charged by the third party. The existence of a dispute between the parties with respect to this Easement, including without limitation the belief by one party that the other party is in breach of its obligations hereunder, shall not excuse either party from continuing to fully perform its obligations under this Easement. The dispute resolution provided for in this subsection is optional, not obligatory, and shall not be required as a condition precedent to any remedies for enforcement of this Easement.

B9 ENFORCEMENT

B9.1 Remedies. Either party may bring any action in law or in equity in the superior court for the county in which the Easement Premises are located or in Thurston County (subject to venue change under law) to enforce any provision of this Easement, including without limitation, injunctive relief (permanent, temporary, or ex parte, as appropriate) to prohibit a breach of this Easement, enforce the rights and obligations of this Easement, restore Qualifying Timber cut or removed in violation of this Easement or for damages. Grantee may elect to pursue some or all of the remedies provided herein.

B9.1.a Damages and Restoration. If Grantor cuts or removes (or causes another to cut or remove) Qualifying Timber from the Easement Premises in violation of this Easement, Grantee shall be entitled to damages, or restoration. Damages for the cutting of Qualifying Timber or the removal of Qualifying Timber from the Easement Premises in violation of the terms of this Easement may be up to triple stumpage value times the proportion of the original compensation. The maximum amount of damages shall be calculated according to the following formula:

$$\text{Maximum Damages} = 3 * S_v * (C / V_q)$$

Where:

S_v = The stumpage value of the Qualifying Timber that is cut or removed from the Easement Premises at the time the damage was done;

C = The compensation paid by the state to the Grantor at the time the Easement became effective;

V_q = The original value of Qualifying Timber at the time the Easement became effective as calculated in WAC 222-21-050.

In addition the Grantor shall pay interest on the amount of the damages at the maximum interest rate allowable by law.

Grantee's rights to damages under this section shall survive termination. Restoration of Qualifying Timber may include either replanting or replacing trees or both, as determined by Grantee, in its sole discretion, to be appropriate. Replanting shall be by nursery transplant seedlings approved by Grantee with subsequent silvicultural treatment including without



limitation weed control and fertilization approved by Grantee. Replacing trees shall be accomplished by designation of replacement trees of the size and species acceptable to Grantee. If replacement trees are designated to replace the Qualifying Timber cut or removed in violation of the terms of this Easement, the designated trees shall be thereafter treated as Qualifying Timber under this Easement.

B9.1.b Injunctive Relief. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement may be inadequate and that Grantee may be entitled to injunctive relief, both prohibitive and mandatory, in addition to 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.

B9.1.c Relationship to Remedies in Other Laws. The remedies provided for in this section are in addition to whatever other remedies the state may have under other laws including without limitation the Forest Practices Act. Nothing in this Easement shall be construed to enlarge, diminish or otherwise alter the authority of the state to administer state law.

B9.2 Costs of Enforcement. The costs, including reasonable attorneys' fees, of enforcing this Easement shall be borne by Grantee unless Grantee prevails in a judicial action to enforce the terms of this Easement, in which case costs shall be borne by Grantor, provided that nothing herein shall make Grantor liable for costs incurred by Grantee in taking enforcement actions pursuant to other state laws.

B9.3 Forbearance/Waiver. Enforcement of this Easement against the Grantor is at the sole discretion of the Grantee, and vice versa. Any forbearance by either party to exercise its rights hereunder in the event of a breach by the other party shall not be deemed a waiver by the forbearing party of the term being breached or of a subsequent breach of that term or any other term or of any other of the forbearing party's rights under this Easement.

B9.4 Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription.

B9.5 Acts Beyond Grantor's Control. Nothing herein shall be construed to entitle Grantee to bring any action or claim against Grantor on account of any change in the condition of the Easement Premises or of the Qualifying Timber that was not within Grantor's control, including without limitation fire, flood, storms, insect and disease outbreaks, earth movement, or acts of trespassers, that Grantor could not reasonably have anticipated and prevented, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Premises or Qualifying Timber resulting from such causes. In the event the terms of this Easement are violated by acts of trespassers that Grantor 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.



B10 CONSTRUCTION AND INTERPRETATION

B10.1 Controlling Law. Interpretation and performance of this Easement shall be governed by the laws of the State of Washington.

B10.2 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 purposes of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. The parties acknowledge that each has had an opportunity to have this Easement reviewed by an attorney and agree that the terms shall not be presumptively construed against either party.

B10.3 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.

B11 AMENDMENT

This Easement may be jointly amended. The amendments shall be in writing and signed by authorized representatives. Grantee shall record any such amendments in timely fashion in the official records of Skagit County, Washington. All amendments shall be consistent with the purposes of this Easement.

B12 TERMINATION

Grantee may unilaterally terminate this Easement if it determines, in its sole discretion, that termination is in the best interests of the State of Washington. Grantee shall provide thirty (30) days written notice to Grantor of such termination.

B13 EXTINGUISHMENT

If circumstances arise that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, in whole or in part, by mutual agreement of the parties or through judicial proceedings brought by one of the parties. Grantee shall be entitled to the value of the Easement as such value is determined pursuant to forest practices rules governing extinguishments or eminent domain, if no rule for extinguishments exists.

B14 CONDEMNATION

If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, Grantee shall be entitled to compensation in accordance with the forest practices rules.



B15 NOTICE

Notices given pursuant or in relation to this Easement shall be in writing and delivered personally or by first class mail (postage pre-paid), addresses as follows:

- (a) If to Grantor: Pauline L. Ryan
3541 NE 89th Street
Seattle, WA 98115
- (b) If to Grantee: Washington State Department of Natural Resources
Small Forest Landowner Office
DNR-Forest Practices Division
PO Box 47012
Olympia, WA 98504-7012

If either party's address changes during the term of this Easement, that party shall notify the other party of the change.

Any notice required to be given hereunder is considered as being received: (i) if delivery in person, upon personal receipt by the person to whom it is being given; or (ii) if delivered by first class U.S. mail and properly addressed, three (3) days after deposit into the U.S. mail; or (iii) if sent by U.S. mail registered or certified, upon the date receipt is acknowledged by the recipient.

B16 RECORDATION

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

B17 GENERAL PROVISIONS

B17.1 Severability. If any provision in this Easement, or the application hereof to any person or circumstance, is found to be invalid, the remainder of this Easement, or the application hereof to other persons or circumstances shall not be affected thereby and shall remain in full force and effect.

B17.2 Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement. This instrument supersedes all other and prior discussions, negotiations, understandings, or agreements of the parties. No alteration or variation of this instrument shall be binding unless set forth in an amendment to this instrument consistent with subsection **B11**.

B17.3 Successors and Assigns. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon and inure to the benefit of the Grantor, Grantee, and their



respective successors and assigns and shall continue as a servitude running with the property on which the Easement lies for the term of this Easement set forth in subsection 2.1.

B17.4 No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

B17.5 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 as against the party that has signed it. In the event of any disparity between counterparts produced, the recorded counterpart shall be controlling.

B17.6 References to Statutes and Rules. Except as otherwise specifically provided, any references in this Easement to any statute or rule shall be deemed to be a reference to such statute or rule in existence at the time the action is taken or the event occurs.

B17.7 Adherence to Applicable Law.

Any activity pertaining to or use of the Easement Premises or Qualifying Timber shall be consistent with applicable federal, state, or local law including chapter 76.09 RCW, the Forest Practices Act chapter 36.70A RCW, the Growth Management Act, chapter 90.58 RCW, the Shoreline Management Act, chapter 75.20 RCW, Construction Projects in State Waters Act ("Hydraulics Code"), the Endangered Species Act (16 U.S.C. Sec. 1531, et seq.), and the Clean Water Act (33 U.S.C. Sec. 1251, et seq.), and rules adopted pursuant to these statutes (including all rules adopted under Section 4(d) of the Endangered Species Act).

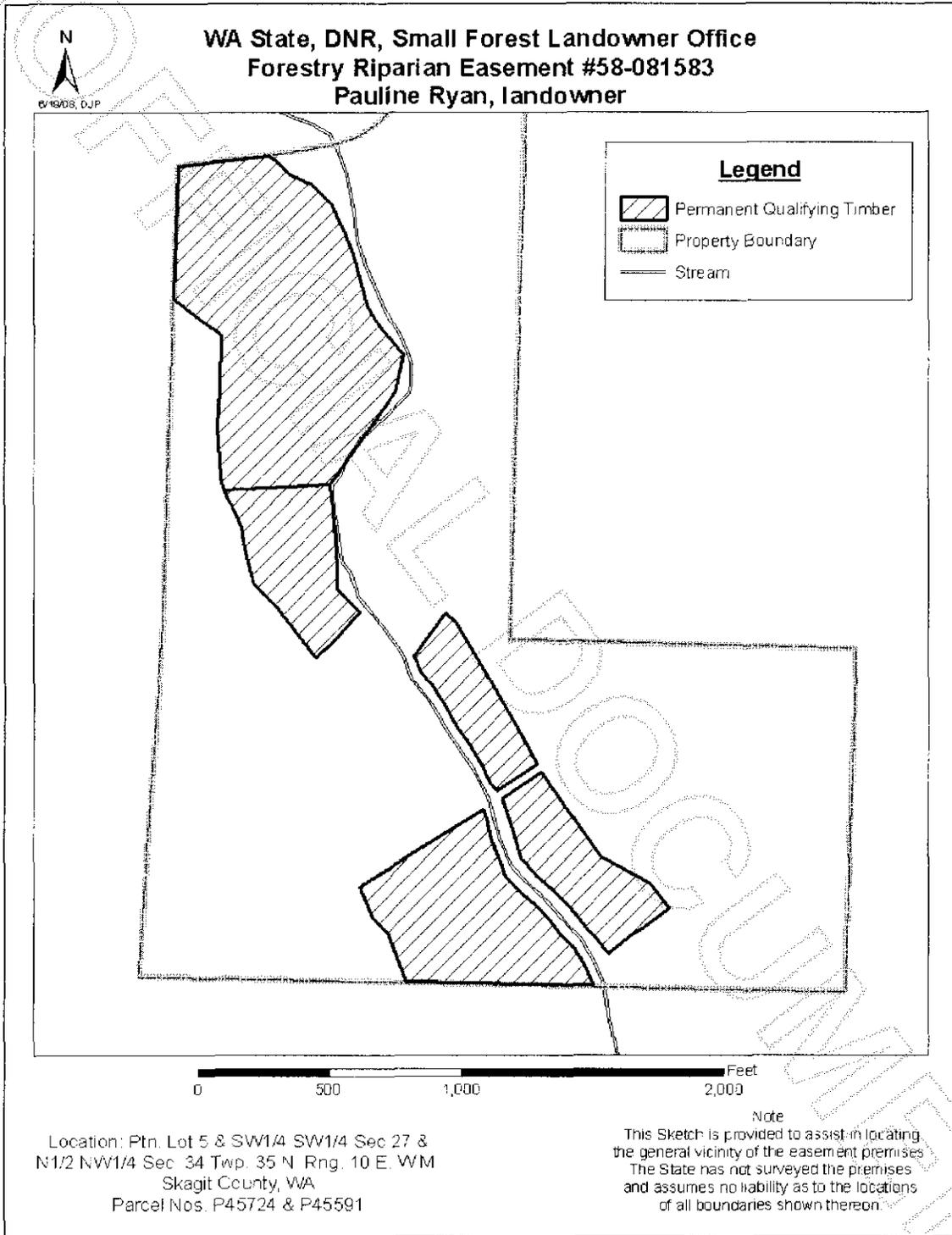


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ATTACHMENT A1

Permanent Qualifying Timber is located within all of the easement premises as described and shown on the sketch below.



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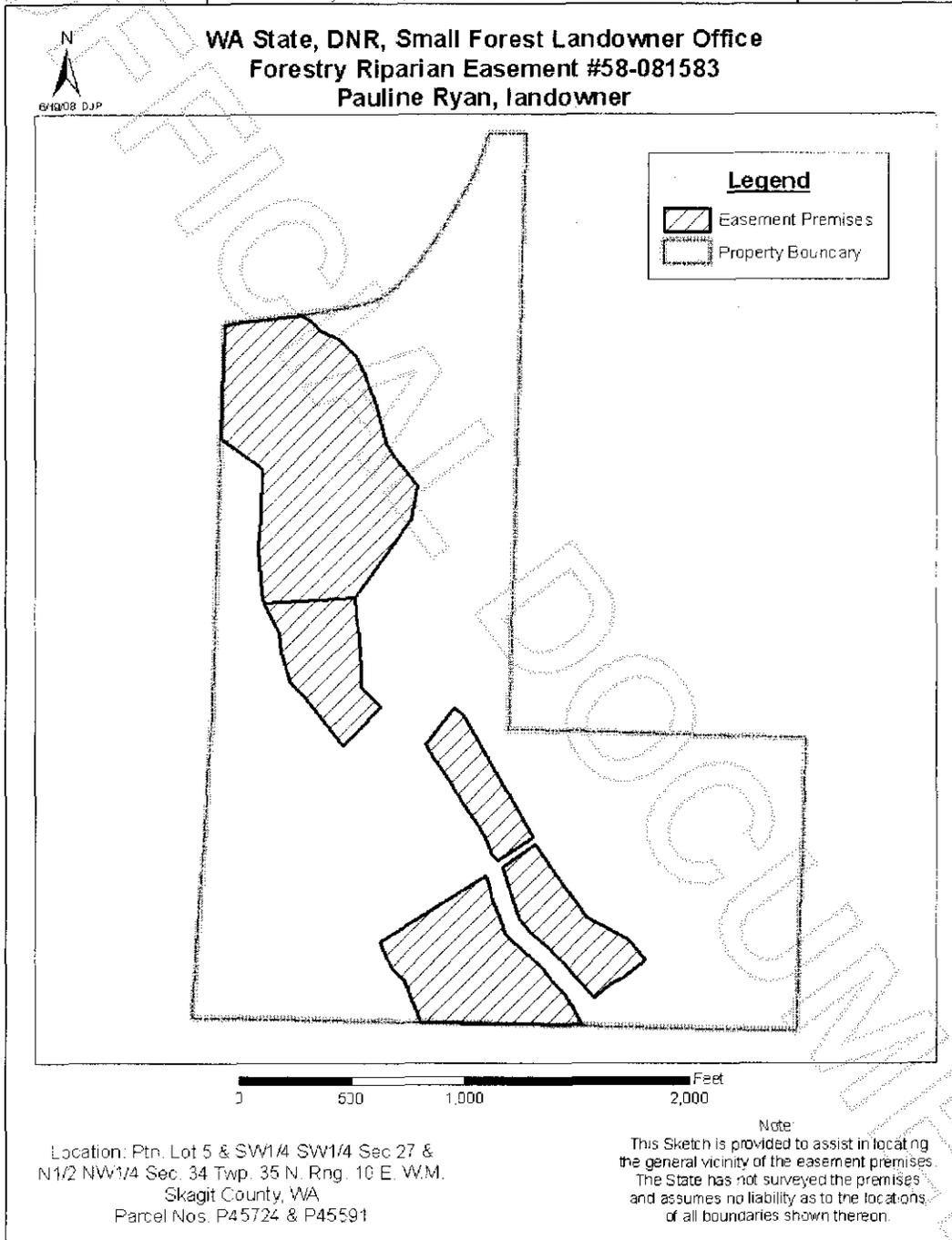


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ATTACHMENT A2

Riparian Easement Premises

Those areas that were required to be left unharvested under the current Forest Practices Rules adopted under RCW 76.09.055 or 76.09.370 and as conditioned under Forest Practices Application (FPA) Number 2804770 effective October 16, 2001; FPA No. 2807624 effective June 16, 2005; FPA No. 2807975 effective September 28, 2005; and FPA No. 2808279 effective April 4, 2006.



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ATTACHMENT A-3

BASELINE DOCUMENTATION

The purpose of this document is to record the features and current uses on the easement premises and qualifying timber. This document is to be attached and becomes a part of the Forestry Riparian Easement deed. Both parties agree that this documentation provides an accurate representation at the time of the easement contract execution.

Landowner Name: <u>Pauline Ryan</u>	
Easement File # <u>58-0081583</u>	FPA(s) # <u>2804770, 2807624, 2807975, 28008279</u>
Stream Type(s) <u>F</u>	Wetland Type(s) _____

1. General description of easement premises:

The easement premise is located within the flood plain of the Skagit River. It occupies a portion of the CMZ at the confluence of the Skagit River and Illabot Creek. A portion of the premise is within the active CMZ. The timber type is mostly Red alder and Black Cottonwood. Within the RMZ buffer of Illabot there is a stand of mature timber, mainly western hemlock and Douglas fir. This timber stand was left from the original logging either as a seed block or an area that was isolated by Illabot Creek. A portion of Illabot Creek is diked by the county for protection of a county bridge.

2. Existing site conditions, qualifying timber, and associated riparian functions:

a.) Vegetative composition of easement area:

% of Easement	Layer	Species Composition (by %)	Avg. Height	Avg. DBH
80%	Overstory	DF old mature 35%	128	33
		old mature WH 20%	120	31
		DF Second growth 20%	105	19
		BLM 10%	83	34
		RA 15%	54	10
		Western red cedar	41	9
20	Understory	RA	34	5
	Groundcover			



b.) **Current condition of qualifying timber:** mature old forest characteristic and second growth

c.) **Stability of landforms: Is there evidence of unstable soils or mass wasting within the easement premises?** No Yes If yes, describe: _____

d.) **Stream description by stream reach:** (describe stream channel delineations (e.g. Bank Full Width or Channel Migration Zone) and stream bed conditions (e.g. gravel/cobble, boulder/bedrock, mud/silt, tidal influence, etc.): stream channel is made up of gravel cobble and bed rock with a CMZ used for determining the RMZ location.

3. **Are there any potentially hazardous materials or solid waste located on-site?**

No Yes **Comments:** _____

4. **Are there any qualifying timber marked or zone boundaries marked within the easement premises by the landowner?** No Yes If yes, describe the markings: _____

5. **Describe other current uses of the easement premises, if any.** (Examples: grazing, recreation, mining, agriculture, Christmas trees, etc.) The County maintains an easement for the maintenance of dikes on both sides of Illabot creek. The dikes are for protection of a County road and bridge.

6. **Describe any features or structures, such as buildings, public or private roads, trails, fences, utility corridors within or adjacent to the easement premises.** _____

7. **Additional comments.** _____

This information has been provided by the Small Forest Landowners Office Program Specialist:
Boyd Norton

Date: 12/19/2008

