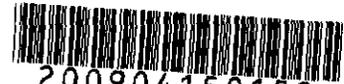


Return Address:

SKAGIT LAND TRUST
PO BOX 1017
MOUNT VERNON WA 98273



200904150152
Skagit County Auditor

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LAND TITLE OF SKAGIT COUNTY

132963-SAE

Document Title(s) (for transactions contained therein):

1. GRANT DEED OF CONSERVATION EASEMENT
- 2.
- 3.
- 4.

**Reference Number(s) of Documents assigned or released:
(on page of documents(s))**

Grantor(s)

1. WILLIAM H TURNER
2. SALLY C TURNER
- 3.
- 4.

Additional Names on page of document.

Grantee(s)

1. SKAGIT LAND TRUST
- 2.
- 3.
- 4.

Additional Names on page of document.

Legal Description (abbreviated i.e. lot, block, plat or section, township, range)

PTN SW1/4 of NE 1/4, 12-34-1 E W. M.

Additional legal is on page of document.

Assessor's Property Tax Parcel/Account Number

P19299

The Auditor/Recorder will rely on information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

When recorded return to:

Skagit Land Trust
P. O. Box 1017
Mt. Vernon, WA 98273

LAND TITLE OF SKAGIT COUNTY

Grantor: William H. Turner and Sally C. Turner

Grantee: Skagit Land Trust

Brief Legal Description: Ptn SW ¼ of NE ¼, 12-34-1 E W.M.
Full legal description shown in Exhibit A.

Assessor's Tax Parcel and I.D. No: 340112-1-003-0109/P19299

GRANT DEED OF CONSERVATION EASEMENT

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 15 day of April 2009 ("Easement"), by William H. Turner and Sally C. Turner, husband and wife, in favor of the Skagit Land Trust, a Washington nonprofit corporation qualified to do business in Washington, having an address at P. O. Box 1017, Mt. Vernon, WA 98273 ("Grantee").

I. RECITALS

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

B. The Protected Property consists of approximately 12 (twelve) acres, that is the northerly portion of the Grantor's property. It is a mix of open rocky slopes with patches of forest. It is located on the south slope of Mount Erie, ranging from approximately 400 feet to 850 feet in elevation. The forest consists of healthy second growth native stands of mixed hardwoods and maturing conifers approximately 60 to 75 years old. The natural rocky openings are characterized by plant communities typical of dry 'balds' in the San Juan Islands, including Pacific madrone mixed with remnants of open 'prairie grasslands'. The Protected Property contains no structures or other improvements except two public foot trails, and it exists in a substantially undisturbed natural state and harbors a diversity of native animals and plants.

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

Easement
APR 15 2009



200904150152
Skagit County Auditor

Amount Paid \$
Skagit Co. Treasurer
By *UAM* Deputy

C. Because of its location and orientation, the Protected Property would be desirable for more intensive uses and timber harvest inconsistent with conservation. In the absence of this Easement, the scale and location of residential development, commercial logging, and other more intensive uses of the Protected Property could destroy or diminish its natural character and open-space qualities and its ecological value.

D. The Protected Property is on the side of Mount Erie and adjacent to Anacortes Community Forestlands (ACFL), which consists of more than 1,575 acres of public lands managed by the City of Anacortes Parks Department and protected with conservation easements held by Skagit Land Trust. Mount Erie is a popular destination for outdoor enthusiasts, and contains sensitive plant and animal species including a nesting pair of peregrine falcons. The natural beauty and productive ecosystems of ACFL and Mount Erie are important to citizens who visit from all over the western Washington region. The Protected Property provides an undeveloped buffer to these important public lands and expands the undisturbed habitat area.

E. The Protected Property has important scenic values and enhances the open-space character of Skagit County, providing a natural and wooded setting that can be enjoyed by the general public from Campbell Lake Road and the summit of Mount Erie.

F. The Protected Property contains two-foot trails that are intended for public recreation. The South Mount Erie Trail crosses the Protected Property from east to west, and the Sunrise Trail runs north from the Mount Erie Trail to the Anacortes Community Forest Lands. Grantor has gifted a perpetual easement for these trails to the City of Anacortes to ensure that the public may enjoy continued hiking access and recreational enjoyment of the Protected Property and the adjacent public lands. Said easement was recorded under Skagit County Auditor's file number 200810100005.

G. The Protected Property is in the watershed of Lake Campbell and Lake Erie, which empty into Puget Sound. The Washington State legislature in RCW 90.70.001 has recognized "that Puget Sound and related inland marine waterways of Washington State represent a unique and unparalleled resource. A rich and varied range of marine organisms, composing an interdependent, sensitive communal ecosystem reside in these sheltered waters." The legislature has further recognized that residents of this region enjoy a way of life centered around the waters of Puget Sound which depends upon a clean and healthy marine resource. Restrictions on the uses of the Protected Property would benefit Puget Sound because it would decrease soil erosion and nonpoint source pollution by limiting land clearing and road building, thereby reducing contamination in surface water runoff.

H. The declared policies of Skagit County in the Critical Areas Ordinance of Skagit County (SCC §14.24.20), as adopted July 24, 2000, or as amended, is "to assist in orderly development, conserve the value of property, safeguard the public welfare, and provide for the protection of the quality and quantity of groundwater used for public water supplies (RCW 36.70A.070(1)) and provide protection for the following critical areas. . . Wetlands, Frequently Flooded



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Areas . . . and Fish and Wildlife Habitat Conservation Areas. . . . It is the purpose of this Chapter to protect, restore where practical, and enhance fish and wildlife populations and their associated habitats.”

I. The specific Conservation Values are documented in an inventory of relevant features of the Protected Property, dated April 13, 2009, a copy of which is on file at the offices of both Grantor and Grantee, is signed by each party, and is incorporated into this Easement by this reference (“Baseline Documentation”). The Baseline Documentation consists of reports, maps, photographs, and other documentation that provide, collectively, an accurate representation of the Protected Property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant. Grantor and Grantee further agree that, within twelve (12) months of the execution hereof, a collection of additional Baseline Documentation may be compiled by Grantee, and incorporated herein by this reference. Failure to timely compile the additional Baseline Documentation shall not affect the enforceability or validity of any other provision hereof. A summary of said documentation is contained in Exhibit C (“Baseline Report Summary”). Any characterization of the timing of this Easement contained in the Baseline Documentation shall not be interpreted so as to alter, amend or otherwise modify this Easement. In any conflict or inconsistency between the terms of this Easement and the Baseline Documentation, the Baseline documentation shall prevail.

J. Grantor intends that the Conservation Values of the Protected Property be preserved and maintained by the continuation of uses and activities on the Protected Property that do not significantly impair or interfere with the Conservation Values. These current and future uses consist of, but are not limited to: restoration and enhancement of forest and other plant communities as habitat for wildlife and native flora, as well as for open space and scenic qualities and maintenance and public use of the existing trails described herein. On the portion of Grantor’s ownership south of the Protected Property, Grantor intends to use the land for construction and maintenance of up to three single-family residences and retains all rights associated with said use. These current and future uses are consistent with this Easement.

K. Grantor, owner in fee of the Protected Property, has the right to identify, protect, and preserve in perpetuity the Conservation Values of the Protected Property, and desires to transfer such rights to Grantee.

L. Grantee is a publicly supported, tax-exempt nonprofit organization, qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code of 1986, as amended, and also qualified as a nonprofit nature conservancy corporation under RCW 64.04.130 and 84.34.250, whose primary purpose is to preserve open space, wildlife habitat, wetlands, forestland, farmland, shoreline and scenic views.

M. Grantee agrees by accepting this grant to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the Conservation Values of the Protected Property for the benefit of this generation and the generations to come.

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



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II. CONVEYANCE AND CONSIDERATION

A. For the reasons stated above, and in consideration of the mutual covenants, terms, conditions, and restrictions contained herein, Grantor hereby voluntarily grants, conveys, and warrants to Grantee a conservation easement in perpetuity over the Protected Property, consisting of the rights in the Protected Property, hereinafter enumerated, subject only to the restrictions set forth herein ("Easement").

B. This conveyance is a conveyance of an interest in real property under the provisions of RCW 64.04.130, and is made as an absolute, unconditional, unqualified, and completed gift subject only to the mutual covenants and terms, conditions, and restrictions hereinafter set forth, and for no other consideration.

C. Grantor expressly intends that this Easement runs with the land and that this Easement shall be binding upon Grantor's personal representatives, heirs, successors, and assigns.

III. PURPOSE

A. **The Conservation Purposes.** The purpose of this Easement is to preserve and protect forever the scenic, open-space, natural character and ecological values, including the native forest and natural rocky outcroppings of the Protected Property. Grantor and Grantee intend that this Easement will confine the use of the Protected Property to activities that are consistent with the Purposes of this Easement and will prohibit and prevent any use of the Protected Property that will materially impair or interfere with the Conservation Values of the Protected Property.

B. **Public Access.** Preservation of the Protected Property will enhance the general public's visual access to natural, undeveloped environments. Nothing contained herein, however, shall be construed as affording the general public physical access to any portion of the Protected Property except the across the public trail described herein.

IV. RIGHTS CONVEYED TO GRANTEE

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

A. **Identification and Protection.** To identify, preserve and protect in perpetuity and to enhance by mutual agreement the Conservation Values of the Protected Property;

B. **Grantee Access.**

B.1. For the purposes of ingress and egress to the Protected Property, Grantee and Grantee's representatives and agents may use Grantor's access easements across private land from



Campbell Lake Road, and may cross Grantor's contiguous property to enter upon the Protected Property annually, at a mutually agreeable time and upon prior written notice to the Grantor, for the purpose of making a general inspection to assure compliance with this Easement, and to locate, install or replace markers identifying the boundary of this Easement.

B.2. For the purposes of ingress and egress to the Protected Property, Grantee and Grantee's representatives and agents may use Grantor's access easements across private land from Campbell Lake Road, and may cross Grantor's contiguous property to enter upon the Protected Property at such other times as are necessary if there is reason to believe that a violation of the Easement is occurring, for the purposes of enforcing the provisions of this Easement.

C. **Scientific/Educational Use.** For the benefit of the public, to allow a limited number of persons to enter upon the Protected Property for scientific and biological purposes to observe and study on the Protected Property, provided that any such persons must first make a written request for approval to enter upon the Protected Property from the Grantor. Grantor retains the right to stipulate the timing of such visits and the size of any group of persons visiting the Protected Property. Such persons shall agree to provide the Grantor with copies of any data or reports resulting from such research, and agree to abide by any restrictions on access set forth by the Grantor.

D. **Injunction and Restoration.** To seek to enjoin any activity on, or use of, the Protected Property by any person or entity which is inconsistent with this Easement, including trespasses by members of the public, and to undertake or cause to be undertaken the restoration of such areas or features of the Protected Property as may be damaged by activities contrary to the provisions hereof, all in accordance with Article VIII (Grantee's Remedies).

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

V. RESTRICTIONS AND RESERVED RIGHTS

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



B. Land Use. Land uses are limited on the Protected Property as described below.

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

- i. **Mining.** Surface or subsurface mining, or mining exploration of any kind whatsoever, including excavation or removal of sand, gravel or rock, except the study of any
- ii. **Motorized Vehicles.** Operation of off road vehicles, all terrain vehicles, motorcycles or other type of motorized recreational vehicles, or the operation of other sources of excessive noise pollution *except* for equipment normally used for proper maintenance and associated with activities permitted in this section;
- iii. **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 including the use of manure lagoons or disposal of wastewater in manners inconsistent with the terms of this Easement.
- iv. **Structures.** The placement or construction of any buildings, structures, or other improvements of any kind (including, without limitation, residential buildings, storage buildings, roads, utilities and parking lots);
- v. **Crop Cultivation.** The cultivation of any crops including timber products, nursery stock, fruit and vegetables, row crops, and livestock feed;
- vi. **Application of Agricultural Chemicals.** The application of agricultural chemicals including fertilizers, animal wastes and pesticides;
- vii. **Wildlife Disruption.** The intentional disruption of native wildlife breeding and nesting activities;
- viii. **Domestic Animals.** The keeping of domestic animals, including grazing livestock;
- ix. **Alteration of Land.** The alteration of the surface of the land, including, without limitation, the excavation or removal of soil, sand, gravel, rock, peat, or sod are prohibited, except for the study of any incidental archeological findings;
- x. **Introduced Vegetation.** The intentional introduction of nonnative or invasive plant species.
- xi. **Waste Disposal.** The disposal or storage of rubbish, garbage, debris, hydrocarbons, pesticides, animal or human waste, abandoned vehicles or equipment or parts thereof or other unsightly, offensive, or hazardous waste or material is prohibited.

B.2. Removal of Trees and Other Vegetation. The pruning, topping, cutting down, burning or other destruction or removal of live and dead trees and other vegetation is prohibited on the Protected Property. This prohibition includes harvesting or cutting trees for lumber, firewood or Christmas trees, as well as cutting or digging of trees, shrubs or herbs for commercial sale; *except* that such activities are permitted for: (1) educational or research activities consistent with the purpose of the Easement; (2) in association with permitted uses in Sections B.4.i. (Trails), B.4.iv. (Fences), B.3. (Habitat Restoration and Forest Management); or (3) trees or other vegetation that pose a threat to property, public health and safety of neighbors, the general public or users of the Protected Property may be trimmed or removed. A certified arborist shall arbitrate any disagreement regarding the identification of hazardous or diseased trees.



B.3. Habitat Restoration and Forest Management. Grantor may conduct management practices designed to enhance or restore naturally occurring habitats. Such activities include; planting native species of trees and shrubs; as well as removal of plants that are listed as noxious plants by the State of Washington Department of Agriculture or other non-native invasive species such as Himalayan blackberries; thinning or topping of existing trees, *provided* that any cut or down trees are not removed from the Protected Property. Any such management activities to be performed on the Protected Property that involve major earth moving, water course alteration or the cutting, topping, or pruning of trees, shall be subject to prior written approval of Grantee, as described in Section VI.8. ("Written Approval"). Grantor may submit to Grantee, for review and approval, a Management plan that describes the habitat enhancement objectives and a suite of specific proposed practices.

B.4. Specific Allowed Activities and Uses. The following are specific activities and uses that are allowed on the Protected Property provided they are conducted in a manner and intensity that does not adversely impact the Conservation Values of the Protected Property:

- i. Trails. Foot trail construction, renovation and maintenance provided that such trails shall not exceed four feet in width;
- ii. Recreation. Low impact recreation (such as hiking, dog walking or bird watching), including use by the public of the trails described in Exhibit C;
- iii. Hunting. Hunting by Grantor and guests in compliance with all federal, state and local regulations;
- iv. Fences. Construction, repair and replacement of fences to protect plantings, contain livestock or to preserve or protect the Conservation Values of the Protected Property *provided*, Grantor shall exercise reasonable effort to construct and maintain fences that will not harm or trap wildlife, and that allow for the safe passage of wildlife across the Protected Property.

B.5. Signage. Placement of commercial signs, billboards, or other advertising material is prohibited *except* to notify of the sale or lease of the property. Signs are allowed that inform the public about the conservation values of the property, trail location and use, or to state the conditions of access to the Protected Property such as no hunting or trespassing, or to declare that a Conservation Easement has been placed on the property.

B.6. Emergencies. Activities necessary to protect public health or safety on the Protected Property or adjacent property, or which are actively required by and subject to compulsion of any governmental agency with authority to require such activity are allowed, provided that any such activity shall be conducted in a manner that protects the Conservation Values of the Protected Property to the greatest practicable extent, taking into account all the surrounding circumstances.

C. **Subdivision**. The Protected Property is a portion of an eighteen-acre parcel owned by Grantor. The Protected Property is defined as the area north of the boundary that transects the 18-acre parcel from east to west ("Conservation Easement Boundary"), as shown and described in Exhibits A. (Legal Description), and B. (Site Map). Subdivision and all other means of



dividing or conveying of the Protected Property as described below is subject to the prior Written Approval by Grantee, and is permitted *only as described below*:

C.1. Adjacent homesites. Subdivision may occur on the larger, eighteen acre parcel south of the Conservation Easement Boundary to create separate residential sites; *however*, the Protected Property shall remain in unified ownership, which may be joint or undivided, but without division, partition, subdivision, or other legal or defacto creation of lots or parcels in separate ownership. Pursuant to V.5.B.1.iv. (structures) and V.5.B.2 (removal of vegetation) above, all building sites and associated structures shall be located south of the Conservation Easement Boundary.

Prior to commencing any land clearing or residential development on the eighteen acre parcel, Grantor shall notify Grantee, and work in good faith with Grantee to accurately locate and permanently mark the Conservation Easement Boundary on the Property.

C.2. Conveyance to conservation ownership. Any portion of the Protected Property may be conveyed to an entity that meets the qualifications under the provisions of RCW 64.04.130, for permanent conservation ownership by such qualified entity and the continuation of the terms of this Easement;

C.3. Boundary Line Adjustments. Grantor may enter into boundary line adjustments with adjoining lands, *provided* that such boundary line adjustments do not result in any net loss of acreage to the Protected Property and do not adversely impact the Conservation Values on the Protected Property. No new parcel may be created by such boundary line adjustments. Any new land gained through a boundary line adjustment shall be made subject to the terms of this Easement and shall be considered an extension of, and governed by, the provisions related to this Easement.

D. **Development Rights**. Grantor shall not: (1) exercise its development rights on the Protected Property; (2) transfer such development rights to any other property; or (3) otherwise use such development rights or the area of the Protected Property for the purpose of calculating permissible lot yield of any property; *except*, the Protected Property is a portion of an eighteen acre parcel owned by Grantor, and Grantor reserves the right to utilize up to three development rights that may be associated with this parcel to build no more than three single-family residences on the eighteen-acre parcel. Pursuant to V.5.B.1.iv. (structures) and V.5.B.2 (removal of vegetation) above, all building sites and associated structures shall be located south of the Conservation Easement Boundary.

VI. NOTICE AND APPROVAL

A. **Notice**. Grantor shall give notice to, or shall notify Grantee ("Notice"), and receive Grantee's Written Approval prior to undertaking certain permitted activities provided in Sections V.B.3. (Habitat Restoration and Forest Management) and V.C. (Subdivision), as set forth in this Article VI. The purpose of requiring Grantor to notify Grantee prior to undertaking



certain permitted uses and activities is to afford Grantee an opportunity to ensure that the use or activity in question is designed and carried out in a manner consistent with the purposes of this Easement. Whenever Notice is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the use or activity in question. The Notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

B. Approval. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request for approval ("Written Approval"). Grantee's approval may be withheld upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purposes of this Easement. Grantee's approval may include conditions which must be satisfied in undertaking the proposed use or activity. If Grantor must undertake emergency action to protect health or safety on the Property or must act by and subject to compulsion of any governmental agency, Grantor may proceed with such action without Grantee's approval only if Grantor notifies Grantee prior to taking such action and Grantee cannot provide its approval, with or without conditions, within such time as is reasonable under the circumstances.

C. Grantee's Failure to Approve or Withhold Approval Within the Required Time. Where Grantee's approval is required, and if Grantee does not grant or withhold its approval in the time period and manner set forth herein, Grantor may assume Grantee's approval of the permitted use or activity in question.

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

To Grantors:

Bill and Sally Turner
4401 Anaco Beach Pl.
Anacortes, WA 98221

To Grantee:

Skagit Land Trust
P. O. Box 1017
Mt. Vernon, WA 98273

or to such other address as either party from time to time shall designate by written notices to the other. Any notice transmitted by prepaid U.S. Mail addressed to the addressee above shall deemed received on the third working day thereafter or when actually received, whichever is earlier.



VII. DISPUTE RESOLUTION

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

A. Either party may give written notice to the other party of a dispute and request that the matter be subject to mediation with the mediator to be selected from those available from a recognized dispute resolution center or mediation service, with each party to pay 50% of the mediator's fees. Both parties shall meet in good faith as is reasonably requested by the mediator in an attempt to resolve the dispute. Thirty (30) days after appointment of a mediator, if no resolution has been reached to the mutual satisfaction of the parties, either party may pursue private arbitration as set forth below in section VII (B).

B. Any arbitration shall be conducted privately pursuant to Washington State statutes, Washington Superior Court Rules and Skagit County Local Rules for Mandatory Arbitration, no matter the amount in controversy or the remedy sought. The arbitrator shall have full powers in law and equity to award damages, declare rights and liabilities, prohibit acts, require that acts be performed or to enjoin any activity or use. To commence arbitration, a party may commence an action in Skagit County Superior Court to compel arbitration. The arbitrator's award shall include an award of attorney's fees and costs to the prevailing party and shall be subject to appeal only pursuant to the provisions of Chapter 7.04A RCW now or as hereafter amended. The prevailing party in any appeal shall receive its attorney's fees and costs. The court shall have full jurisdiction to enforce the arbitrator's decision, including Civil and Criminal contempt.

C. The foregoing notwithstanding, either party may commence an action in Superior Court (whether mediation or arbitration has commenced or not) to seek a temporary injunction or preliminary injunction pursuant to Washington State Laws and the Superior Court Rules. The Court shall have exclusive jurisdiction to hear such temporary or preliminary injunction matters and the Superior Court's decision with respect to such injunction requests shall stand until a hearing on the merits is conducted before the arbitrator and an arbitrator's award is made. The prevailing party in any request for a temporary injunction or preliminary injunction shall be awarded its attorney's fees and costs related thereto by the Superior Court irrespective of the ultimate outcome of the dispute before the arbitrator. The Court shall enter an injunction at any time it is shown by a preponderance of the evidence that a violation of the terms of this easement will cause any injury to the conservation values protected by this easement.

VIII. GRANTEE'S REMEDIES

A. **General.** Grantor and Grantee are presumed to have a common interest in the reasonable application of the terms of this Easement to the Protected Property and the parties undertake the grant and acceptance of the Easement in a spirit of cooperation which



presupposes regular consultation between Grantor and Grantee, not less frequently than annually. Grantor and Grantee shall be bound by agreements as to the interpretation of this Easement that are set forth in writing and recorded in the minutes and records of the Skagit Land Trust or its successor.

B. Notice of Failure. If Grantee determines that the Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Protected Property so injured.

C. Grantor's Failure to Respond. If Grantor: (1) fails to cure a violation within thirty (30) days after receipt of a notice thereof from grantee or under circumstances for which the violation cannot be reasonably cured within the thirty (30) day period, fails to commence curing such violation within thirty (30) days of notice; or fails to continue diligently to cure such violation until finally cured; Grantee may then invoke dispute resolution as set forth in Article VIII. above.

D. Grantee's Action. Pursuant to Article VIII., Grantee may bring action in Skagit County Superior Court to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including damages for the loss of the Conservation Values; and to require the restoration of the Protected Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Protected Property.

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

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



G. Costs of Enforcement. In the event that grantee enforces the terms of this easement, the cost of restoration and Grantee's reasonable enforcement expenses, including attorney's fees, and costs shall be born by grantor or its heirs, successors or assigns, as the case may be. In the event that Grantee secures redress for an easement violation without initiating or completing the judicial proceeding, the cost of such restoration and grantee's reasonable expenses, including attorney's fees and costs, shall be born by grantor or its heirs, successors, or assigns, as the case may be.

H. Grantee's Discretion. Enforcement of the terms of this Easement shall be at the discretion of the Grantee, and any forbearance by the Grantee to exercise its rights under this easement in the event of any breach of any terms of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term of any Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantors shall impair such right or remedy or be construed as a waiver.

I. Waiver of Certain Defenses. Grantor acknowledges that it has carefully reviewed this Grant Deed of Conservation Easement and has consulted with and been advised by counsel of its terms and requirements. In full knowledge of the provisions of this Grant Deed of Conservation Easement, Grantor hereby waives any claim or defense it may have against Grantee or its successors in interest under or pertaining to this Grant Deed of Conservation Easement based upon waiver, laches, estoppel, adverse possession, or prescription, except as contemplated by paragraph IX. K., the estoppel certificate procedure, and except as affected by written agreements prepared pursuant to paragraph IX. A.

J. Acts Beyond 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, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes.

K. Estoppel Certificates. Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance or lack thereof with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement as requested by Grantor.

L. Appointment of Attorney in Fact for Service of Process. Each Grantor signing this instrument hereby irrevocably appoints and designates each of the others Grantors and each and every successor or assignee thereof as attorney in fact to receive service of process in any action to enforce or interpret this easement or to impose the remedies set forth above or otherwise



available to Grantee under the law. All Grantors agree that service upon any one of them is service on all and waive any objection or defense inconsistent herewith.

IX. ACCESS BY PUBLIC

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

X. COSTS, LIABILITIES, TAXES, AND INDEMNIFICATION

A. **Liabilities and Insurance.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Protected Property, including the maintenance of adequate comprehensive general liability insurance coverage. Such insurance shall include Grantee's interest and name Grantee as an additional insured and provide for at least thirty (30) days notice to Grantee before cancellation and that the act or omission of one insured will not invalidate the policy as to the other insured party.

B. **Taxes.** Grantor shall pay before delinquency all taxes, assessments, fees, charges of whatever description levied on or assessed against the Protected Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantee is authorized, in the absence of any formal protest from the Grantor as to the validity of such taxes, but in no event obligated to make or advance any payment of taxes, upon three (3) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by the Grantor at the maximum rate allowed by law.

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

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

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

D.2. There has been no release, dumping, burying or abandonment on the Protected Property of any substances, materials, or wastes which are hazardous, toxic, harmful or dangerous, or are



designated as, or contain components which are, or are designated as, hazardous, toxic, dangerous, or harmful and/or which are subject to regulation as hazardous or toxic, dangerous, or harmful and/or which are subject to regulation as hazardous or toxic, dangerous or as a pollutant by any federal, state or local law, regulation, statute, or ordinance;

D.3. Neither Grantor nor Grantor's predecessors in interest have disposed of any hazardous substances off-site, nor have they disposed of substances at sites designated or proposed to be designated as federal or state Superfund sites; and

D.4. There is no pending or threatened litigation affecting the Protected Property or any portion thereof which will materially impair the value or usefulness of the Protected Property or any portion thereof to the Grantee. No civil or criminal proceedings have been instigated or are pending against the Grantor or its predecessors by government agencies or third parties arising out of alleged violations of environmental laws, and neither Grantor nor its predecessors in interest have received any notices of violation, penalties, claims, demand letters, or other notifications relating to a breach of environmental laws.

E. **Grantor's Indemnification.** Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with:

E.1. Injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties;

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

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

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

F. **Grantee's Indemnification.** Grantee shall hold harmless, indemnify, and defend Grantor and Grantor's members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, attorneys' and consultants' fees, arising from Grantee's acts or omissions relating to the Protected Property or this Easement.



XI. SUBSEQUENT TRANSFER OR EXTINGUISHMENT

A. Extinguishment. If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Protected Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Washington law at the time, in accordance with subsection B herein. Grantee shall use all such proceeds in a manner consistent with the conservation purposes of this grant.

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

C. Subsequent Transfers. Grantor agrees (1) to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including without limitation, a leasehold interest, and (2) to describe this Easement in and append it to, any executory contract for the transfer of any interest in the Protected Property. Grantor further agrees to give written notice to the Grantee of the transfer of any interest of at least thirty (30) days prior to the date of such transfer. Such notice to Grantee shall include the name, address, and telephone number of the prospective transferee or his or her representative. The failure of the Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

XII. AMENDMENT

A. General. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee are free to jointly amend this Easement; provided that no amendment shall be allowed that shall affect the qualification of this Easement or the status of Grantee under any applicable laws, including RCW 64.04.130, Chapter 84.34 RCW, or Section 170(h) of the Internal Revenue Code, as amended, and any amendment shall be consistent with the purpose of this Easement, and shall not affect its perpetual duration. Any



such amendment shall be recorded in the official records of Skagit County, Washington, and any other jurisdiction in which such recording is required.

XIII. ASSIGNMENT

A. Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under RCW 64.04.130 or RCW 84.34.250 (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that the Conservation Purposes that this Easement is intended to advance continue to be carried out by the transferee. Grantee shall notify Grantor in writing, at Grantor's last known address, in advance of such assignment.

B. Succession. If at any time it becomes impossible for Grantee to ensure compliance with the covenants contained herein and Grantee has not named a successor organization, or the Grantee shall cease to exist, then its rights and duties hereunder shall become vested and fall upon the following named entities to the extent that they shall accept this Easement, in the following order:

1. San Juan Preservation Trust
P.O. Box 327
Lopez Island, WA 98261
2. Such other entity, with purposes similar to the Skagit Land Trust, constituting a "qualified organization" within the meaning of the Internal Revenue Code of 1986 (or corresponding provision of any future statute); provided that if such vesting in the entities named above is deemed to be void under the Rule Against Perpetuities, the rights and obligations under this Easement shall vest in such organization as a court of competent jurisdiction shall direct, pursuant to the applicable Washington law and the Internal Revenue Code (or corresponding provision of any future statute) and with due regard to the purposes of this Easement.

XIV. RECORDATION

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

XV. GENERAL PROVISIONS

A. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Washington.



B. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of RCW 64.04.130 and Chapter 84.34.RCW. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

D. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Article XIII herein.

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

F. "Grantor" - "Grantee". The terms "grantor" and "grantee" whenever used herein, and any pronouns used in the place thereof shall mean and include, respectively, the above-named grantor, and its personal representatives, heirs, successors and assigns and the above-named grantee, and its personal representatives, heirs, successors and assigns. All covenants, terms, conditions, restrictions and rights of this easement shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.

G. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

H. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

I. Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.



XVI. SCHEDULE OF EXHIBITS

- A. Legal Description of Property Subject to Easement**
- B. Site Map**
- C. Baseline Report Summary**



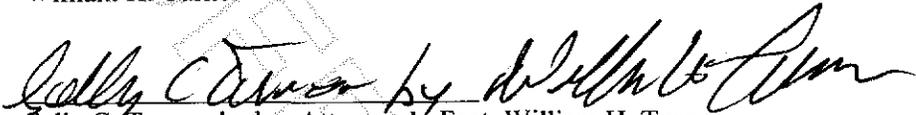
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TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument this 15 day of April, 2009.

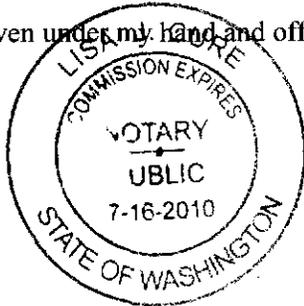

William H. Turner

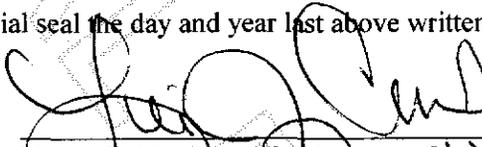

Sally C. Turner, by her Attorney in Fact, William H. Turner
her attorney in fact

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

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

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

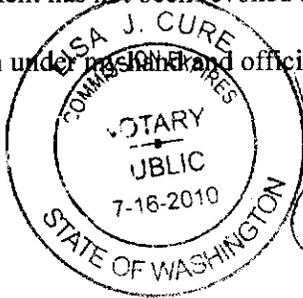



Notary Public in and for the state of Wash
Washington, residing at Bow
My commission expires: 7-16-2010
Printed Name: Lisa J. Cure

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

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

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



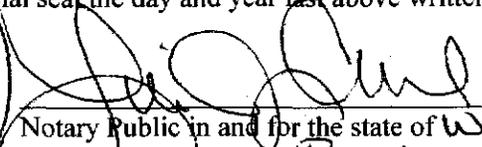

Notary Public in and for the state of Wash
Washington, residing at Bow
My commission expires: 7-16-2010
Printed Name: Lisa J. Cure



Exhibit A

Legal Description of Property Subject to Conservation Easement

The north 789 feet, as measured perpendicular to the north line, of the following described parcel:

The West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 12, Township 34 North, Range 1 East, W.M., EXCEPT that portion of the Northeast $\frac{1}{4}$, all in Section 12, Township 34 North, Range 1 East, W.M., described as follows:

Beginning at the Southeast corner of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 12; thence North $86^{\circ}55'50''$ West, along the South line of said Northeast $\frac{1}{4}$ a distance of 317.0 feet to an extension North of an existing fence line lying to the South in Government Lot 4 of said section; thence North $0^{\circ}45'31''$ West, a distance of 176.06 feet; thence South $89^{\circ}41'52''$ East, 319.87 feet to the East line of said West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$; thence South $0^{\circ}18'02''$ West along the East line thereof, 191.34 feet to the point of beginning.

Situate in the County of Skagit, State of Washington.



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**EXHIBIT C
PRELIMINARY CONSERVATION EASEMENT BASELINE SUMMARY**

Turner / Mount Erie Conservation Easement

Grantor Information:

Name: William & Sally Turner, 4401 Anaco Beach Place, Anacortes, WA 98221

Location:

Ptn SW ¼ of NE ¼, 12-34-1 E W.M.
Full legal description shown in Exhibit A.

Assessor's Tax Parcel and I.D. No:

340112-1-003-0109/P19299

Skagit Land Trust (Grantee) Contact:

Name(s): Skagit Land Trust, PO Box 1017, Mount Vernon, WA 98273 (360) 428-7878

Property Information:

Acres: Approximately 12

Number of Buildings : 0

Acres Wetland : n/a

Acres Forest: Approximately 12 (interspersed with rocky outcroppings and some open meadow)

County Zoning: Rural Reserve

Soil types: The soils on the Protected Property are identified in the USDA Soil Survey of Skagit County Washington: as Laconner very gravelly loamy sand (#86) on the less steep slopes, which is a "moderately deep, moderately well drained soil on hills and terraces. It formed in glacial drift and an admixture of volcanic ash. The native vegetation is mainly conifers and shrubs". The steep upper slopes are identified as Lithic Haploxerolls-Rock outcrop complex (#90): Located on slopes between 70 and 90%. This soil type is found on cliff faces and mountainsides that support sparse vegetation, generally grasses, shrubs with clumps of conifers. "The soils are shallow, well drained. They formed in loess and residuum derived dominantly from argillite.... Effective rooting depth is 4-10 inches. Runoff is rapid and the hazard of water erosion is severe. Rock outcrops consist of exposures of hard and mostly unweathered argillite".



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County Critical Areas: unknown at this time.

State Priority Habitats and Species: Peregrine nesting habitat (nearby on Mt. Erie); Snags and Logs; and Urban Natural Open Space.

Special Features of Property: The Protected Property is located immediately south of the Anacortes Community Forest Lands (ACFL) and on the southern slopes of Mount Erie, and to the north of Campbell Lake (see attached map of baseline area). The vast majority of the Protected Property consists of very steep terrain with slopes in excess of 20%. The southern boundary includes some flat areas.

The cliffs above Campbell Lake are sparsely forested with madrone and Douglas-fir with some open meadows populated with grasses, herbs and shrubs. Some of the fir trees are quite large and snag-topped, providing excellent habitat for swallows, bats and owls. This part of the forest is one of the less visited areas of the Forest Lands.

The remainder of the Protected Property is forested with young (40 to 80-year old) Douglas-fir, western hemlock, and western red cedar. This forest is interspersed with patches of alder and shrubs. There are significant patches of non-native Himalayan blackberry on the lower slopes of the Protected Property.

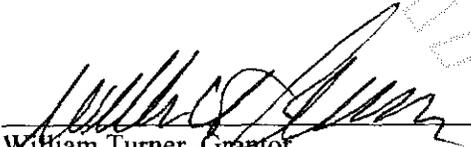
The Protected Property is less than 1 mile from salt water (Fidalgo Bay) and 0.5 miles from Campbell Lake. The habitats created by the coniferous and alder forests are good for many species of songbirds, raptors, woodpeckers and bats. The area also contains habitat for black-tailed deer, coyote and small mammals.

The Protected Property contains two foot trails used occasionally and informally by the public. One is a segment of a trail known as the 'South Mount Erie Trail'. It transects the Protected Property, crossing on the east boundary at approximately 560' elevation and on the west boundary at approximately 440' elevation; it is a narrow foot trail with a width of approximately 2 – 4 feet. This trailed area is mostly forested along a high-angle slope with views of Campbell Lake and Puget Sound from the eastern property edge. The second trail is known as the Sunrise Trail, which is a steep climber's route, running north to south from the South Mount Erie Trail to the summit of Mount Erie. The Grantor has gifted an easement to the City of Anacortes for non-motorized public use of these trails, however at this time there is no sanctioned public access across the neighboring private parcels.

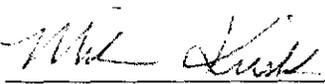


Condition of Property: Much of the Protected Property was likely logged in the past 40-80 years and the original forest cover has been replaced by a maturing mixed species forest. There is approximately 50% canopy cover in this section of the area and many open areas have been inhabited by the invasive Himalayan Blackberry. There is little evidence of recent human use in this area. The upper (northern) section of the property transitions from mixed forest type to a madrone-dominated forest with rocky balds and cliff faces. The trail that cuts across the property is the most significant human modification to this environment, although its use seems very limited at this time due to the lack of public access.

In compliance with Section 1.170A-14(g)(5) of the federal tax regulations, this natural resources inventory is an accurate representation of the property at the time of conservation easement donation.



William Turner, Grantor



Skagit Land Trust, Grantee

date: 4/15/09

by Michael Kirshenbaum
its Stewardship Director

date: 4/13/09

Additional information to be collected in Skagit Land Trust files for final baseline: USGS Quad Map; Assessor Map; Assessor Printout; Photopoint Collection; Vegetation Inventory

Preliminary baseline summary prepared by Michael Kirshenbaum, April 2009



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