



200911050005
Skagit County Auditor

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WHEN RECORDED RETURN TO:
Mr. And Mrs. Jay Field
P.O. Box 1199
Anacortes, WA 98221

LAND TITLE OF SKAGIT COUNTY

129761-SAE

DOCUMENT TITLE(S):

License, Dock Sharing, and Maintenance Agreement

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

GRANTOR:

Larry W. Stewart and Pamela B. Stewart

GRANTEES:

Jay Field and Micky Field

ABBREVIATED LEGAL DESCRIPTION:

Lot 1 and 2, Skyline #13

TAX PARCEL NUMBER(S):

P60071/3828-000-001-0003

P60072/3828-000-002-0002

LICENSE, DOCK SHARING, AND MAINTENANCE AGREEMENT

This License, Dock Sharing and Maintenance Agreement (this License) is entered into on this 24 day of June, 2009 by and between Larry W. Stewart and Pamela B. Stewart, husband and wife ("Stewart" or "Party") and Jay Field and Micky Field, husband and wife ("Field" or "Party") based on the following:

RECITALS

- A. Stewart and Field are the owners of adjacent parcels of waterfront real property located in Anacortes in Skagit County, WA. The real property owned by Stewart is legally described on Exhibit A attached hereto (the "Stewart Property"). The real property owned by Field is legally described on Exhibit B attached hereto (the "Field Property").
- B. Since at least 1980, the owners of the Stewart Property and the Field Property have used and shared a Ramp, Float and Piling in Flounder Bay, Burrows Bay Rosario Strait at Anacortes, WA (the "Dock"). The Dock was originally constructed and approved by the U.S. Army Corps of Engineers under Project 071-0YB-1—6427-006427 and subsequently approved by the Washington State Department of Ecology as consistent with the Washington Coastal Zone Management Project. The Dock is located in the approximate location shown in Exhibit C attached hereto.
- C. The Dock, as constructed, straddles portions of the Stewart Property and the Field Property. Access to and use of the Dock involves minor entry by Field onto the Stewart Property and Stewart onto the Field Property.
- D. Stewart and Field wish to enter into an agreement that will allow them and their successors in interest to continued access to and joint use of the Dock by Stewart and Field, and provide for maintenance of the Dock.

LICENSE AND AGREEMENT

For and inconsideration of the mutual promises made herein, and other good and valuable consideration the receipt and adequacy of which is herein acknowledged, Stewart and Field agree as follows:

1. Mutual Right of Access and Use of Dock. To the extent necessary for Field to enter portions of the Stewart Property to access the Dock and to the extent all or portions of the Dock are within the boundary lines of the Stewart Property, Stewart does hereby grant Field permission to enter upon and use those portions of the Stewart Property that are reasonably necessary to access and use the Dock. To the extent necessary for Stewart to enter portions of the Field Property to access the Dock and to the extent all or portions of the Dock are within the boundary lines of the Field Property, Field does hereby grant Stewart permission to enter upon and use those portions of the Field Property that are reasonably necessary to access and use the Dock.
2. Term This License shall commence upon execution and shall continue until indefinitely until the earliest of the following events:



- A. Mutual Termination. Stewart and Field, or their successors in interest, mutually agree to terminate and extinguish this License.
- B. Destruction of the Dock. In the event that the Dock is damaged to the extent that it is not usable or is totally destroyed and Stewart and Field elect not to repair or rebuilt the Dock, this License shall terminate. Nothing in the foregoing shall limit or excuse either party from paying it's share for the costs incurred in salvage or removal of and such damaged or destroyed Dock as provided for in ¶ 6 herein.
- C. Loss of Right to Use or Maintain Dock. In the event that any governmental authority having jurisdiction over the Parties or the Dock determines that the Dock can no longer be used or maintained in its present location.

3. Conditions Applicable to License. This License is subject to all existing covenants, conditions, reservations, contracts, leases, licenses, easements, encumbrances, restrictions and rights of way with respect to the Stewart Property or the Field Property, whether or not of record, including, but not limited to, any restrictions imposed by the Washington State Shoreline Management Act; the Municipal Code of Anacortes, Washington; the Skagit County Code; or any laws of the United States of America.

4. No Transfer or Assignment. This License is personal to Licensee, and may not be transferred to any party *except* that the rights and privileges of this license shall transfer to any successor in interest to the Stewart or the Field property subject to the terms of this Agreement.

5. Permits and Regulations. Stewart and Field shall be jointly responsible for securing any required approvals, permits and authorizations from any federal, state or local agencies and shall comply with all applicable laws and regulations. Any matters related to this ¶ 5 that are not otherwise resolved between the Parties, shall be resolved in accordance with ¶¶ 6 and 12 herein.

6. Maintenance of the Dock. Stewart and Field shall share equally in the costs of regular maintenance and repair of the Dock. The Parties shall meet as necessary, but at least once annually, to address any matters related to the maintenance, repair, and possible upgrade of the Dock including any proposed costs and expenditures related to those matters. The Parties shall reduce any mutual agreement to writing, and whenever possible, indicate projected time frames for commencement or completion of all agreed to items together with the projected costs. In the event that one Party advances funds in connection with agreed to maintenance, repair or upgrade, the other Party shall, upon presentation of the expenses incurred and appropriate invoices or receipts, promptly reimburse the other Party within five (5) business days. In connection with any requests for reimbursement, the Parties may present any approved offsetting expenditures as a credit against any claims for reimbursement.

- A. Resolution of Disputes. In the event the Parties cannot, after good faith negotiation, agree to any matters arising out of this ¶ 6 (including but not limited to issues relating to maintenance or repair items or expense and

reimbursement of offsetting credits, then the Parties agree to submit the dispute to binding arbitration as provided for in ¶ 12 herein. The cost of any such arbitration shall be shared equally between Stewart and Field.

7. **Liability for Repair and Restoration.** If either Party, its agents or contractors are the sole cause any damage to the other Party's Property, the roads, infrastructure or other property and improvements, including the Dock in connection with the exercise of this License, the Party causing such damage shall repair and restore the Property and Dock to their original condition prior to such damage. The responsible Party shall perform the repair and restoration required hereunder at its sole expense prior to the expiration of this License, or within ten (10) days of the earlier termination of that Party's rights hereunder. In the event that repair and restoration is performed following the termination of this License, the Party's Indemnity and Insurance obligations in paragraphs 8 and 9 shall continue until repair and restoration is completed as provided herein.

8. **Indemnification.** To the extent that any claims, damages, costs, expenses, or liabilities are asserted against one Party as a result of the acts or omissions of the other Party (the "Negligent Party"). The Negligent Party shall indemnify, defend, and hold harmless the other Party its officers, agents and employees, from and against any claims, damages, costs, expenses, or liabilities (collectively "Claims") arising out of or in any way connected with this License including, without limitation, Claims for loss or damage to any property, or for death or injury to any person or persons.

9. **Insurance.** During the entire Term of this Agreement, each Party, at its sole cost and expense, shall insure its activities in connection with this License and obtain, keep in force, and maintain insurance as follows

- A. **Personal Liability Insurance** with minimum limits as follows:

Each Occurrence	\$500,000
General Aggregate	\$500,000
- B. To the extent that the aforementioned Personal Liability Insurance limits are less than \$2,000,000 such party shall obtain additional umbrella or other secondary coverage in an aggregate amount of \$2,000,000 (Two Million Dollars).

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this License. The insurance shall have a retroactive date of placement prior to or coinciding with the commencement of the Term of this License. The amounts of insurance provided herein shall be adjusted periodically, but not less than every seven (7) years, to reflect any impact of inflation so that the amount of insurance is equivalent to the amounts stated herein in 2009 dollars.

- C. **Small Craft Insurance** or other form of insurance providing coverage for property damage and liability for operation of any vessels moored by either Party at the dock in the minimum amounts provided for herein,

- D. To the extent that the insurance required herein may be obtained as part of either Party's Homeowner's Insurance Policy, that policy may be used to provide the required coverage under "other structures", Coverage "B"
- E. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of Stewart and Field against other insurable risks relating to rights granted under this License.
- F. The coverages required herein shall not limit the liability of either Party from claims arising from that Party's negligent acts or omissions.
- G. Waiver of Subrogation. Each Party hereby waives any right of recovery against the other Party due to loss of or damage to the property of the other when such loss of or damage to property arises out of an act of God or any of the property perils included in the classification of fire or extended perils ("all risk" as such term is used in the insurance industry) whether or not such perils have been insured, self-insured, or non-insured.

10. Lien Free Condition. Neither Stewart nor Field shall cause or permit any liens to be placed against the real or personal property of the other as a result of the exercise of the respective rights under this License. In the event of the filing of any such liens, the Party responsible for causing such liens to be filed shall promptly cause such liens to be removed. In no event shall such lien removal require more than thirty (30) days.

11. No Interest in Real Property. Neither Party's prior permissive use of the other's real property or the Dock prior to entering into this License, nor any rights granted hereunder alone or taken together shall result in any express, implied, or prescriptive rights to the real or personal property of the other Party. Each Party represents and warrants that it's prior use of and entry onto the real Property of the other and the Dock has at all times been permissive as to them and their predecessors in interest. Nothing herein shall be deemed to grant a covenant that runs with the land.

12. Binding Arbitration. Any disputes arising between Stewart and Field arising from or otherwise related to this License shall be resolved by binding arbitration under the auspices of a mutually agreed to arbitrator at a mutually agreed to location. If Stewart and Field cannot agree on an arbitrator or a location, the arbitrations shall be held under the auspices and rules of American Arbitration Association in Seattle, WA. Washington law shall apply to any legal issues before the arbitrator. In connection with any matters heard in arbitration, the arbitrator shall have the authority to grant both legal and equitable relief, and any orders or rulings of the arbitrator may be enforced by the Superior Court of Washington in Skagit County.

13. Costs and Attorneys Fees. In the event that disputes between Stewart and Field result in an arbitration action or other court action, the substantially prevailing party shall be entitled to judgment for its costs and reasonable attorneys' fees.

14. Alteration in Writing. This License supersedes any and all prior understandings and agreements, whether written or oral, between the Parties with respect to the subject matter of this License. No alteration or variation of this License shall be valid unless made in writing and signed by Stewart and Field or their successors in interest



15. Binding on Successors. This License shall be binding and inure to the benefit of the parties to this agreement and their respective successors and assigns. Nothing in this License is intended or shall be construed to give any other person any right, remedy or claim under, in or with respect to this License except as specifically set forth herein.

16. Severability. If any provision of this License is deemed unlawful or unenforceable, such provision(s) shall be fully severable, and the remainder of this License shall be in full force and effect with the automatic addition of a provision as similar in its terms to such illegal or unenforceable provision as may be possible to make such provision legal and enforceable.

17. Notice. Any notice required hereunder shall be in writing and shall be addressed as follows:

To Stewart:

Larry W. Stewart and Pam Stewart

16738 168th St NE
Woodinville WA 98072

To Field:

Jay Field and Micky Field

PO Box 1199
Ashcroft, WA 98221

IN WITNESS WHEREOF, the parties have executed this License Agreement the day and year first above written.

Larry W. Stewart

Jay Field

Pamela B. Stewart

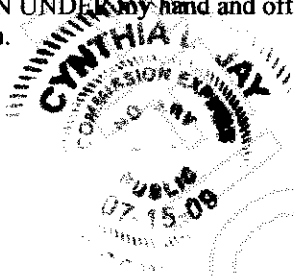
Micky Field



STATE OF WASHINGTON)
)
COUNTY OF King) ss.

On this 24th day of June, 2009, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Larry W. Stewart and Pamela B. Stewart to me known to be the individuals who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN UNDER my hand and official seal hereto affixed the day and year in this certificate first above written.



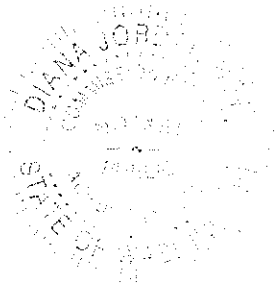
Cynthia L. Jay

Print Name: Cynthia L. Jay
Notary Public in and for the State of Washington, residing at WOODINVILLE
My commission expires: 7-15-09

STATE OF WASHINGTON)
)
COUNTY OF SKAGIT) ss.

On this 4th day of NOVEMBER, 2009, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Jay Field and Micky Field to me known to be the individuals who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN UNDER my hand and official seal hereto affixed the day and year in this certificate first above written.



Diana Jordan-Nee

Print Name: DIANA JORDAN-NEE
Notary Public in and for the State of Washington, residing at ANACORTES WA
My commission expires: 8/11/2010



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EXHIBIT A
The Stewart Property

PARCEL "A":

Lot 2, "SKYLINE NO. 13," as per plat recorded in Volume 9 of Plats, pages 96 and 97, records of Skagit County, Washington.

Situate in the City of Anacortes, County of Skagit, State of Washington.

PARCEL "B":

That portion of Section 28, Township 35 North, Range 1 East, W.M., described as follows:

Beginning at the Southwesterly corner of Lot 2, "SKYLINE NO. 13," as per plat recorded in Volume 9 of Plats, pages 96 and 97, records of Skagit County, Washington;

thence South $39^{\circ}10'41''$ East, 40.74 feet;

thence North $41^{\circ}00'00''$ East 14.46 feet;

thence North $10^{\circ}01'13''$ West 51.64 feet to the Southeasterly corner of said Lot 2;

thence South $41^{\circ}00'00''$ West along the Southeasterly line of said Lot 2, to the point of beginning.

Situate in the City of Anacortes, County of Skagit, State of Washington.



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EXHIBIT B
The Field Property

PARCEL "A":

Lot 1, "SKYLINE NO. 13," as per plat recorded in Volume 9 of Plats, pages 96 and 97, records of Skagit County, Washington.

Situate in the City of Anacortes, County of Skagit, State of Washington.

PARCEL "B":

That portion of Section 28, Township 35 North, Range 1 East, W.M., described as follows:

Beginning at the Southeast corner of Lot 1, "SKYLINE NO. 13," as per plat recorded in Volume 9 of Plats, pages 96 and 97, records of Skagit County, Washington;

thence South $1^{\circ}31'44''$ West, 81.07 feet;

thence North $77^{\circ}29'27''$ West, 22.99 feet;

thence North $10^{\circ}01'13''$ West, 51.64 feet to the most Southerly corner of said Lot 1;

thence Northerly along the Southeasterly line of said Lot 1, to the point of beginning.

Situate in the City of Anacortes, County of Skagit, State of Washington.



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EXHIBIT C
Location of Dock

UNOFFICIAL DOCUMENT



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