

WHEN RECORDED RETURN TO:

Land Title and Escrow Company
P.O. Box 445
Burlington, WA 98233



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Skagit County Auditor

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LAND TITLE OF SKAGIT COUNTY

DOCUMENT TITLE(S):
Conservation Easement Deed

175048-SE

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

GRANTORS:

MARY JEAN HOFFMAN, as Trustee of the Lawrence R. Hoffman Testamentary Exemption Equivalent Trust, as to an undivided 76% interest in an undivided 1/2 interest, and MARY JEAN HOFFMAN, shown of record as JEAN HOFFMAN, as her separate property, as to any remaining interest

GRANTEE:

SKAGIT COUNTY, a political subdivision of the State of Washington

ABBREVIATED LEGAL DESCRIPTION:

Ptn W 1/2 Of SW 1/4, 16-33-3 E W.M. & Ptn E 1/2 Of SE 1/4, 17-33-3 E W.M.

TAX PARCEL NUMBER(S):

330316-3-003-0001, P15934, 330316-3-002-0002, P15933, 330317-4-001-0000, P15964, 330317-4-003-0006, P15950, 330317-4-009-0109, P15958, 330316-3-001-0003, P15932, 330316-3-007-0007, P15936, 330316-3-008-0006, P15937

When recorded return to:
Skagit County Farmland Legacy Program
County Administration Building
1800 Continental Place
Mount Vernon, WA 98273

SKAGIT COUNTY
Contract # C20100606
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LAND TITLE OF SKAGIT COUNTY

125048-SE

Grantor: Mary Jean Hoffman, as Trustee of the Lawrence R. Hoffman Testamentary Exemption Equivalent Trust and Mary Jean Hoffman

Grantee: SKAGIT COUNTY

Legal Description: Additional legal at Exhibit A.

Abbreviated form: Being a portion of the SW ¼ of Section 16 and the SE ¼ of Section 17/T33/R03E W.M. 20000 block, Maupin Road, Mount Vernon, Washington 98273

Assessor's Tax Parcel Number: P15932, P15933, P15934, ~~P15944~~, P15936, P15937, P15950, P15958 and P15964

CONSERVATION EASEMENT DEED

THIS CONSERVATION EASEMENT DEED ("Easement") is made this 13 day of December, 2010, by Mary Jean Hoffman, as Trustee of the Lawrence R. Hoffman Testamentary Exemption Equivalent Trust and Mary Jean Hoffman, whose address is 20423 Maupin Road, Mount Vernon, Wa 98273 (hereinafter referred to as "Grantor"), in favor of Skagit County, a political subdivision of the State of Washington, having an address at Skagit County Farmland Legacy Program, c/o Skagit County Administration Building, 1800 Continental Place, Mount Vernon, WA 98273 (hereinafter referred to as "Grantee"); (collectively "Parties"). The following third party beneficiaries have certain rights hereunder, including third party right of enforcement: the United States of America ("United States") acting by and through the United States Department of Agriculture (USDA) Natural Resources Conservation Service ("NRCS") acting on behalf of the Commodity Credit Corporation as its interest appears herein; and The Nature Conservancy, a District of Columbia nonprofit corporation ("TNC")

I. RECITALS

- A. Grantor is the sole owner in fee simple of that certain real property (the "Protected Property") in Skagit County, Washington, more particularly described in Exhibit A (Legal Description) and shown on Exhibit B (Baseline Documentation), which exhibits are attached to and incorporated into this Conservation Easement Deed by this reference. The Protected Property is approximately 214.24 acres in size and is predominately open farmland.

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

3826

DEC 17 2010

Amount Paid \$ 5718.80
Skagit Co. Treasurer
By Ymam Deputy



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- B. The Protected Property possesses significant agricultural, conservation, and open space value to Grantor, the people of Skagit County and the people of the State of Washington (collectively, "Conservation Values"). The Conservation Values include, without limitation, protection of agricultural productivity, protection of prime and important agricultural soils, riparian habitat functions, and flood protection functions.
- C. The Protected Property is zoned Agricultural Natural Resource Land under the Skagit County Zoning Ordinance. Skagit County Zoning Ordinance 14.16.400 states that the goal of the Agricultural Natural Resource Land zone is to "provide land for continued farming activities, conserve agricultural land, and reaffirm Agricultural use, activities and operations as the primary use of the district."
- D. The Skagit Delta farmlands and estuary are critical to the local economy and the health of Puget Sound. Together they provide a variety of public benefits and are the focus of multiple community efforts to maintain a viable farm industry, recover endangered species, and maintain the flood protection for Skagit County citizens. The Grantor's right to use the Protected Property, or portions thereof, for purposes of creating or restoring riparian or estuary habitat and flood protection functions may support agricultural productivity throughout the Skagit River Delta by improving flood flow attenuation and protecting adjacent lands from storm surges and sea level rise.
- E. The Grantor's restoration right also reserves for Grantor the potential for additional income in the event future programs or markets recognize monetary value from public services such as flood protection provided by healthy habitats. Restoration or enhancement of the property may also relieve potential and actual regulatory pressures on agricultural uses within Skagit County by improving habitat conditions for fish and bird species regulated or potentially regulated under the federal Endangered Species Act and advance multi-party agreements such as the Tidegate Fish Initiative that create regulatory predictability and certainty for maintaining drainage infrastructure required to keep farmland viable.
- F. The specific Conservation Values and characteristics of the Protected Property are further documented in an inventory of relevant features of the Protected Property, dated October 22, 2010, attached hereto as Exhibit B and incorporated into this Conservation Easement Deed 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 are intended to serve as an objective information baseline for monitoring compliance with the terms of this Conservation Easement Deed. Grantor, as owner of the Protected Property, has the right to protect and preserve the Conservation Values of the Protected Property, and desires to transfer such rights to Grantee in perpetuity.
- G. The purpose of the Farm and Ranch Lands Protection Program's (16 U.S.C. 3838h and 3838i) is to purchase conservation easements to protect prime, unique, and other productive soils from conversion to nonagricultural uses. Grantor and Grantee acknowledge that, under the authority of the Farm and Ranch Lands Protection Program, the Natural Resources Conservation Service acting on behalf of the Commodity Credit Corporation has contributed \$160,500 to purchase this Conservation Easement Deed and thus entitles the United States to the rights identified herein.
- H. The mission of The Nature Conservancy is to preserve the plants, animals, and natural communities that represent the diversity of life on Earth by protecting the lands and waters they



need to survive. Grantor and Grantee acknowledge that in furtherance of that mission, The Nature Conservancy has contributed \$160,500 to purchase this Conservation Easement Deed and thus entitles The Nature Conservancy to the rights identified herein.

- I. The foregoing recitals are incorporated into this Conservation Easement Deed by this reference.

II. CONVEYANCE AND CONSIDERATION

A. For the reasons stated above, in consideration of the mutual covenants, terms, conditions, and restrictions contained in this Conservation Easement Deed, and in consideration of payment of \$321,000 by Grantee to Grantor, the receipt of which is acknowledged, Grantor hereby grants, conveys and warrants to Grantee a Conservation Easement in perpetuity over the Protected Property, consisting of certain rights in the Protected Property, as defined in this Conservation Easement Deed, subject only to the restrictions contained in this Conservation Easement Deed.

B. This conveyance is a conveyance of an interest in real property under the provisions of RCW 64.04.130 subject only to the mutual covenants, terms, conditions and restrictions set forth in this Conservation Easement Deed and to title matters of record as of the date of this Conservation Easement Deed.

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

III. PURPOSE

It is the purpose of this Conservation Easement Deed to advance the goals of the Skagit County Conservation Futures Fund and assure that the Protected Property will be retained forever for agricultural productivity, use and conservation values, to protect prime and important agricultural soils, and to allow for future riparian, estuarine and wetland habitat restoration only as volunteered by the Grantor, and to prevent any use of, or activity on, the Protected Property that will significantly impair or interfere with its Conservation Values. Grantor intends that this Conservation Easement Deed will confine the use of, or activity on, the Protected Property to such uses and activities that are consistent with the purpose described above (the "Purpose").

IV. RIGHTS CONVEYED TO GRANTEE

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

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

B. **Access for Monitoring and Enforcement:**

1. To enter the Protected Property annually, upon prior written notice to Grantor, for the purpose of making a general inspection to monitor compliance with this Conservation Easement Deed.



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2. To enter upon the Protected Property, at a mutually agreeable date and time and upon prior notice to Grantor, to inspect the Protected Property after major natural events occur, such as fires, windstorms, and floods.
 3. To enter the Protected Property at such other times as are necessary if Grantee has a reason to believe that a violation of the Conservation Easement Deed is occurring or has occurred, for the purpose of mitigating or terminating the violation and otherwise enforcing the provisions of this Conservation Easement Deed. Such entry shall be upon prior reasonable notice to Grantor, and Grantee's access shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Protected Property.
- C. **Injunction and Restoration:** To enjoin any use of, or activity on, the Protected Property that is inconsistent with the Purpose of this Conservation Easement Deed, including trespasses by members of the public, and to require the restoration of such areas or features of the Protected Property as may be damaged by uses or activities inconsistent with the provisions of this Conservation Easement Deed, all in accordance with Section X.
- D. **Enforcement:** To enforce the terms of this Conservation Easement Deed, consistent with Section X.
- E. **Assignment:** To assign, convey or otherwise transfer Grantee's interest in the Protected Property in accordance with Section XV.

V. PERMITTED USES AND ACTIVITIES

- A. **General:** Grantor reserves for itself and its personal representatives, heirs, successors and assigns, all rights accruing from ownership of the Protected Property, including the right to engage in, or permit or invite others to engage in, any use of, or activity on, the Protected Property that is not inconsistent with the Purpose of the Conservation Easement Deed and that is not specifically prohibited or otherwise limited by this Conservation Easement Deed. Without limiting the generality of this subsection, Grantor specifically reserves for itself and its personal representatives, heirs, successors, and assigns, the following uses and activities, which shall be limited in the manner provided below.
- B. **Retained Uses:**
1. **Agricultural Activities:** Grantor retains the right to use the Protected Property for agricultural production, or to permit others to use the Protected Property for agricultural production, in accordance with applicable law. As used herein, "agricultural production" shall mean the production, processing, storage or retail marketing of crops, livestock, and livestock products. For purposes hereof, crops, livestock and livestock products include, but are not limited to, crops commonly found in the community surrounding the Protected Property; field crops; fruits; vegetables; horticultural specialties; livestock and livestock products; timber, wood and other wood products derived from trees; and aquatic plants and animal and their bi-products.
 2. **Agricultural Activities shall also include such "Accessory Uses,"** as defined in RCW 36.70A.177(3)(b), that are related to the permitted Agricultural Activities on the Protected Property, that maintain the primacy of, and are subordinate to, the farmland



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character and use of the Protected Property, that are compatible with the Conservation Values, and that provide supplemental income.

3. **Recreational:** Grantor retains the right to use the Property for otherwise lawful recreational uses, including, but not limited to, hunting and fishing, provided those uses are subordinate to the farmland character and use of the Protected Property.
4. **Habitat Restoration or Enhancement:** Subject to compliance with Section V.C, regarding Grantee's review of construction activities, Grantor retains the right to restore and enhance the riparian and wetland habitat functions of the Protected Property in a manner that enhances or protects the Conservation Values, including, without limitation, restoration and enhancement activities that involve excavation, ditching, diking, and other alterations of the Protected Property's topography. The fact that a habitat restoration or enhancement project may decrease the area of the Protected Property available for agricultural use shall not be inconsistent with the Purpose of this Conservation Easement Deed.

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

1. **Fences:** Existing fences may be repaired and replaced, and new fences may be built on the Protected Property, for purposes of reasonable and customary management and protection of crops, livestock and wildlife.
2. **Ancillary Improvements:** Other improvements, including, but not limited to, small-scale facilities including solar and wind generators for the generation and transmission of electrical power, may be built on the Protected Property only with the permission of Grantee as provided for in Section VIII.
3. **Utility Services and Septic Systems:** Wires, lines, pipes, cables or other facilities providing electrical, gas, water, sewer, communications, or other utility services to the improvements permitted under this Conservation Easement Deed may be installed, maintained, repaired, removed, relocated and replaced, and Grantor may grant easements over and under the Protected Property for such purposes. Septic or other underground sanitary systems serving the improvements permitted under this Conservation Easement Deed may be installed, maintained, replaced, repaired or improved.
4. **Existing Agricultural Structures and Improvements (site specific):** Agricultural structures and improvements existing as of the Effective Date of this Conservation Easement Deed may be repaired, reasonably enlarged and replaced at their current locations, which are shown on Exhibit B
5. **New Structures:** New buildings and other structures and improvements, which will be an integral part of the farm operation, and not to be used for any dwelling or farm



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support housing may be constructed and are subject to Section VI.D. and as provided in for in Section VIII of this conservation easement.

6. **Habitat Restoration:** New structures and improvements to be used or installed in connection with a habitat restoration or enhancement project preformed under Section V.B.4.
- D. **Roads and Paving.** Grantor may maintain, renovate, expand or replace roads or construct new roads that may be reasonably necessary and incidental to carrying out permitted uses and activities on the Protected Property; provided that any roads paved or otherwise covered with concrete, asphalt, or any other impervious paving material shall be subject to the surface coverage limitations set forth in Subsection VI.D.
- E. **Composting, Use and Storage of Agricultural Wastes or other Waste Materials:** Grantor may compost, use and store agricultural waste and by products on the Protected Property, consistent with the Purpose of this Conservation Easement Deed; provided that any such wastes are stored temporarily in appropriate containment for removal at reasonable intervals and in compliance with applicable federal, state, and local laws.
- F. **Drainage structures:** Grantor may construct and maintain diking and drainage structures, including ditches, tubes, pipes, pumps, gates or other facilities and appurtenances for enhancement of diking and drainage systems in support of uses and activities permitted under this Conservation Easement Deed; provided that Grantor does not materially impair the natural course of the surface water drainage or runoff flowing over the Protected Property and that existing or restored natural water courses are preserved in their natural state.
- G. **Creation of Mortgage Liens:** Grantor may create consensual liens, whether by mortgage, deed of trust, or otherwise, for the purpose of indebtedness of Grantor, so long as such liens remain subordinate to the Conservation Easement Deed.
- H. **Emergencies:** Grantor may undertake other activities necessary to protect public health or safety on the Protected Property, or that are actively required by and subject to compulsion of any governmental agency with authority to require such activity; provided that any such activity shall be conducted so that interference with the Conservation Values of the Protected Property is avoided, or, if avoidance is not possible, minimized to the extent possible.

VI. PROHIBITED USES AND ACTIVITIES

- A. **General:** Any use of, or activity on, the Protected Property inconsistent with the Purpose or other terms of this Conservation Easement Deed is prohibited, and Grantor acknowledges and agrees that it will not conduct, engage in or permit any such use or activity. Without limiting the generality of this subsection, the following uses of, or activities on, the Protected Property, though not an exhaustive list, are inconsistent with the Purpose of this Conservation Easement Deed and shall be prohibited; except as permitted in Section V.
- B. **Subdivision and Development Rights:** The legal or *de facto* division, subdivision, platting, partitioning or planned unit development of the Protected Property is prohibited. This restriction does not prohibit boundary line adjustments with adjoining agricultural land, provided that such boundary line adjustments do not result in any net loss of acreage to the Protected Property, no impairment or loss of protection of the Conservation Values, and that no new parcel may be



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created by such boundary line adjustments. Boundary line adjustments require notice to and consent of Grantee and RCO. Grantor shall not exercise its development rights in the Protected Property, transfer such development rights to any other portion of the Protected Property as it is now or hereafter may be bounded or described or to any other property adjacent to the Protected Property or otherwise, nor use such development rights or the area of the Protected Property for the purpose of calculating permissible lot yield of the Protected Property or any other property. Any such Boundary Adjustment shall include this language in the Deed.

- C. **Construction:** The placement or construction of any buildings, structures, or other improvements of any kind is prohibited, except as permitted in Subsection V.C.
- D. **Impervious surface:** The total area covered by structures of any kind and impervious surfaces, such as rooftops, asphalt, or concrete shall be limited to no more than two percent (2%) of the area of the Protected Property, inclusive of any and all impervious surfaces prior to the established easement and the addition of any and all future creations of impervious surfaces on any portion of the original protected property. The total area covered by gravel shall be subject to this 2% limitation unless Grantor obtains prior approval from Grantee as provided in Section VIII to increase the percentage of total surfaces covered by gravel and other impervious surfaces above the 2% limitation, provided that the total amount of gravel and other impervious surfaces shall never exceed two percent (2%) of the total area of the Protected Property. Soil dependent greenhouses and solar collector arrays which do not cover the soil surface and are supported by means which leave the soil open and accepting of surface water shall not be counted in the total area covered by structures or impervious surface provided the area covered by these greenhouses or solar collector arrays shall never exceed 25% of the total area of the Protected Property. New flood protection structures, including without limitation dikes and levees, consistent with the terms of this Conservation Easement Deed and approved by the County and all other applicable bodies, shall not count against impervious surface limitations in this subsection.
- E. **Recreation:** The following forms of recreation are prohibited on the Protected Property: golf courses; commercial use of motorized or mechanized recreational vehicles such as motorcycles, snowmobiles, and dune buggies; commercial overnight camping; athletic fields; use of the property for any commercial public recreation; and other developed recreational uses of the property which require special buildings, structures, or facilities. Undeveloped recreational uses, and the leasing of such uses for economic gain, may be permitted insofar as they are consistent with the Purpose and terms of this Conservation Easement Deed.
- F. **Erosion or Water Pollution:** Any use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or subsurface waters is prohibited, including the use of manure lagoons or disposal of wastewater in manners inconsistent with the terms of this Conservation Easement Deed.
- G. **Waste Disposal:** Except as expressly permitted in Section V, the disposal or storage of rubbish, garbage, debris, vehicles, abandoned equipment, parts thereof, or other unsightly, offensive, or hazardous waste or material on the Protected Property is prohibited.
- H. **Commercial Signs:** The placement of commercial signs, billboards, or other advertising material on the Protected Property is prohibited; except in connection with the on-site sale of agricultural products, permitted accessory uses (see V.B.2.), sale or lease of the Protected Property, or to state the conditions of access to the Protected Property.



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- I. Mining:** The exploration for, or development and extraction of, minerals and hydrocarbons on or below the surface of the Protected Property is prohibited. The extraction of rock, dirt, sand, and gravel shall be permitted only if removal of such material is necessary to carry out other permitted activities on the Protected Property, and is limited to no more than one acre total of the Protected Property, and will not interfere with the Conservation Values of the Protected Property. Grantor shall use all practical means to mitigate any adverse effect on the Conservation Values of the Protected Property in carrying out any permitted extraction activities, and upon completion of said permitted extractive activities, Grantor shall promptly restore any portion of the Protected Property affected thereby as nearly as possible to its condition existing prior to commencement thereof. The terms of this Section are not intended to apply to or restrict a habitat restoration or enhancement project performed under Section V.B.4.
- J. Kennels:** Kennels as defined in the Skagit County Zoning Ordinance are prohibited.
- K. Alteration of Wetlands and Watercourses:** The draining, filling, dredging, ditching or diking of wetland areas or any other action that would reduce the wetland area is prohibited, except as necessary to maintain existing drains consistent with the Purpose of this Conservation Easement Deed and permitted by applicable law. This Conservation Easement Deed shall not restrict the Grantor's cooperation with plans to carry out maintenance, repair, replacement, expansion of special purpose district dikes or drains on the property. The terms of this Section are not intended to apply to or restrict a habitat restoration or enhancement project performed under Section V.B.4.
- L. No Compensatory Mitigation:** The creation, enhancement, restoration or preservation of wetlands, fish or wildlife habitat, or other natural resources for the purpose of, directly or indirectly, compensating for or mitigating resource losses or damages in any way associated with actual or potential impacts of development on sites outside the Protected Property ("Compensatory Mitigation") is prohibited on the Protected Property. Compensatory Mitigation includes, but is not limited to, mitigation banking, conservation banking, and any other sale or exchange of mitigation credits based on the creation, restoration, enhancement and/or preservation of such natural resources within the Protected Property.

VII. STEWARDSHIP

Grantor agrees to maintain the Protected Property for protection of the Conservation Values. No activities violating sound agricultural soil and water or, in restored habitat areas of the Protected Property, habitat conservation management practices shall be permitted. All agricultural operations shall be conducted in accordance with applicable law as amended from time to time.



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VIII. NOTICE

A. **Notice:** The following permitted uses and activities require Grantor to notify Grantee in writing prior to undertaking the use or activity:

1. Construction of any buildings, structures or improvements requiring a permit from Skagit County (as required under Subsection V.C);
2. Grading activities requiring a permit from Skagit County (as required under Subsection VI.D);
3. Any boundary line adjustment, which notice shall be provided no later than ninety (90) days prior to the date of such adjustment (as required under Subsection VI.B)
4. The transfer of any interest in all or a portion of the Protected Property, which notice shall be provided no later than forty-five (45) days prior to the date of such transfer (as required under Subsection XIII.C).

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

Certain provisions of this Conservation Easement Deed require Grantee to give notice to Grantor prior to undertaking certain activities (site inspection for example).

B. **Approval:** Where approval by one of the parties to this Conservation Easement Deed is required (e.g., Subsection V.D, Impervious Surfaces), such approval shall be granted or denied in writing within thirty (30) days of receipt of a written notice of the proposed use or activity, and such approval shall not be unreasonably withheld. Grantee's approval may include reasonable conditions which, if satisfied, would be the minimum necessary to assure that the proposed use or activity would not be inconsistent with the Purpose of this Conservation Easement Deed. Failure by a party to grant or deny approval within the time provided shall create a presumption of approval.

C. **Optional Consultation:** If Grantor is unsure whether a proposed use or activity is prohibited by this Conservation Easement Deed, Grantor may consult Grantee by providing Grantee a written notice describing the nature, scope, design, location, timetable, and any other material aspect of the proposed use or activity in sufficient detail to permit Grantee to make an informed judgment as to the consistency with the Purpose of this Conservation Easement Deed and to provide comments thereon to Grantor for the purposes of this Easement only. This Subsection does not itself impose a requirement of prior approval of the activity described in any such notice; however, if Grantee does not provide written objections within thirty (30) days after Grantee's



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receipt of Grantor's notice, Grantee shall be deemed to have approved the proposed use or activity.

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

To Grantor: Mary Jean Hoffman, as Trustee of the Lawrence
R. Hoffman Testamentary Exemption Equivalent
Trust and Mary Jean Hoffman
20423 Maupin Road,
Mount Vernon, Wa 98273

To Grantee: Skagit County Farmland Legacy Program
County Administration Building
1800 Continental Place
Mount Vernon, WA 98273

To United States State Conservationist
USDA – Natural Resources Conservation Service
316 W. Boon Ave., Suite 450
Spokane, WA 99201-2248

To TNC: The Nature Conservancy
1917 First Avenue
Seattle, WA 98101
Attn: Director of Conservation Programs

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

IX. DISPUTE RESOLUTION: GRANTEE'S REMEDIES

- A. **Preventive Discussions:** Grantor and Grantee will promptly give the other notice of problems or concerns arising in connection with the other's actions under this Conservation Easement Deed or the use of or activities or conditions on the Protected Property, and will meet as needed, but no later than 15 days after receipt of a written request for a meeting, to minimize the same.
- B. **Optional Alternative Dispute Resolution:** If a dispute is not resolved through preventive discussions under subsection A, Grantor and Grantee may by mutual agreement submit the matter to mediation or arbitration upon such rules of mediation or arbitration as Grantor and Grantee may agree.

X. ENFORCEMENT; GRANTEE'S REMEDIES

- A. **Notice of Violation, Corrective Action:** If Grantee determines that Grantor is in violation of the terms of this Conservation Easement Deed 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



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or activity inconsistent with the Purpose of this Conservation Easement Deed, to restore the portion of the Protected Property so injured to its prior condition in accordance with a plan approved by Grantee.

B. Grantor's Failure to Respond: Grantee may bring an action as provided in Subsection X.C if Grantor:

1. Fails to cure the violation within thirty (30) days after receipt of a notice of violation from Grantee; or
2. Under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing the violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.

C. Grantee's Action:

1. **Injunctive Relief:** Grantee may bring an action at law or in equity in a court having jurisdiction to enforce the terms of this Conservation Easement Deed:

- a. To enjoin the violation, ex parte as necessary, by temporary or permanent injunction; and
- b. To require the restoration of the Protected Property to the condition that existed prior to any such injury.

2. **Damages:** Grantee shall be entitled to recover damages for violation of the terms of this Conservation Easement Deed or injury to any Conservation Values protected by this Conservation Easement Deed, including, without limitation, damages for the loss of Conservation Values. Without limiting Grantor's liability in any way, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking corrective or restoration action on the Protected Property. Inasmuch as the actual damages to the Conservation Values that could result from a breach of this Conservation Easement Deed by Grantor would be impractical or extremely difficult to measure, the Parties agree that the money damages Grantee is entitled to recover from Grantor shall be, at Grantee's election, the higher of (i) the amount of economic gain realized by Grantor from violating the terms of the Conservation Easement Deed or (ii) the cost of restoring any Conservation Values that have been damaged by such violation. In the event Grantee chooses the second of these two measures, Grantor agrees to allow Grantee, its agents or contractors, to enter upon the Protected Property and conduct restoration activities.

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

E. Scope of Relief: Grantee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement Deed. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement Deed 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 Conservation Easement Deed, without the



necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

- F. Costs of Enforcement:** In the event Grantee must enforce the terms of this Conservation Easement Deed, the costs of restoration necessitated by acts or omissions of Grantor, its agents, employees, contractors, family members, invitees or licensees in violation of the terms of this Conservation Easement Deed and Grantee's reasonable enforcement expenses, including attorneys' and consultants' fees, shall be borne by Grantor or those of its personal representatives, heirs, successors, or assigns, against whom a judgment is entered. In the event that Grantee secures redress for an Conservation Easement Deed violation without initiating or completing a judicial proceeding, the costs of such restoration and Grantee's reasonable expenses shall be borne by Grantor and those of its personal representatives, heirs, successors, or assigns who are otherwise determined to be responsible for the unauthorized use or activity.
- G. Grantee's Discretion:** Grantee acknowledges its commitment to protect the Purpose of the Conservation Easement Deed. Enforcement of the terms of the Conservation Easement Deed shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Conservation Easement Deed in the event of any breach of any terms of this Conservation Easement Deed by Grantor, its agents, employees, contractors, family members, invitees or licensees shall not be deemed or construed to be a waiver by Grantee of such term or any of Grantee's rights under this Conservation Easement Deed. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver of such term or any of Grantee's rights under this Conservation Easement Deed. No grant by Grantee in its governmental or regulatory capacity of any building permit, grading permit, land use approval or other development approval shall be deemed or construed to be a waiver of any term or any of Grantee's rights under this Conservation Easement Deed.
- H. Waiver of Certain Defenses:** Grantor acknowledges that it has carefully reviewed this Conservation Easement Deed and has consulted with and been advised by counsel of its terms and requirements. In full knowledge of the provisions of this Conservation Easement Deed, Grantor hereby waives any claim or defense it may have against Grantee or its successors or assigns under or pertaining to this Conservation Easement Deed based upon waiver, laches, estoppel, or prescription; except to the extent the defense is based upon an approval or deemed approval by Grantee pursuant to Section VIII of this Conservation Easement Deed. Except for the foregoing, Grantor specifically retains any and all rights it has under the law as owner of the Protected Property, including but not limited to the right to make claims against Grantee for any breach by Grantee of the terms of this Conservation Easement Deed.
- I. Acts Beyond Grantor's Control:** Nothing contained in this Conservation Easement Deed shall be construed to entitle Grantee to bring any action against Grantor to abate, correct, or restore any condition on the Protected Property or to recover damages for any injury to or change in the Protected Property resulting from causes beyond Grantor's control, including, without limitation, natural changes, fire, flood, storm, earth movement or climate change, or from acts of trespassers, that Grantor could not reasonably have anticipated or prevented or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes. In the event the terms of this Conservation Easement Deed are violated by acts of trespassers that Grantors could not reasonably have anticipated or prevented, Grantor agrees, at Grantee's option, to join in any suit, to assign its right



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of action to Grantee, or to appoint Grantee its attorney in fact, for the purpose of pursuing enforcement action against the responsible parties.

- J. Compliance Certificates:** Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor, or to any party designated by Grantor, any document, including a certificate, that certifies, to the best of Grantee's knowledge, Grantor's compliance or lack of compliance with any obligation of Grantor contained in this Conservation Easement Deed and otherwise evidences the status of this Conservation Easement Deed. Such certification shall be limited to the condition of the Protected Property as of Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within thirty (30) days of receipt of Grantor's written request.

XI. ACCESS BY PUBLIC NOT GRANTED

This Conservation Easement Deed does not provide, and shall not be construed as providing, the general public access to any portion of the Protected Property. Except as modified by the Conservation Easement Deed Grantor retains all right to exclude others, recover damages for trespass or other property right violations.

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

- A. Costs, Legal Requirements, Liabilities and Insurance:** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Protected Property, including the maintenance of adequate liability insurance coverage. Grantor remains solely responsible for obtaining any applicable governmental permits and approval for any construction or other activity or use permitted by this Conservation Easement Deed, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall prevent the perfection of any liens against the Protected Property arising out of any work performed for, material furnished to, or obligations incurred by Grantor; provided that the Protected Property shall be deemed to be free of such liens if Grantor, as the case may be, is diligently challenging the application of such liens to the Protected Property.
- B. Taxes:** Grantor shall pay before delinquency or file timely appeal of all taxes, assessments, fees, charges of whatever description levied on or assessed against the Protected Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Conservation Easement Deed, and shall furnish Grantee with satisfactory evidence of payment upon request. If Grantor fails to pay any taxes when due, Grantee is authorized, but in no event obligated, to make or advance such payment of taxes upon three (3) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the maximum rate allowed by law.
- C. Representations and Warranties:** Grantor represents and warrants that, after reasonable investigation and to the best of Grantor's knowledge:
1. Grantor and the Protected Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Protected Property and its use;



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2. There has been no release, dumping, burying, abandonment or migration from off-site on the Protected Property of any substances, materials, or wastes that are hazardous, toxic, dangerous, or harmful or are designated as, or contain components that are, or are designated as, hazardous, toxic, dangerous, or harmful and/or that are subject to regulation as hazardous, toxic, dangerous, or harmful in violation of any federal, state or local law, regulation, statute, or ordinance;
 3. Neither Grantor nor Grantor's predecessors in interest have disposed of any hazardous substances off-site, nor have they disposed of substances at sites designated or proposed to be designated as federal Superfund (42 U.S.C. § 9601 et seq.) or state Model Toxics Control Act (RCW 70.105D.010 et seq.) ("MTCA") sites; and
 4. There is no pending or threatened litigation affecting the Protected Property or any portion of the Protected Property that will materially impair the Conservation Values of any portion of the Protected Property. No civil or criminal proceedings have been instigated or are pending against Grantor or its predecessors by government agencies or third parties arising out of alleged violations of environmental laws, and Grantor has not received any notices of violation, penalties, claims, demand letters, or other notifications relating to a breach of environmental laws.
- D. **Remediation:** If, at any time, there occurs, or has occurred, a release in, on, or about the Protected Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic or dangerous to the air, water or soil, or in any way harmful or threatening to human health or environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee should be responsible for remediation.
- E. **Control:** Nothing in this Conservation Easement Deed shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Protected Property, or any of Grantor's activities on the Protected Property, or otherwise to become an operation with respect to the Protected Property within the meaning of the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended ("CERCLA"), and MTCA.
- F. **Indemnification:** Grantor hereby agrees to release and hold harmless, indemnify, and defend Grantee, RCO, and their members, directors, officers, employees, agents, and contractors and the personal representatives, heirs, successors, and assigns of each of them costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with:
1. Injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Protected Property, regardless of cause unless due solely to the negligence of any of the Indemnified Parties; and
 2. The obligations, covenants, representations and warranties in Subsections A, B, C, and D of this section.

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XIII. EXTINGUISHMENT, CONDEMNATION AND SUBSEQUENT TRANSFER

- A. Extinguishment:** If circumstances arise in the future that render the Purpose of this Conservation Easement impossible to accomplish, this Conservation Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction and only upon a finding and declaration to that effect. The amount of the proceeds to which Grantee, TNC, and the United States shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Protected Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Washington law at the time, in accordance with Subsection XIII.B, Valuation, of this Conservation Easement Deed.
- B. Valuation:** In the event of an extinguishment pursuant to Subsection A, or the taking of all or part of the Protected Property by the exercise of the power of eminent domain, then Grantee, TNC, and the United States, through the Department of Agriculture, are entitled to their proportional share each of gross sale proceeds or condemnation award representing an amount equal to the ratio of the appraised value of this Conservation Easement to the unrestricted fair market value of the Protected Property as these values are determined on the date of this Conservation Easement Deed. The proportional shares of the parties are Grantee: 0%, TNC: 50%, and the United States, through the Department of Agriculture: 50%, representing the proportion each party contributed to the purchase price of the Conservation Easement.
- C. Condemnation:** If all or any of the Protected Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to extinguish this Conservation Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interest in the Protected Property subject to the taking or in lieu purchase and all direct or incidental damages resulting from the taking or in lieu purchase. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Except as provided by applicable law, Grantor and Grantee agree that Grantee's share of the balance of the amount recovered shall be determined by the method described in Subsection B, with the remainder due to the Grantor. Due to its interest in this Conservation Easement, the United States must consent prior to the commencement of any condemnation action.
- D. Distribution of Proceeds.** In the event of extinguishment of this Conservation Easement Deed pursuant to Section XIII.A, condemnation of this Conservation Easement Deed pursuant to Section XIII.C, or damages received by Grantor in an amount equal to the fair market value of this Conservation Easement Deed pursuant to Section X.D, any proceeds attributable to the value of the Conservation Easement Deed shall be distributed as follows: TNC is entitled to 50% and Skagit County is entitled to 50% of any such proceeds to Skagit County's Conservation Futures Fund (or successor fund) for use in purchasing conservation Easements or development rights on other eligible sites under the program (or successor program).
- E. Subsequent Transfers:** Grantor agrees to:
1. Incorporate the terms of this Conservation Easement Deed by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including, without limitation, a leasehold interest; and



2. Describe this Conservation Easement Deed in and append it to any executory contract for the transfer of any interest in the Protected Property; and
3. Obtain a certificate from the purchaser, leaseholder or other party gaining an interest in all or part of the Protected Property and any financier, acknowledging their awareness of this Conservation Easement Deed and their intent to comply with it. Such certificate shall be appended to and recorded with any deed or other legal instrument by which Grantor divests itself of any interest in all or a portion of the Protected Property; and
4. Give written notice to Grantee of the transfer of any interest in all or a portion of the Protected Property no later than forty-five (45) days prior to the date of such transfer. Such notice to Grantee shall include the name, address, and telephone number of the prospective transferee or the prospective transferee's representative.

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

F. Right of Enforcement: Under this Conservation Easement Deed, TNC and the United States are granted the right of enforcement in order to protect their respective investments in the Conservation Values of the Protected Property. TNC; and the Secretary of the United States Department of Agriculture (the Secretary), on behalf of the United States; together or separately, may exercise these rights under the following circumstances: In the event that the Grantee fails to enforce any of the terms of this Conservation Easement Deed, as determined in the sole discretion of either TNC or the Secretary, TNC, the Secretary, and either party's successors or assigns may exercise its rights to enforce the terms of this Conservation Easement Deed through any and all authorities available under Federal or State law.

XIV. AMENDMENT

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

XV. ASSIGNMENT

This Conservation Easement is transferable, but Grantee may assign its rights and obligations under this Conservation Easement Deed only to the Grantee's judicially appointed successor and must obtain prior approval of the assignment from TNC and the United States. As a condition of such transfer, Grantee shall require that the transferee exercise its rights under the assignment consistent with the Purpose of this Conservation Easement Deed. Grantee shall notify Grantor in writing, at Grantor's last known address, in advance of such assignment. The failure of Grantee to give such notice shall not affect the validity of



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such assignment nor shall it impair the validity of this Conservation Easement Deed or limit its enforceability in any way.

XVI. RECORDING

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

XVII. SUBORDINATION (if required)

At the time of conveyance of this Conservation Easement Deed, the Protected Property is not subject to any mortgage or deed of trust.

XVIII. GENERAL PROVISIONS

- A. **Controlling Law and Venue:** The interpretation and performance of this Conservation Easement Deed shall be governed by the laws of the State of Washington, except with respect to the requirements of the United States Farm and Ranch Lands Protection Program which shall be governed by the laws of the United States.
- B. **Liberal Construction:** Any general rule of construction to the contrary notwithstanding, this Conservation Easement Deed shall be liberally construed in favor of the grant to effect the Purpose of this Conservation Easement Deed 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 Conservation Easement Deed that would render the provision valid shall be favored over any interpretation that would render it invalid.
- C. **Severability:** If any provision of this Conservation Easement Deed, or its application to any person or circumstance, is found to be invalid, or unenforceable by any court of competent jurisdiction or is superseded by state or federal legislation, rules, regulations or decision, the remainder of the provisions of this Conservation Easement Deed, 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. If any material provision of this Conservation Easement Deed, is found to be invalid, unenforceable or is superseded so that the intent of these provisions is frustrated, the parties agree to immediately negotiate a replacement provision to fulfill the intent of the superseded provisions consistent with the Purpose of this Conservation Easement Deed and applicable law.
- D. **Entire Agreement:** This instrument sets forth the entire agreement of the parties with respect to the Protected Property and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Protected Property, all of which are merged into this Conservation Easement Deed. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section XIV.
- E. **No Forfeiture:** Nothing contained in this Conservation Easement Deed will result in a forfeiture or reversion of Grantor's title in any respect.
- F. **"Grantor" - "Grantee":** The terms "Grantor" and "Grantee," wherever used in this Conservation Easement Deed, and any pronouns used in their place, shall be held to mean and



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include, respectively the above-named Grantor, and its personal representatives, heirs, successors, and assigns, and the above-named Grantee, its personal representatives, successors and assigns.

- G. Successors and Assigns.** The covenants, terms, conditions, and restrictions of this Conservation Easement Deed shall be binding upon, and inure to the benefit of, the parties to this Conservation Easement Deed and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.
- H. Termination of Rights and Obligations:** A party's rights and obligations under this Conservation Easement Deed terminate upon transfer of the party's interest in the Conservation Easement Deed or Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
- I. Joint and Several:** The obligations imposed by this Conservation Easement Deed upon Grantor shall be joint and several.
- J. Counterparts:** The parties may execute this instrument in two or more counterparts, which shall be signed by both parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.
- K. Effective Date:** The effective date of this Conservation Easement Deed is the date of recording in the records of Skagit County, Washington.
- L. Authority:** The individuals signing below, if signing on behalf of any entity, represent and warrant that they have the requisite authority to bind the entity on whose behalf they are signing.
- M. Recitals:** The Parties agree that the terms and recitals set forth in Section I (among other terms of this Conservation Easement Deed) are material to this Conservation Easement Deed, and that each Party has relied on the material nature of such terms and recitals in entering into this Conservation Easement Deed. Each term and recital set forth in Section I is fully incorporated into this Conservation Easement Deed.
- M. Environmental Warranty:** Grantor warrants that he is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that he has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.

Moreover, Grantor hereby promises to hold harmless and indemnify the Grantee, TNC, and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by Grantee, TNC, or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however,



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that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Protected Property by Grantee..

“Environmental Law” or “Environmental Laws” means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

“Hazardous Materials” means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

XIX. SCHEDULE OF EXHIBITS

Exhibit A. Legal Description of Property Subject to Conservation Easement Deed.

Exhibit B. Site Plan and Baseline Documentation.

REMAINDER OF PAGE IS INTENTIONALLY BLANK; SIGNATURE PAGES FOLLOW



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TO HAVE AND TO HOLD unto Skagit County, the United States of America and The Nature Conservancy, successors and assigns forever.

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument this 7 day of December, 2010.

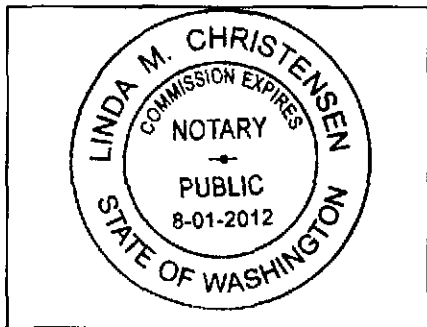



Mary Jean Hoffman, Individually and as
Trustee of the Lawrence R. Hoffman
Testamentary Exemption Equivalent Trust

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Mary Jean Hoffman is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

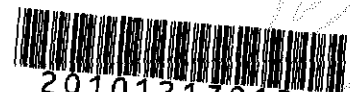
Dated: 12-7-2010




Notary Public
Print Name Linda M. Christensen
My commission expires 8-1-2012

(Use this space for notarial stamp/seal)

*it as the Trustee of The Lawrence R. Hoffman Testamentary Exemption Equivalent Trust to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.



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

Dated: December 13, 2010

SKAGIT COUNTY, WASHINGTON

Recommended:

Sharon D. Dillon
Sharon D. Dillon, Chair

By:

[Signature]
Department Head

Ron Wesen
Ron Wesen, Commissioner

By:

Trisha Tague
Budget & Finance

ABSENT

Kenneth A. Dahlstedt, Commissioner

Approved as to Indemnification

By:

Brie Hadamus
Risk Manager
12/13/2010

Approved as to Form:

Attest:

By:

Ryan Walter
Civil Deputy

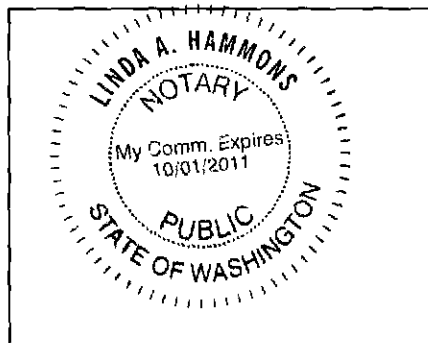
By:

Linda Hammons
Clerk of the Board

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Sharon D. Dillon, Ron Wesen, and ~~Kenneth A. Dahlstedt~~ are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the County Commissioners of Skagit County, Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: December 13, 2010



Linda Hammons
Notary Public
Print Name Linda Hammons
My commission expires 10/01/2011



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**ACCEPTANCE OF PROPERTY INTEREST BY THE NATURAL RESOURCES
CONSERVATION SERVICE ON BEHALF OF THE UNITED STATES OF AMERICA**

The Natural Resources Conservation Service, an agency of the United States Government, hereby accepts and approves the foregoing Conservation Easement Deed, and the rights conveyed therein, on behalf of the United States of America.

Authorized Signatory for the NRCS

State of _____

County of _____

On this ____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State, personally appeared _____ known or proved to me to be the person whose signature appears above, and who being duly sworn by me, did say that she/he is the State Conservationist of the Natural Resources Conservation Service, United States Department of Agriculture, is authorized to sign on behalf of the United States of America, and acknowledged and accepted the rights conveyed by the within Conservation Easement Deed.

In witness whereof, I have hereunto set my hand and official seal the day and year first above written.

Notary Public for the State of _____

Residing at _____

My Commissions Expires _____



EXHIBIT A

Legal Description

LEGAL DESCRIPTION - PARCEL "A": P15934, P15935, P15936, P15937

Lot 1, short plat No. 90-30, approved November 19, 1990, recorded November 26, 1990 in Book 9 of Short Plats page 288, under Auditor's File No. 11260004 and being a portion of the South $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 16, Township 33 North, Range 3 East, W.M.

EXCEPT that portion conveyed by Boundary Line Adjustment deed under Auditor's File No. 200906240055, described as follows:

Beginning at the Northwest corner of Lot 2 of Short Plat No. 90-30 as recorded in Auditor's File No. 9011260004, records of Skagit County, Washington; thence South $89^{\circ}29'04''$ west for a distance of 13.50 feet to the East line of Maupin Road; thence North $00^{\circ}49'41''$ East along the East line of said Maupin Road for a distance of 25.00 feet; thence North $42^{\circ}35'50''$ East for a distance of 335.52 feet, more or less, to a point that bears North $00^{\circ}49'41''$ East a distance of 270.00 feet from the Northeast corner of said Lot 2; thence South $00^{\circ}49'41''$ West a distance of 270 feet to the Northeast corner of said Lot 2; thence South $89^{\circ}29'04''$ West along the North line of said Lot 2 for a distance of 210.00 to the true point of beginning.

Situate in Skagit County, State of Washington.

PARCEL "B": P15932 and 15933

The North $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 16, Township 33 North, Range 3 East, W.M.,

EXCEPT Diking District No. 15 right of way condemned in Skagit County Superior Court Cause No. 4058 by decree entered July 19, 1900,

ALSO EXCEPT that portion conveyed to Skagit County for road purposes by deeds recorded September 28, 1923, under Auditor's File Nos. 168165, 168166, 168169, 168170, and 168171.

Situate in the County of Skagit, State of Washington.

PARCEL "C": P15964

The Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 17, Township 33 North, Range 3 East, W.M.,

EXCEPT Diking District no. 15 right of way condemned in Skagit County Superior Court Cause No. 458 by decree entered July 19, 1900.

Situate in the County of Skagit, State of Washington.

PARCEL "D": p15950 and 15958

Government Lot 4 of Section 17, Township 33, North, Range 3 East, W.M.,

EXCEPT Diking District No. 125 right of way condemned in Skagit County Superior Court Cause No. 4058 by decree entered July 19, 1900.

TOGETHER WITH tidelands of the second class, as conveyed by the State of Washington, situate in front of, adjacent to or upon that portion of said Government Lots 3 and 4 of Section 17.

EXCEPT that portion of said tidelands lying outside the dikes as the same existed on May 1, 1973.

Situate in the County of Skagit, State of Washington.

LEGAL DESCRIPTION AMENDED PER AGENT ORDER NO. 135048-SE ON FOLLOWING PAGES



Schedule "A-1"

135048-SE

DESCRIPTION:

PARCEL "A" continued:

thence North 89°29'04" East for a distance of 16.51 feet, more or less, to the Easterly right-of-way margin of Maupin Road and being the TRUE POINT OF BEGINNING;
thence North 0°49'42" East along said Easterly right-of-way margin of Maupin Road, parallel with the West line of said Northeast ¼ of the Southwest ¼ for a distance of 116.40 feet;
thence South 88°18'05" East for a distance of 235.37 feet;
thence South 47°53'57" East for a distance of 40.39 feet;
thence South 17°42'49" West for a distance of 84.15 feet, more or less, to the South line of said Northeast ¼ of the Southwest ¼ at a point bearing North 89°29'04" East from the TRUE POINT OF BEGINNING;
thence South 89°29'04" West along said South line for a distance of 241.32 feet, more or less, to the TRUE POINT OF BEGINNING.

AND EXCEPT road rights-of-way;

AND ALSO EXCEPT dike and drainage rights-of-way, if any.

Situate in the County of Skagit, State of Washington.

PARCEL "B":

The Northeast ¼ of the Southeast ¼ of Section 17, Township 33 North, Range 3 East, W.M.,

EXCEPT Diking District No. 15 right of way condemned in Skagit County Superior Court Cause No. 4058 by decree entered July 19, 1900.

Situate in the County of Skagit, State of Washington.

PARCEL "C":

Government Lot 4 of Section 17, Township 33 North, Range 3 East, W.M.,

EXCEPT Diking District No. 15 right of way condemned in Skagit County Superior Court Cause No. 4058 by decree entered July 19, 1900.

TOGETHER WITH tidelands of the second class, as conveyed by the State of Washington, situate in front of, adjacent to or upon that portion of said Government Lots 3 and 4 of Section 17,

EXCEPT that portion of said tidelands lying outside the dike as the same existed on May 1, 1973.

Situate in the County of Skagit, State of Washington.

(See Note #2)


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Schedule "A-1"

135048-SE

DESCRIPTION:

PARCEL "A":

Lot 1, Skagit County Short Plat No. 90-30 approved November 19, 1990, and recorded November 26, 1990, under Skagit County Auditor's File No. 9011260004; being a portion of the South $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 16, Township 33 North, Range 3 East, W.M.

EXCEPT that portion thereof described as follows:

Beginning at the Southeast corner of said Southwest $\frac{1}{4}$ (South $\frac{1}{2}$ corner) of Section 16, Township 33 North, Range 3 East, W.M.;
thence North $0^{\circ}30'21''$ East along the East line of said Southwest $\frac{1}{4}$ for a distance of 1,321.36 feet, to the Northeast corner of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, also being the Northeast corner of said Lot 1, Skagit County Short Plat No. 90-30;
thence South $89^{\circ}29'04''$ West along the North line of said Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, for a distance of 1312.75 feet, more or less, to the Northwest corner thereof;
thence North $89^{\circ}29'04''$ East for a distance of 16.51 feet, more or less, to the Easterly right-of-way margin of Maupin Road and being the TRUE POINT OF BEGINNING;
thence South $0^{\circ}49'42''$ West along said Easterly right-of-way margin of Maupin Road, parallel with the West line of said Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 16, Township 33 North, Range 3 East, W.M., for a distance of 100.57 feet;
thence North $87^{\circ}30'52''$ East for a distance of 109.63 feet;
thence North $75^{\circ}01'28''$ East for a distance of 81.26 feet;
thence North $44^{\circ}14'12''$ East for a distance of 64.33 feet;
thence North $17^{\circ}42'49''$ East for a distance of 32.43 feet, more or less, to the North line of said Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ at a point bearing North $89^{\circ}29'04''$ East from the TRUE POINT OF BEGINNING;
thence South $89^{\circ}29'04''$ West along said North line for a distance of 241.32 feet, more or less, to the TRUE POINT OF BEGINNING.

AND EXCEPT that portion of said Lot 1, Skagit County Short Plat No. 90-30 conveyed to Denny Ellingson and Juli Kay Ellingson, husband and wife, via that certain Quit Claim Deed for Boundary Line Adjustment recorded under Skagit County Auditor's File No. 200906240055.

TOGETHER WITH the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 16, Township 33 North, Range 3 East, W.M.,

EXCEPT that portion thereof described as follows:

Beginning at the Southeast corner (South $\frac{1}{4}$ corner) of the Southwest $\frac{1}{4}$ of said Section 16, Township 33 North, Range 3 East, W.M.;
thence North $0^{\circ}30'21''$ East along the East line of said Southwest $\frac{1}{4}$ for a distance of 1,321.36 feet, more or less, to the Southeast corner of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 16, Township 33 North, Range 3 East, W.M.;
thence South $89^{\circ}29'04''$ West along the South line of said Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ for a distance of 1,312.75 feet, more or less, to the Southwest $\frac{1}{4}$ corner thereof;



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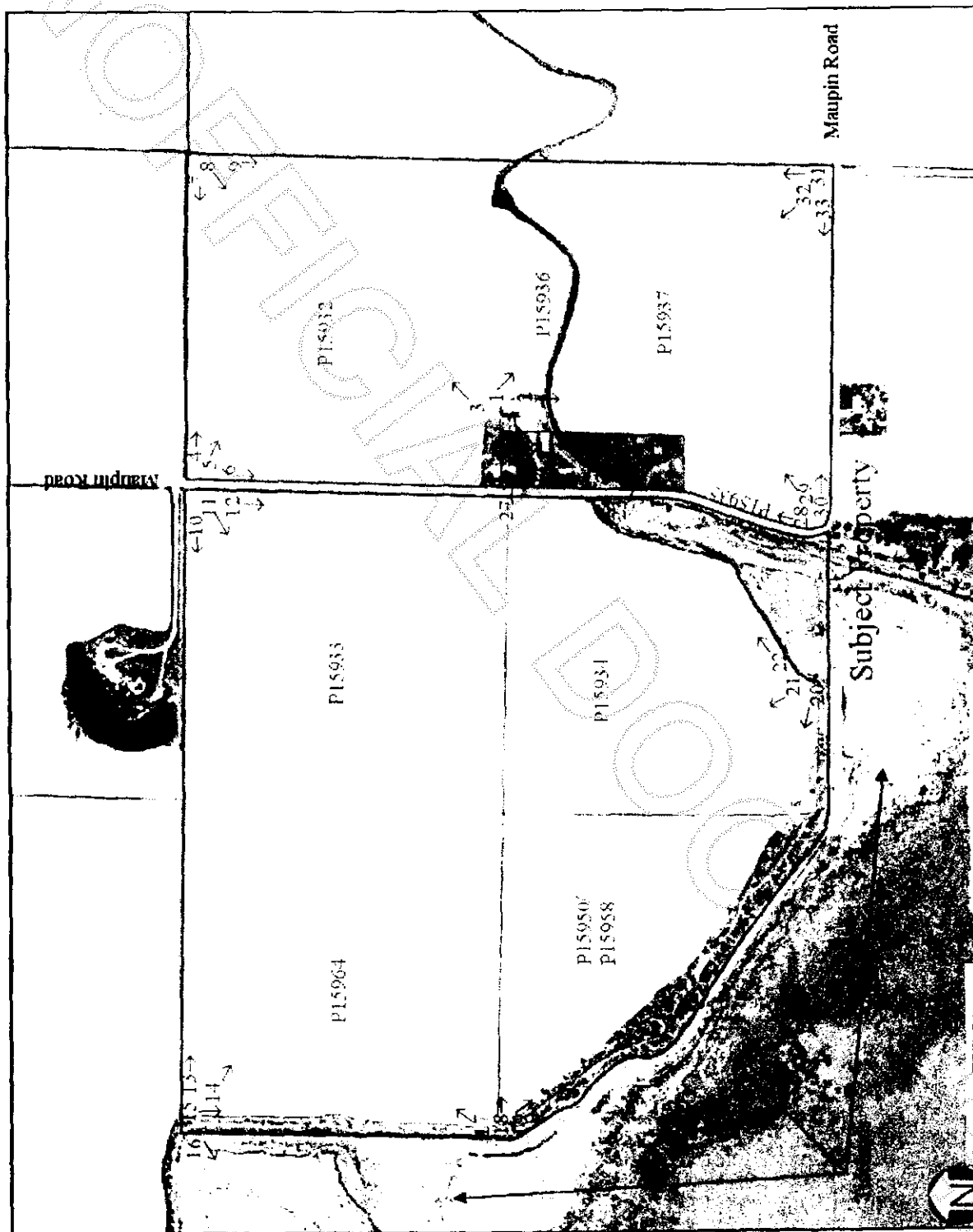
EXHIBIT B

Site Plan & Baseline Documentation:

B-1



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Source for aerial photo: Skagit County Website; map, annotated by appraiser, boundaries, are approximate, for visual reference only.

Photograph Location Map

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Source for aerial photo: Skagit County Website; map: annotated by appraiser; boundaries are approximate, for visual reference only

Aerial Photograph of Subject Property

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SUBJECT PHOTOGRAPH

Photograph #1

View from rear of
barn, looking
southeast across
P15936.

This parcel was
most recently
planted in potatoes.



Photograph #2

View looking
south from rear of
barnyard across
P15936 in
foreground and
P15937 in
background.



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SUBJECT PHOTOGRAPH

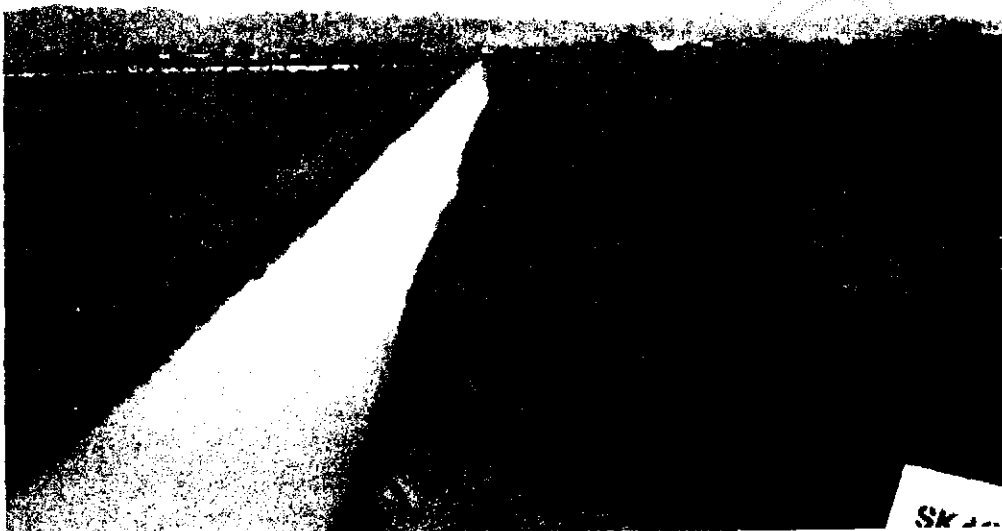
Photograph #3

View from rear of
barnyard looking
northeast across
P15932, currently
planted in grass.



Photograph #4

View looking east
along northern
boundary line of
P15932 from
Maupin Road.
Subject is to the
right.



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SUBJECT PHOTOGRAPH

Photograph #5

Looking southeast
from the northwest
corner of P15932.



Photograph #6

Maupin Road
frontage of P
15932, looking
south. The
Hoffman residence
is in the
background.
Subject land lies to
either side of the
roadway.



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*All photographs taken by the appraiser, Robert W. Suttles, MAI on December 18, 2009

SUBJECT PHOTOGRAPH

Photograph #7

Looking west
along northern
boundary from
northeast corner of
P15932.



Photograph #8

View to the
southwest from
northeast corner of
P15932



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SUBJECT PHOTOGRAPH

Photograph #9

Eastern boundary
of P15932, looking
south



Photograph #10

Western view
along northern
boundary of
P15933 from
northeast corner of
parcel.



SUBJECT PHOTOGRAPH

Photograph #11

Looking southwest
across P15933
from northeast
corner. This field
was most recently
planted in corn.



Photograph #12

Eastern boundary
of P15933, looking
south. Maupin
road is on the left.



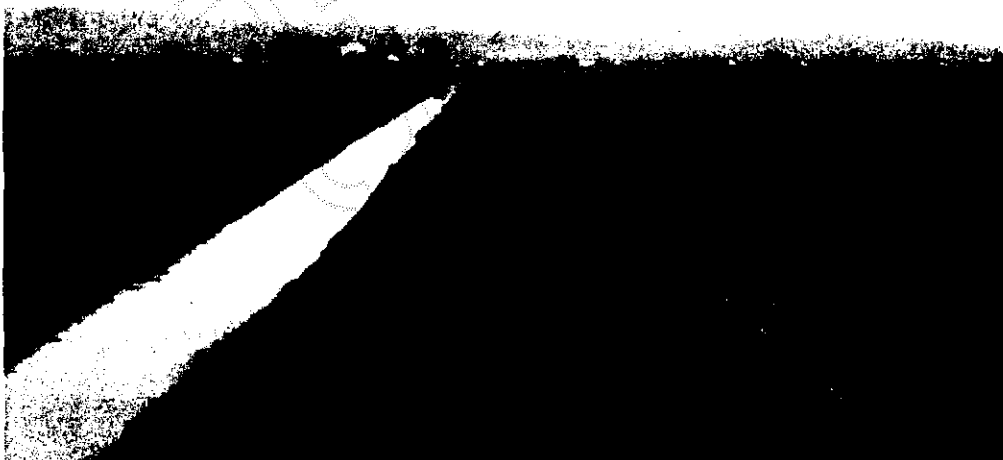
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SUBJECT PHOTOGRAPH

Photograph #13

Looking east along
northern boundary
from northwest
corner of P15964



Photograph #14

View looking to
the southeast
across P15964
from the northwest
corner



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SUBJECT PHOTOGRAPH

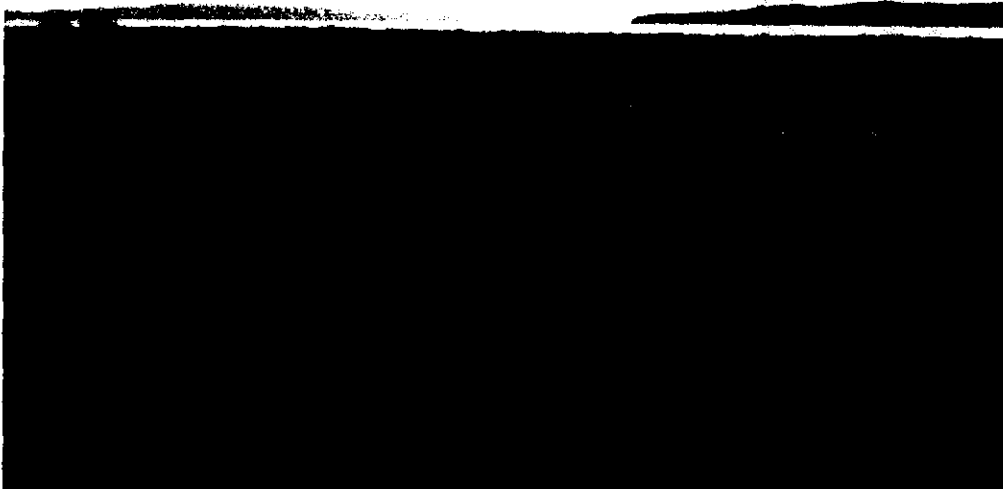
Photograph #15

View looking south along western edge of 15964, the dike maintained by District 15 is on the right



Photograph #16

View from top of the dike, over tidelands (P15949) belonging to same owner. Skagit Bay is in the background.



This land is not included in the easement valuation



SUBJECT PHOTOGRAPH

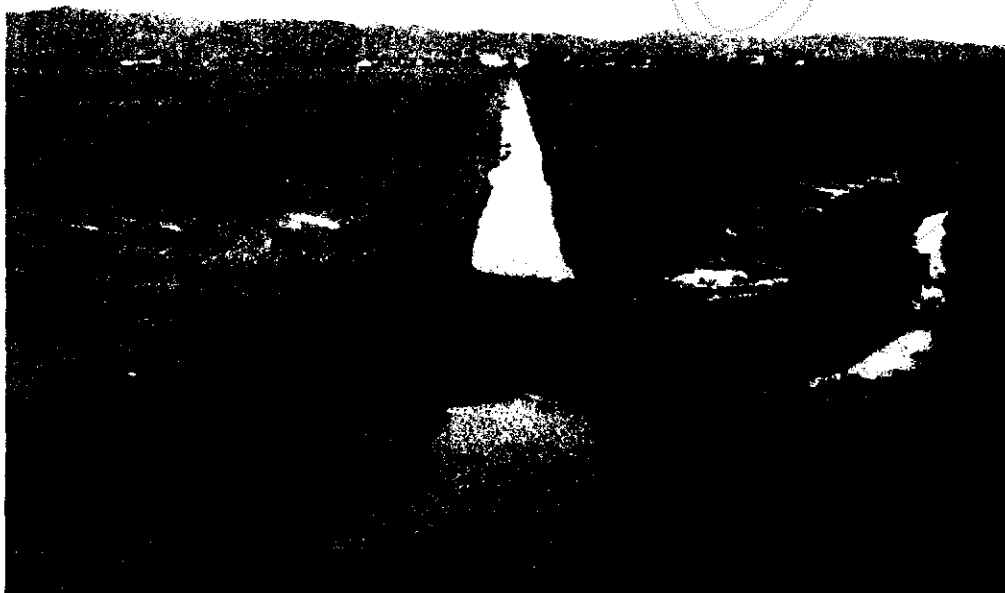
Photograph #17

View from top of
dike, looking
northeast across
P15964



Photograph #18

Looking east from
top of dike across
P15964 (on left) and
P15950/P15958 (on
right)



*All photographs taken by the appraiser, Robert W. Suttles, MAI on December 18, 2009

SUBJECT PHOTOGRAPH

Photograph #19

Looking to the
southeast from
northwest corner
of P15950/P15958



Photograph #20

View looking west
from about
halfway along
southern boundary
of P15934



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SUBJECT PHOTOGRAPH

Photograph #21

View looking
north from atop the
dike across P15934



Photograph #22

View to the east
from about
halfway along
southern boundary
of P15934



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SUBJECT PHOTOGRAPH

Photograph #23

View of adjacent
parcels P15937 &
P96116 short-
platted in 1990

This property is
not included in the
valuation of the
subject property.



Photograph #24

Incidental building,
currently used by
Skagit Gun Club,
located on P15936



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SUBJECT PHOTOGRAPH

Photograph #25



Tractor barn on P15936 that is situated on the hypothetical one acre subdivision and is not included in the valuation of the subject property

Photograph #26



Incidental buildings to rear of Hoffman residence on P15936

The larger building in the background is associated with the subject property and is included in the valuation, but the older and smaller shed is associated with the hypothetical one acre homestead that is not part of the valuation

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SUBJECT PHOTOGRAPH

Photograph #27

Hoffman residence
from Maupin Road

This improvement
is excluded from
the valuation of the
subject property
based on
hypothetical
condition



Photograph #28

View looking
north from bend in
Maupin Road
across P15935

The house in the
background is not
part of the subject
property



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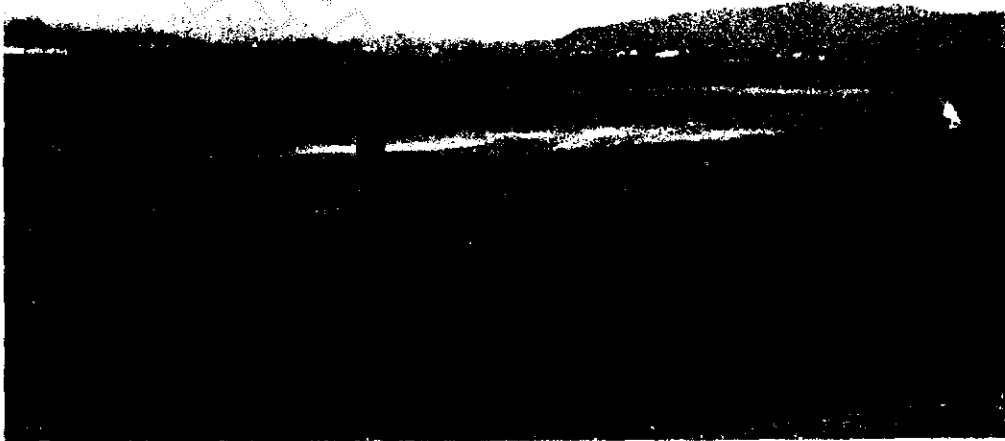
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*All photographs taken by the appraiser, Robert W. Suttles, MAI on December 18, 2009

SUBJECT PHOTOGRAPH

Photograph #29

View looking
northeast across
P15935 and
P15937 from bend
in Maupin Road



Photograph #30

View looking east
along Maupin
Road and southern
boundary of
P15937. Subject is
on the left.



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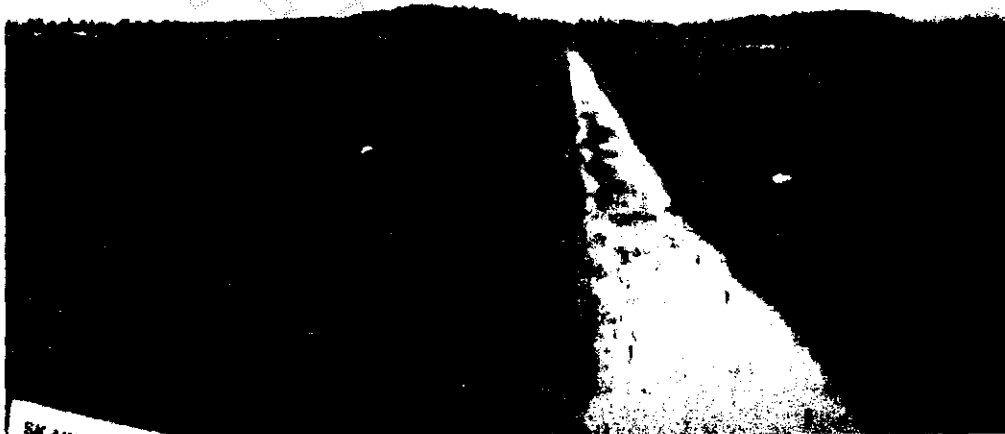
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SUBJECT PHOTOGRAPH

Photograph #31

View looking
north along eastern
boundary of
P15937 from
southeast corner



Photograph #32

Looking northwest
across P15937
from southeast
corner. Hoffman
residence is in the
background. This
field is currently
planted in grass.



*All photographs taken by the appraiser, Robert W. Suttles, MAI on December 18, 2009

SUBJECT PHOTOGRAPH

Photograph #33

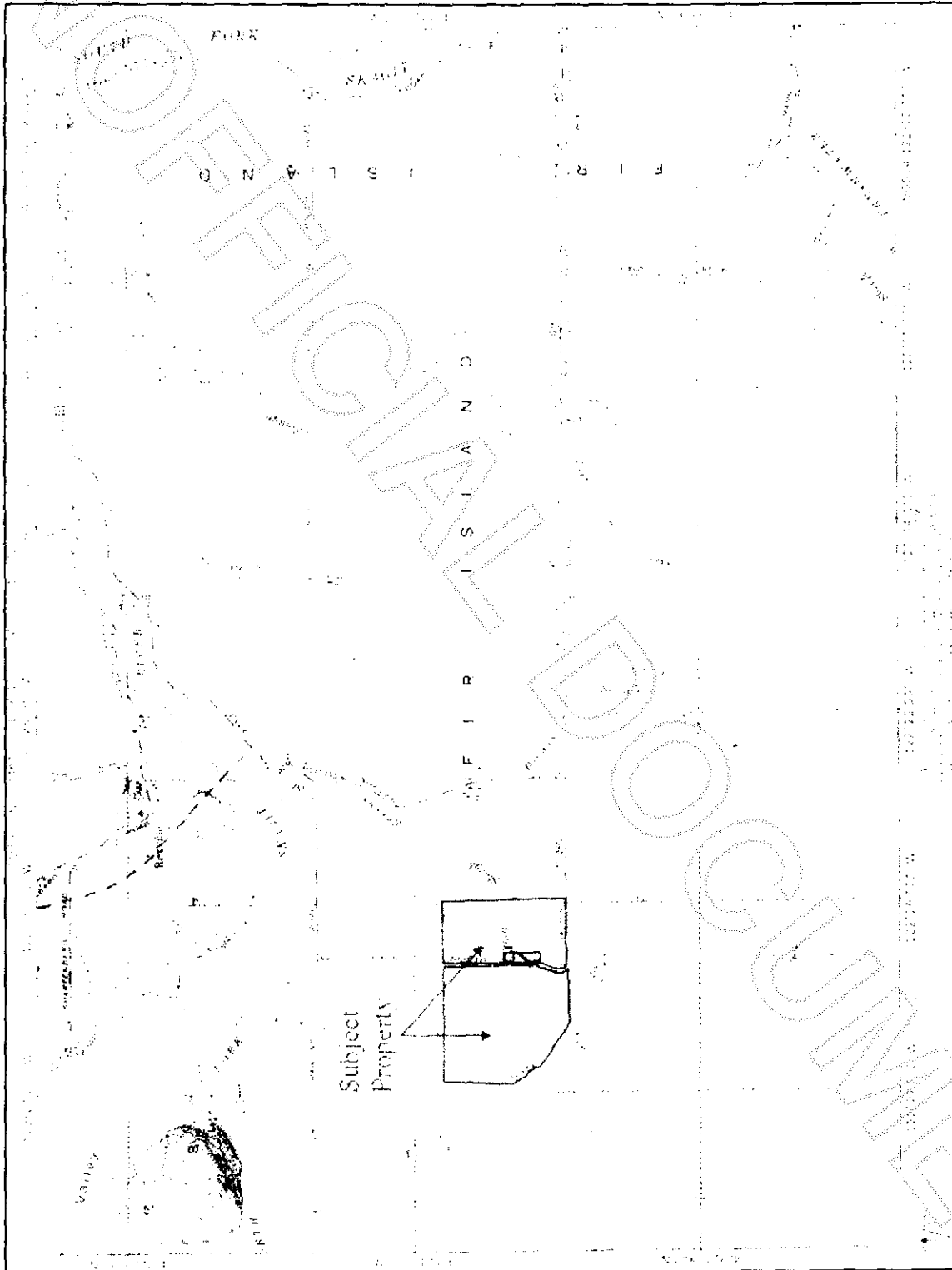
View looking west
along Maupin
Road from
southeast corner of
P15937



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Source: National Geographic, Washington, Seamless USGS Topographic Maps on CD-ROM (annotated by appraiser)

USGS Topographical Map

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