

When recorded return to:

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



201012230102
Skagit County Auditor

12/23/2010 Page 1 of 30 4:00PM

Grantor: Denise M. Wolff, as Personal Representative of the Estate of H. Victoria Miceli

Grantee: Skagit Land Trust

Brief Legal Description: Ptn Blk 55, Bay View (McKenna & Elliott's 2nd); Ptn Blk 5, Seigfred's Add. To Bay View.

Full legal description shown in Exhibit A.

easement
SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

Assessor's Tax Parcel and I.D. No: 4068-005-003-0007/P71089
4068-005-006-0004/P71090
4071-055-000-0000/P71193
4071-055-000-0208/P71195

DEC 23 2010

Amount Paid \$
Skagit Co. Treasurer
By Deputy

GRANT DEED OF CONSERVATION EASEMENT

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 23rd day of December 2010 ("Easement"), by Denise M. Wolff, Personal Representative of H. Victoria Miceli (Grantor), in favor of the Skagit Land Trust, a Washington nonprofit corporation qualified to do business in Washington, having an address at P. O. Box 1017, Mt. Vernon, WA 98273 ("Grantee").

I. RECITALS

A. The Will of H. Victoria Miceli, dated August 29, 2006 ("Will"), states the deceased's wish to grant a Conservation Easement to Skagit Land Trust to protect certain conservation values on her property located at 11230 Bay View Edison Rd, Mount Vernon, WA. This is also the wish of her heir, Jonathan Granger and the Personal Representative of her Estate. Denise Wolff has been duly appointed Personal Representative of the Estate of H. Victoria Miceli (Skagit County Cause Number No 09 4 00403 0) by Letters Testamentary issued by the Skagit County Superior Court on December 15, 2009. The Estate includes certain real property inclusive of all standing and down timber, situated in Skagit County, State of Washington, more particularly described in Exhibit A (Legal Description) and shown on Exhibit B (Site Map), and Exhibit C (Baseline Report Summary), all of which are attached and made part hereof by this reference (hereinafter referred to as "Property").

B. The Will expressed the wish that the entire Property be subject to the Easement, but Skagit Land Trust is willing only to accept the Easement on the portion of the Property that does not include residential structures and improvements, and where the conservation values are most significant. Therefore, as authorized by R.C.W. 11.96A (*Trust and Estate Dispute Resolution*), the Heir and Personal Representative of the estate, together with Skagit Land Trust as Devisee, agreed to amend some of the specific provisions of the gift to target the protection envisioned by the deceased to that portion of the property where the conservation values are located.

C. The Property consists of approximately one-acre with one single-family residence and associated outbuildings, improvements and landscaping. The Property is zoned 'Rural Village Residential' in Skagit County's 2007 Comprehensive Plan. The property includes approximately two-hundred linear feet of saltwater shoreline along Padilla Bay. The saltwater shoreline and a strip of contiguous uplands are in relatively natural and undisturbed condition. It is this shoreline and the adjacent upland area that contain most of the conservation value on the Property. Therefore, a strip of land that is contiguous with the saltwater shoreline approximately ninety to one-hundred feet wide shall be the sole focus of this Easement. This shoreline and contiguous strip of land shall be referred to hereinafter as the "Protected Zone" and is more particularly described in Section V.A. below (*Protected Zone Location*), and in Exhibits A, B and C.

D. The Protected Zone includes shoreline on Padilla Bay and is less than one-half mile from Bayview State Park and less than three-quarters of a mile from the Padilla Bay National Estuarine Research Reserve. Restrictions on the use of the Protected Zone help build on the conservation goals for these nearby regionally important public lands.

E. Padilla Bay is part of Puget Sound. The Washington State legislature in RCW 90.70.001 has recognized "that Puget Sound and related inland marine waterways of Washington State represent a unique and unparalleled resource. A rich and varied range of marine organisms, composing an interdependent, sensitive communal ecosystem reside in these sheltered waters." The legislature has further recognized that residents of this region enjoy a way of life centered around the waters of Puget Sound which depends upon a clean and healthy marine resource. Restrictions on the uses within the Protected Zone will benefit Padilla Bay and Puget Sound because it prevents shoreline modification and provides a protected buffer area along the shoreline, which allows natural shoreline processes to occur and reduces soil disturbance and contamination in runoff. The Protected Zone has important scenic values and enhances the open-space character of Skagit County, providing a natural shoreline setting that can be enjoyed by the general public from Padilla Bay and Bay View Edison Road.

F. The Protected Zone contains native trees and shrubs, including western red cedar, western hemlock and mixed deciduous species. A number of large old Douglas fir are located close to the edge of the bank and are good perching sites for bald eagles foraging in the bay. This buffer of vegetation collectively provides forage and cover for a diversity of native birds



and mammals who require undisturbed refuge along the shoreline to flourish. The shoreline is high-bank and appears to be gradually eroding eastward. This shoreline bank appears suitable for small mammals and bird species such as kingfisher and swallows that use excavated soft banks for nesting sites; it may also be a source of fine soil materials important to the natural processes that replenish the beach and tidelands in Padilla Bay. These tidelands support vast eel grass meadows and numerous invertebrate species that, in turn, are an important food source for many bird and animal species associated with shallow marine habitats.

G. The Protected Zone also contains some non-native trees and shrubs that are part of the landscaping on the Property, and which are non-invasive and important to the Grantor. Some portions of the Protected Zone are currently mowed lawn.

H. There are no man-made structures within the Protected Zone, *except* a portion of an existing septic system drainfield that serves a neighboring home may be partially located within the Protected Zone. The Property is subject to an easement recorded under Skagit County Auditor's file number 930707020144, which allows maintenance, repair and replacement of said septic system. To the extent this existing use may now be occurring within the Protected Zone, it is the intent of Grantor and Grantee to allow it to continue.

I. The specific Conservation Values are documented in an inventory of relevant features of the Protected Zone, dated Dec 23rd 2010, a copy of which is on file at the offices of both Grantor and Grantee, is signed by each party, and is incorporated into this Easement by this reference ("Baseline Documentation"). The Baseline Documentation consists of reports, maps, photographs, and other documentation that provide, collectively, an accurate representation of the Protected Zone at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant. Grantor and Grantee further agree that, within twelve (12) months of the execution hereof, a collection of additional Baseline Documentation may be compiled by Grantee, and incorporated herein by this reference. Failure to timely compile the additional Baseline Documentation shall not affect the enforceability or validity of any other provision hereof. A summary of said documentation is contained in Exhibit C. ("Baseline Report Summary"). In any conflict or inconsistency between the terms of this Easement and the Baseline Documentation, the Baseline documentation shall prevail. Grantor has been provided a copy of the Baseline Documentation prior to mutual execution of this agreement and has reviewed and accepted the same.

J. Grantor intends that the Conservation Values of the Protected Zone be preserved and maintained by the continuation of uses and activities within the Protected Zone that do not significantly impair or interfere with the Conservation Values. These current and future uses consist of, but are not limited to: 1) passive recreation and enjoyment; 2) restoration and enhancement of the native flora, for the benefit of wildlife as well as for open space and scenic qualities described herein; 3) continued use, maintenance and replacement as necessary of the existing septic system to the extent it may currently be within the Protected Zone; and 4) construction of low impact stairs (as defined in V.C.3.v. below) from the top of the bank at



the shoreline, allowing access to the beach below. On the portion of Grantor's ownership east of the Protected Zone, Grantor intends to use the land for a single-family residence and retains all rights associated with said use. Nothing stated herein shall restrict the rights of Grantor to construct or maintain additional structures on The Property outside the Protected Zone, as allowed under Special Use Permits which may be provided for under applicable zoning regulations. These current and future uses are consistent with this Easement.

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

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

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

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

II. CONVEYANCE AND CONSIDERATION

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

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

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

III. PURPOSE

A. **The Conservation Purposes.** The purpose of this Easement is to preserve and protect forever the scenic, open-space, natural character and ecological values, including the saltwater shoreline and natural character of the adjacent uplands in the Protected Zone. Grantor and



Grantee intend that this Easement will confine the use of the Protected Zone to activities that are consistent with the Purposes of this Easement and will prohibit and prevent any use of the Protected Zone that will materially impair or interfere with the Conservation Values of the Protected Zone.

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

IV. RIGHTS CONVEYED TO GRANTEE

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

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

B. **Grantee Access.**

B.1. For the purposes of ingress and egress to the Protected Zone, Grantee and Grantee's representatives and agents may enter and cross on foot Grantor's Property from Bay View Edison Road, to enter upon the Protected Zone annually, at a mutually agreeable time and upon prior written notice to the Grantor, for the purpose of making a general inspection to assure compliance with this Easement, and to locate, install or replace markers identifying the boundary of this Easement.

B.2. For the purposes of ingress and egress to the Protected Zone, Grantee and Grantee's representatives and agents may enter and cross on foot Grantor's Property from Bay View Edison Road, to enter upon the Protected Zone at such other times as are necessary if there is reason to believe that a violation of the Easement is occurring, for the purposes of enforcing the provisions of this Easement.

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

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



V. RESTRICTIONS AND RESERVED RIGHTS

A. **Protected Zone Location.** For the purposes of this Easement, the Protected Zone shall be considered all of the Grantor's Property that is located west of a line that is parallel to and 190 feet west of the centerline of Bay View Edison Road.

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

C. **Prohibited Uses.** Land uses are limited in the Protected Zone as described below.

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

- i. **Motorized Vehicles.** Operation of off road vehicles, all terrain vehicles, motorcycles or other type of motorized recreational vehicles, or the operation of other sources of excessive noise pollution *except* for equipment normally used for proper maintenance and associated with activities permitted in this section;
- ii. **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.
- iii. **Structures.** The placement or construction of any buildings, structures, or other improvements of any kind including, without limitation, residential buildings, storage buildings, roads, utilities, docks, bulkheads and boat launch ramps, *except* one set of stairs to access the beach as described below in V.C.3.v., below.
- iv. **Crop Cultivation.** The cultivation of any crops including timber products, nursery stock, fruit and vegetables, row crops, and livestock feed;
- v. **Application of Agricultural Chemicals.** The application of agricultural chemicals including fertilizers, animal wastes and pesticides *except* to control noxious weeds in compliance with applicable laws and manufacturer's specifications, or to restore habitat as part of an approved management plan as described in C.2.iii. (Habitat Restoration) below;
- vi. **Wildlife Disruption.** The intentional disruption of native wildlife breeding and nesting activities;
- vii. **Domestic Animals.** The keeping of domestic animals, including grazing livestock;

- viii. Alteration of Land. The alteration of the surface of the land, including, without limitation, the excavation or removal of soil, sand, gravel, rock, peat, or sod are prohibited, except for the study of any incidental archeological findings;
- ix. Introduced Vegetation. The intentional introduction of nonnative or invasive plant species.
- x. Waste Disposal. The disposal or storage of rubbish, garbage, debris, hydrocarbons, pesticides, animal or human waste, abandoned vehicles or equipment or parts thereof or other unsightly, offensive, or hazardous waste or material is prohibited.

C.2. Vegetation Maintenance. Consistent with the purposes of this Easement, it is the intent of any vegetation maintenance undertaken by the Grantor within the Protected Zone to enhance, restore and maintain through time native vegetation that is appropriate for this site, while also providing for a filtered view of the water. Therefore, the pruning, topping, cutting down, burning or other destruction or removal of live and dead trees and other native vegetation is prohibited in the Protected Zone, except as provided below.

- i. Desired Future Condition. The future condition of the Protected Zone is envisioned as follows: 1) widely spaced large diameter Douglas-fir, western red cedar and/or other native conifers trees; 2) a healthy understory of native shrubs and forbs such as ocean spray, red flowering current, red huckleberry, salal, Oregon grape and sword fern; 3) dead and decaying wood and plant material is allowed to accumulate to provide habitat and benefits to the soil and water.
- ii. View Corridors. Limbing, pruning and selective removal and replacement of small trees and shrubs is permitted to provide a filtered view *provided* that larger native trees, defined as equal to or greater than ten inches in diameter at breast height (DBH), are not removed or topped, and no more than one-third of the branches are removed from any single such large native tree, and such activities seek to minimize damage to the natural character of Protected Zone;
- iii. Habitat Restoration. Grantor may conduct management practices designed to enhance or restore naturally occurring vegetation. Such activities include: 1) planting native species of trees and shrubs; 2) removal of plants that are listed as noxious by the State of Washington Department of Agriculture or other non-native invasive species such as Himalayan blackberries; 3) thinning of existing trees and shrubs, subject to the limitations defined above in Section C.2.ii;
- iv. Written Approval. Any vegetation management or other activities to be performed in the Protected Zone that involve: 1) large earth moving equipment; 2) use of agricultural chemicals, such as herbicides or fertilizers; 3) cutting down or removal from the site of large trees; 4) or clearing of small trees, shrubs or understory vegetation that creates a cumulative area greater than 500 (five-hundred) square feet shall be subject to prior written approval of Grantee, as described in Section VI.B. ("Written Approval"). Grantor may submit to Grantee, for review and



approval, a Management Plan that describes the view corridor or habitat enhancement objectives and a suite of specific proposed practices to be performed within a defined period of time.

- v. Commercial uses. Harvesting or cutting trees for lumber, firewood or Christmas trees, as well as cutting or digging of trees, shrubs or herbs for commercial sale is prohibited.
- vi. Hazard Trees. Trees or other vegetation that pose a threat to property, public health and safety of neighbors, the general public or users of the Protected Zone may be trimmed or removed. A certified arborist shall arbitrate any disagreement regarding the identification of hazardous or diseased trees and pruning, removal, etc. of trees and vegetation deemed necessary by Grantor and Beneficiary to protect and preserve the Conservation Values of the Protected Property, while maintaining reasonable view corridors on The Property.

C.3. Specific Allowed Activities and Uses. The following are specific activities and uses that are allowed on the Protected Zone provided they are conducted in a manner and intensity that does not adversely impact the Conservation Values of the Protected Zone:

- i. Trails. Foot trail construction, renovation and maintenance provided that such trails shall not exceed three-feet in width;
- ii. Recreation. Low impact recreation (such as hiking, dog walking or bird watching);
- iii. Fences. Construction, repair and replacement of fences along property boundaries, to protect plantings or to preserve or protect the Conservation Values of the Protected Zone *provided*, Grantor shall exercise reasonable effort to construct and maintain fences that will not harm or trap wildlife, and that allow for the safe passage of wildlife across the Protected Zone;
- iv. Septic System Easement. Continued use, maintenance and replacement as necessary of the existing septic system to the extent it may currently be within the Protected Zone.
- v. Beach Access. Construction, use and maintenance of one set of stairs for safe foot access to the beach, *provided* Grantor shall exercise reasonable effort to minimize the impact to the natural character, function and processes of the shoreline; this includes the use of materials that are environmentally safe to use in marine waters, and minimizing the area disturbed by said construction and use. Any stairway installation shall not take the form of a bulkhead or other significant hardening of the shoreline, nor shall it be protected with a bulkhead.

C.4. Signage. Placement of commercial signs, billboards, or other advertising material is prohibited *except* to notify of the sale or lease of the property. Signs are allowed that inform the public about the conservation values of the property, or to state the conditions of access to the Protected Zone such as no hunting or trespassing, or to declare that a Conservation Easement has been placed on the Property.



C.5. **Emergencies.** Activities necessary to protect public health or safety on the Protected Zone or adjacent property, or which are actively required by and subject to compulsion of any governmental agency with authority to require such activity are allowed, provided that any such activity shall be conducted in a manner that protects the Conservation Values of the Protected Zone to the greatest practicable extent, taking into account all the surrounding circumstances.

VI. NOTICE AND APPROVAL

A. **Notice.** Grantor shall give notice to, or shall notify Grantee ("Notice"), and receive Grantee's Written Approval prior to undertaking certain permitted activities provided in Sections V.C.2. (Vegetation Maintenance), as set forth in this Article VI. The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted uses and activities is to afford Grantee an opportunity to ensure that the use or activity in question is designed and carried out in a manner consistent with the purposes of this Easement. Whenever Notice is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the use or activity in question. The Notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

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

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

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



To Grantor:

Jonathan Granger
P.O Box 162
Mount Vernon, WA 98273

To Grantee:

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

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

VII. DISPUTE RESOLUTION

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

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

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

C. The foregoing notwithstanding, either party may commence an action in Superior Court (whether mediation or arbitration has commenced or not) to seek a temporary injunction



or preliminary injunction pursuant to Washington State Laws and the Superior Court Rules. The Court shall have exclusive jurisdiction to hear such temporary or preliminary injunction matters and the Superior Court's decision with respect to such injunction requests shall stand until a hearing on the merits is conducted before the arbitrator and an arbitrator's award is made. The prevailing party in any request for a temporary injunction or preliminary injunction shall be awarded its attorney's fees and costs related thereto by the Superior Court irrespective of the ultimate outcome of the dispute before the arbitrator. The Court shall enter an injunction at any time it is shown by a preponderance of the evidence that a violation of the terms of this easement will cause any injury to the conservation values protected by this easement.

VIII. GRANTEE'S REMEDIES

A. **General.** Grantor and Grantee are presumed to have a common interest in the reasonable application of the terms of this Easement to the Protected Zone and the parties undertake the grant and acceptance of the Easement in a spirit of cooperation which presupposes regular consultation between Grantor and Grantee, not less frequently than annually. Grantor and Grantee shall be bound by agreements as to the interpretation of this Easement that are set forth in writing and signed by both parties, recorded in the minutes and records of the Skagit Land Trust or its successor.

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

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

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



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

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

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

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

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

J. **Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor to abate, correct, or restore any condition on the Protected Zone or to recover damages for any injury to or change in the



Protected Zone resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Zone resulting from such causes.

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

IX. ACCESS BY PUBLIC

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

X. COSTS, LIABILITIES, TAXES, AND INDEMNIFICATION

A. **Liabilities and Insurance.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Protected Zone, including the maintenance of adequate comprehensive general liability insurance coverage. Such insurance shall include Grantee's interest and name Grantee as an additional insured and provide for at least thirty (30) days notice to Grantee before cancellation and that the act or omission of one insured will not invalidate the policy as to the other insured party. To the extent that Grantee's addition as a named insured increases the premium on such policy by more than 20 percent, Grantee agrees to in good faith renegotiate this requirement or to work with Grantor, or their successors in interest, to develop an alternative and more cost effective method of insuring the risks and providing for costs related to defense of claims by third parties to which Grantee may be exposed by their obligations as provided under this agreement.

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

C. **Liens Subordinated.** Grantor represents that as of the date of this grant, there are no liens or mortgages outstanding against the Protected Zone. Grantor has the right hereafter to



use the Protected Zone as collateral to secure the repayment of debt, provided that any lien or other rights granted for such purpose, regardless of date, are subordinate to Grantee's rights under this Easement. Under no circumstances may Grantee's rights be extinguished or otherwise affected by the recording, foreclosure, or any other action taken concerning any subsequent future lien or other interest in the Property.

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

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

D.2. There has been no release, dumping, burying or abandonment on the Protected Zone of any substances, materials, or wastes which are hazardous, toxic, harmful or dangerous, or are designated as, or contain components which are, or are designated as, hazardous, toxic, dangerous, or harmful and/or which are subject to regulation as hazardous or toxic, dangerous, or harmful and/or which are subject to regulation as hazardous or toxic, dangerous or as a pollutant by any federal, state or local law, regulation, statute, or ordinance;

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

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

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

E.1. Injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, to the extent Indemnitor is found to be at fault for such loss;

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



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

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

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

XI. SUBSEQUENT TRANSFER OR EXTINGUISHMENT

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

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

C. Subsequent Transfers. Grantor agrees (1) to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Zone, including without limitation, a leasehold interest, and (2) to describe this Easement in and append it to, any executory contract for the transfer of any interest in the Protected Zone. Grantor further agrees to give written notice to the Grantee of the transfer of any interest of at least thirty (30) days prior to the date of such transfer. Such notice to



Grantee shall include the name, address, and telephone number of the prospective transferee or his or her representative. The failure of the Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

XII. AMENDMENT

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

XIII. ASSIGNMENT

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

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

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

XIV. RECORDATION

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

XV. GENERAL PROVISIONS

- A. Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the State of Washington.
- B. Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of RCW 64.04.130 and Chapter 84.34.RCW. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- C. Severability.** If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- D. Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Article XII herein.
- E. No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- F. "Grantor" - "Grantee".** The terms "grantor" and "grantee" whenever used herein, and any pronouns used in the place thereof shall mean and include, respectively, the above-named grantor, and its personal representatives, heirs, successors and assigns and the above-named grantee, and its personal representatives, heirs, successors and assigns. All covenants, terms, conditions, restrictions and rights of this easement shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns, and shall continue as a servitude running in perpetuity with the Protected Zone.



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

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

XVI. SCHEDULE OF EXHIBITS

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



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

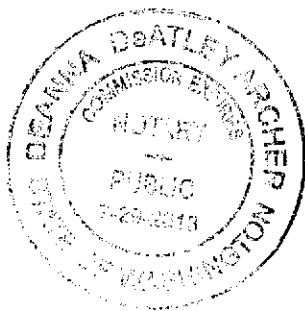
IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument this 23 day of December, 2010

Denise M. Wolf
Denise M. Wolf, Personal Representative of the Estate of H. Victoria Miceli

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day before me personally appeared Denise M. Wolf to me known to be the individual who executed the foregoing instrument as Personal Representative for the Estate of Victoria Miceli, and acknowledged that she signed the same as her free and voluntary act and deed as Personal Representative for said Estate for the uses and purposes therein mentioned.

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



Deanna DeAtley Archer
Notary Public in and for the state of
Washington, residing at Mount Vernon
My commission expires: 7-29-2013
Printed Name: Deanna DeAtley Archer

SKAGIT LAND TRUST does hereby accept the above Grant Deed of Conservation Easement.

Grantee: Skagit Land Trust

A.J. Kuntze
By: A.J. Kuntze II, President

Dated: 12-23-2010

Attestation:

Janice Martin
By: Janice Martin, Secretary

STATE OF WASHINGTON)

) ss.

COUNTY OF SKAGIT)

On this 23rd day of December 2010, before me, a Notary Public in and for the State of Washington, personally appeared A.J. Kuntze, II, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed this instrument and acknowledged it to be their free and voluntary acts and deeds for the uses and purposes mentioned in the instrument.

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



Deanna DeAtley Archer
Notary Public in and for the state of
Washington, residing at Mount Vernon
My commission expires: 7-29-2013
Printed Name: Deanna DeAtley Archer



CONSENT TO CONSERVATION EASEMENT

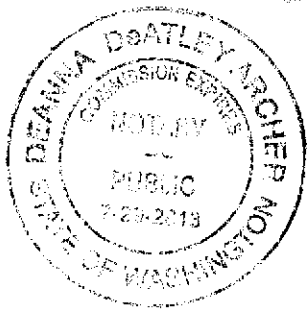
As the intended Devisee of the Property, I have read this Easement and understand that it will affect the Property, and will bind me as owner, and bind my heirs, assigns and successors.

Jonathan Granger, Heir to the Estate of H. Victoria Miceli

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

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

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



Notary Public in and for the state of
Washington, residing at Mount Vernon
My commission expires: 7-29-2013
Printed Name: Deanna DeAtley Archer



EXHIBIT A
Legal Description

The Protected Zone subject to the Conservation Easement consists of that portion of the below described property located west of a line parallel to and one-hundred-ninety feet (190') west of the centerline of Bay View Edison Road.

PARCEL "A":

All of Block 55, "PLAT OF BAY VIEW," McKenna and Elliott's Second Addition, as per plat recorded in Volume 3 of Plats, page 19, records of Skagit County, Washington.

EXCEPT the following described Tracts 1, 2 and 3:

Tract 1:

The Southerly 60 feet of Block 55, "PLAT OF BAY VIEW," McKenna and Elliott's Second Addition, as per plat recorded in Volume 3 of Plats, page 19, records of Skagit County, Washington.

EXCEPT the Easterly 2 feet thereof.

Tract 2:

Beginning at the Northeast corner of said Block 55;
thence West along the North line of said Block 55 and the extension thereof, a distance of 100 feet;
thence Southwesterly, parallel to the East line of said Block 55, a distance of 60 feet;
thence East, parallel to the North line of said Block 55, a distance of 100 feet to the East line thereof;
thence Northerly, along the East line of said Block 55, a distance of 60 feet to the point of beginning. EXCEPT the Easterly 2 feet thereof.

Tract 3:

That portion lying Westerly of the line of mean high tide, or the meander line, whichever is farthest out.



PARCEL "B":

Lots 2, and 3, Block 5, ""ADDITION TO BAY VIEW, WASH., (By Archibald Seigfred and Mary K. Seigfred)" as per plat recorded in Volume 1 of Plats, page 11, records of Skagit County, Washington.

TOGETHER WITH all of West Avenue lying between Parcels A and B above described.

PARCEL "C":

The Southerly 60 feet of Block 55, "PLAT OF BAY VIEW," McKenna and Elliott's Second Addition, as per plat recorded in Volume 3 of Plats, page 19, records of Skagit County, Washington.

EXCEPT the Easterly 2 feet thereof.

TOGETHER WITH an easement for ingress, egress over the Easterly 2 feet of said Tract.

PARCEL "D":

Lots 4, 5 and 6, Block 5, ""ADDITION TO BAY VIEW, WASH., (By Archibald Seigfred and Mary K. Seigfred)" as per plat recorded in Volume 1 of Plats, page 11, records of Skagit County, Washington.

All situate in the County of Skagit, State of Washington

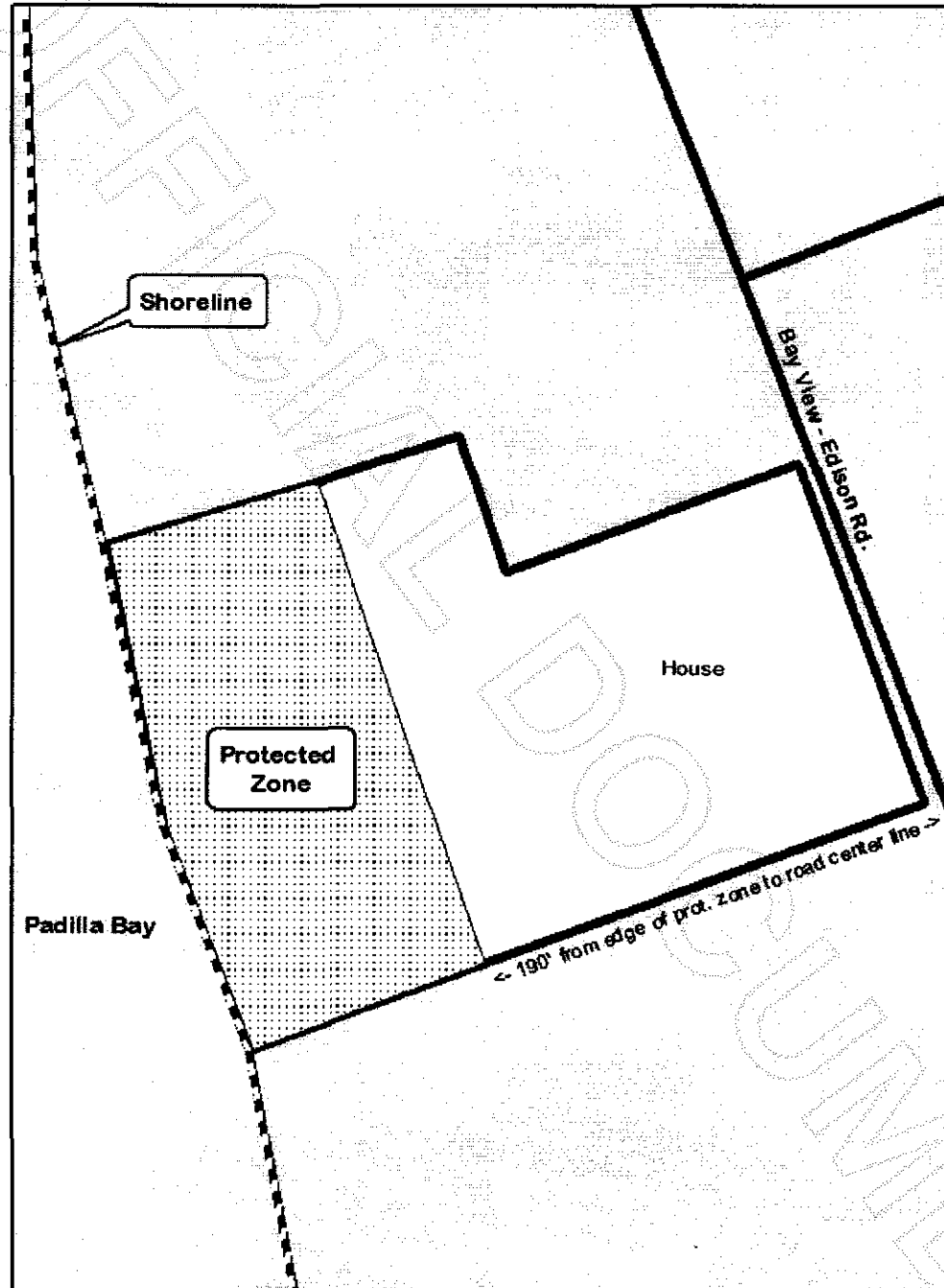
PARCEL "E":

All that portion of West Avenue, as shown on the face of "PLAT OF BAY VIEW," McKenna and Elliott's Second Addition, as per plat recorded in Volume 3 of Plats, page 19, records of Skagit county, Washington, that lies between the Southwesterly extension of the Northwesterly and Southeasterly lines of Lot 4, Block 5, "ADDITION TO BAY VIEW, WASH., (By Archibald Seigfred and Mary K. Seigfred)," as per plat recorded in Volume 1 of Plats, page 11, records of Skagit County, and the Northeasterly extension of the Northwesterly and Southeasterly lines of the Southerly 60 feet of Block 55, said "PLAT OF BAY VIEW," McKenna and Elliott's Second Addition.

Situate in the County of Skagit, State of Washington

EXHIBIT B - SITE MAP

Section 31 Township 35 Range 03
PP71089, P71090, P71193, P71195



0 25 50 100 Feet

Note:
- All boundary lines as shown
are approximate and meant
for descriptive purposes only.



201012230102
Skagit County Auditor

EXHIBIT C

CONSERVATION EASEMENT
BASELINE / PRESENT CONDITIONS SUMMARY REPORT
BAY VIEW - MICELI



December 23rd, 2010
Prepared by
Michael Kirshenbaum, M.S.
Stewardship Director, Skagit Land Trust



201012230102

Skagit County Auditor

Bay View – Miceli Conservation Easement – Skagit Land Trust

Grantor Information: Denise M. Wolff, as Personal Representative of the Estate of H. Victoria Miceli

Heir and future landowner: Jonathan Granger

Location: 11230 Bay View – Edison Rd., Mount Vernon, Skagit County, Washington.

Brief Legal: Ptn Blk 55, BayView (McKenna & Elliott's 2nd);
Ptn Blk 5, Seigfred's Add. To Bay View.
Full legal description shown in Exhibit A.

Assessor's Tax Parcel and I.D. No: 4068-005-003-0007 / P71089
4068-005-006-0004 / P71090
4071-055-000-0000 / P71193
4071-055-000-0208 / P71195

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

Property Information

Acres: 0.5 acres in Protected Zone (appx.)

Number of Buildings: 0 (in Protected Zone)

Saltwater Shoreline: 200 ft. (appx.)

Acres Forest: 0.25 acres (appx.)

Elevation: 15 - 20 ft. (appx.)

County Zoning: Rural Village Residential

Survey: - 12/28/92 Legro B Associates, Skagit County Auditor's File # 9201080015 of lots 2&3 of plat.
- 1/25/93 Sid Glandon, Skagit County Auditor's File # 9301250089 of lots 4,5,6 of plat.



Geology & Ecology

Soil types

- USGS Soil Type & Description: 9 – Beaches
Landform: beaches; slope: 0 to 2 percent; depth to water table: About 0 to 72 inches; frequency of flooding: frequent.
- USGS Soil Type & Description: 67 Hoogdal silt loam
Landform: terraces; parent material: loess and glaciolucustrine deposits; slope: 8 to 15 percent; depth to restrictive feature: 1 to 20 inches to abrupt textural change; drainage class: moderately well drained; capacity of the most limiting layer to transmit water (Ksat): moderately low to moderately high (0.06 to 0.20 in/hr); depth to water table: about 18 to 24 inches; frequency of ponding: none; available water capacity: low (about 3.4 inches); typical profile: 0 to 6 inches - silt loam; 6 to 17 inches - silty clay loam; 17 to 60 inches -silty clay

Coastal Environment

There are no structures, bulkheads or other hardening of the shoreline that impede natural coastal processes. The shoreline has areas of mixed coarse and fine sediment beaches suitable for forage fish spawning. The tidelands also include kelp beds which are important resting and feeding area for many bird and animal species associated with shallow marine habitats.

Vegetation

The Protected Zone features a mix of native and non-native vegetation. Along the bluff, there is a varying-width buffer, approximately 10' – 20', consisting of mostly native trees and shrubs dominated by mature Douglas firs approximately 12-30" DBH. Beneath the firs, there is an understory dominated by Nootka rose, Oregon grape, Indian plum, trailing blackberry and oceanspray. Non-native blackberry and ivy are also present at locations in the buffer area. Outside of the bluff-edge buffer, the Protected Zone consists of non-native turf grass, as well as several mature and large non-native deciduous trees and shrubs.

State Priority Habitats and Species

There is no record of occurrence within the Protected Zone in the WA State Priority Habitats and Species database; however Padilla Bay and its shoreline is important habitat for a range of species as described below.

Wildlife Habitat

Although not documented, the large firs on the shoreline are ideally located as perching habitat for bald eagles foraging in the bay. The shoreline of the Protected Zone is on Padilla Bay, less than one-half mile from Bay View State Park and less than three-quarters of a mile from the Padilla Bay National Estuarine Research Reserve, and provides additional protected habitat to these important public lands.

The Protected Zone collectively provides forage and cover for a diversity of native birds and mammals who require undisturbed refuge along the shoreline for all life stages. This shoreline is



high bank and appears suitable for small mammals and bird species such as kingfisher and swallows that use excavated soft banks for nesting sites; it may also be a source of fine soil materials important to the natural processes that replenish the beach and tidelands in Padilla Bay. These tidelands support vast eel grass meadows and numerous invertebrate species that, in turn, are an important food source for many bird and animal species associated with shallow marine habitats.

Condition of Property and Human Impacts

The Protected Zone consists of a mix of natural beach and shoreline and a relatively intact shoreline buffer of native vegetation along a steep 15' – 20' bluff above Padilla Bay. The shoreline appears to be eroding and some of the current vegetation at the top of the bluff, including the large Douglas firs, may eventually fall into Padilla Bay.

Interior of the vegetated shoreline buffer, there is an area that features non-native mowed grasses, trees and shrubs. This area serves as the back-yard of the homesite located on Bay View-Edison Rd. that is associated with the Protected Zone. Residents of the home utilize the Protected Zone for their personal enjoyment.

A portion of an existing septic system drainfield that serves a neighboring home may be partially located within the Protected Zone. The property is subject to an easement recorded under Skagit County Auditor's file number 930707020144, which allows maintenance, repair and replacement of said septic system, and this pre-existing use is allowed in the Easement.

A small (appx. 6" diameter) flexible PVC pipe is present along the face of the bluff, emerging from slightly under the terrace surface and trailing down to the beach. The function of this pipe is unknown, but may be associated drainage for the associated residence.

Attachments

- Aerial photo showing easement boundaries.

Additional documentation to be added to baseline file at Skagit Land Trust offices within 12 months:

- Baseline photopoints
- Title Report
- Species Inventory
- Assessor's maps



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

Grantor:

Denise M. Wolf

Denise M. Wolf, Personal Representative of the Estate of H. Victoria Miceli

date: 12/23/10

Future landowner:

Jonathan

Jonathan Granger, Heir to the Estate of H. Victoria Miceli

date: 12/23/2010

Grantee, Skagit Land Trust:

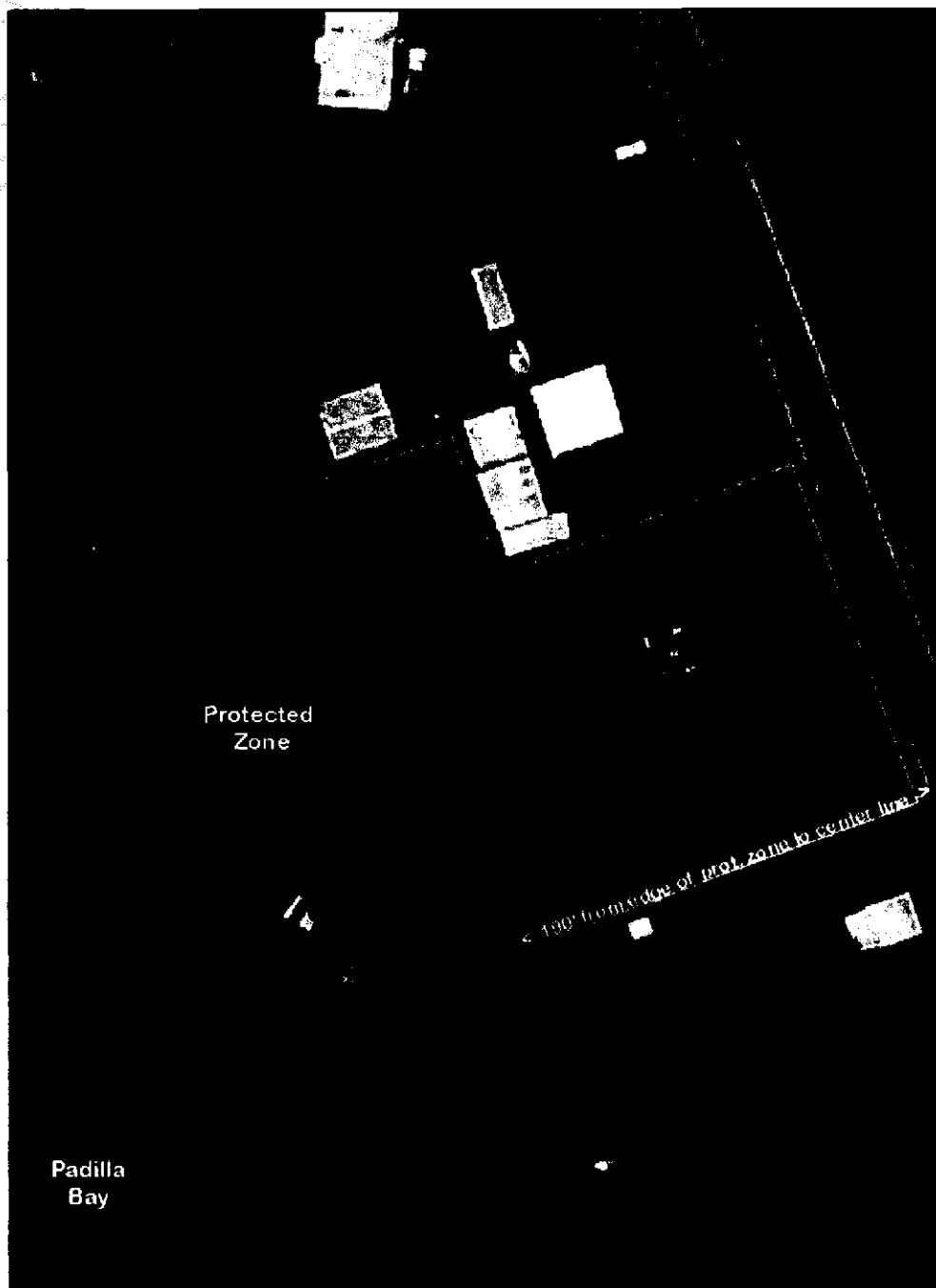
Michael Kirshenbaum

By Michael Kirshenbaum, Stewardship Director

date: 12/23/10



Bay View-Miceli CE Aerial Overview



Note:
- All boundary lines as shown
are approximate and meant
for descriptive purposes only.
- Aerial imagery 2007 Skagit County

0 25 50 100 Feet

