

Return address:

Skagit Co. Public Works



201111100072

Skagit County Auditor

11/10/2011 Page 1 of 19 12:28PM

Document Title:

Judgment

Reference Number :

Grantor(s):

additional grantor names on page ___

- 1. Skagit County
- 2.

Grantee(s):

additional grantee names on page ___

- 1. Marion Twomey
- 2.

Abbreviated legal description:

29-34-4

full legal on page(s) ___

Assessor Parcel / Tax ID Number:

P28741

additional tax parcel number(s) on page ___

2011 NOV 10 AM 9:46

SUPERIOR COURT OF WASHINGTON FOR SKAGIT COUNTY

In the Matter of the Petition of Skagit County to acquire by condemnation certain property and property rights for the Anderson/LaVenture Road Extension Cedardale to Blodgett Project No. STPUS-7337 (005) and Anderson/LaVenture Road Extension Blodgett to Blackburn Project No. STPUS-7337 (004) as contemplated by Skagit County Resolutions Nos. R20110145 and R20110175.

No. 11-2-01272-0

[PROPOSED]
FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE OF APPROPRIATION AS TO PARCEL 28741

CLERK'S ACTION REQUIRED

[TWOMEY - P28741]

I. JUDGMENT SUMMARY

1.1 AMOUNT OF JUDGMENT

1.1.1	Total amount	\$ 77,475
1.1.2	Previous Payments	\$ - 0 -
1.1.3	Costs	\$ - 0 -
1.1.4	Balance remaining:	\$ 77,475

1.2 JUDGMENT CREDITORS. Marion Twomey, 2130 E. Blackburn Road, Mount Vernon, Washington 98274; Phone 360-428-4633.

1.3 JUDGMENT DEBTOR. Skagit County by Richard A. Weyrich, Stephen R. Fallquist, and William W. Honea, Skagit County Prosecuting Attorney's Office and P. Stephen DiJulio and Michael S. Schechter, Foster Pepper PLLC, 1111 Third Avenue, Suite 3400, Seattle, WA 98101; Phone 206-447-4400.

FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE OF APPROPRIATION AS TO PARCEL 28741 - 1

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1 1.4 JUDGMENT AMOUNT

2	1.4.1	Balance remaining:	\$ 77,475
3	1.4.2	Interest owed:	\$ - 0 -
4	1.4.3	Costs	\$ - 0 -
	1.4.4	Total amount due from County:	\$ 77,475

5 1.5 COSTS. This matter having been adjudicated prior to trial, costs are waived as
6 to the parties.

7 1.6 LEGAL DESCRIPTION. See attached **Exhibit A** ("the Property").

8 1.7 SKAGIT COUNTY TAX PARCEL NUMBER: P28741.

9 **2. INTRODUCTION**

10 THIS MATTER came before the undersigned judge of the above-entitled court on
11 Skagit County's Stipulation and Motion for Partial Final Judgment. The County is represented
12 by Richard A. Weyrich, Stephen R. Fallquist, and William W. Honea, Skagit County
13 Prosecuting Attorney's Office and P. Stephen DiJulio and Michael S. Schechter of Foster
14 Pepper PLLC. Marion Twomey appeared (on her own behalf and as Personal Representative of
15 the Estate of Harry J. Twomey) pro se. The Court, having considered the County's Motion For
16 Partial Final Judgment; Motion to Shorten Time; County Stipulation In Support of Judgment;
17 the Declaration of Michael Schechter; Respondents' response; the County's Reply In Support of
18 Motion for Partial Final Judgment, and the pleadings and records on file, and deeming itself
19 fully advised in the premises, NOW, THEREFORE makes and enters the following judgment
20 ("Judgment").

21 **3. PUBLIC USE AND NECESSITY**

22 An Order on Public Use and Necessity was entered on July 15, 2011.

23 **4. PARTIES AND PROPERTY**

24 4.1 The Respondents are fee owners of Skagit County Parcel No. P28741, described
25 on **Exhibit A**, which is attached hereto and incorporated herein by this reference (the
26 "Property").

FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF
APPROPRIATION AS TO PARCEL 28741 - 2

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1
2 4.2 This action was originally initiated against Marion and H.J. Twomey, Husband
3 and Wife. H.J. Twomey, also known as Harry J. Twomey, died on July 30, 2011 while this
4 action was pending. By stipulation of the parties and this Court's October 21, 2011 order,
5 Marion Twomey, as Personal Representative of the Estate of Harry J. Twomey, was substituted
6 for H.J. Twomey.

7 4.3 The other parties to this matter are the fee owners and other parties with interest
8 in a wholly separate parcel, No. P28761, as indicated in Exhibit B to the Petition for
9 Condemnation. The other parties have no interest in the Property held by Respondents. The
10 other parties have no interest in the just compensation received by Respondents or in the
11 Judgment Amount of this Judgment.

12 4.4 The County is condemning easements over, under and across Respondents'
13 Property for the purpose of constructing, operating, and maintaining road improvements, and
14 related facilities, as contemplated in the County's Resolutions No. R20110145 and No.
15 R20110175 ("Easements"). Specifically, the County is condemning a Permanent Easement and
16 a Temporary Construction Easement over, under, and across the portion of Respondents'
17 Property, both easements as legally described in **Exhibit B**, which is attached hereto and
18 incorporated herein by this reference ("Easements" or "Easement Areas").


19 **5. JUDGMENT AND APPROPRIATION**

20 5.1 Respondents are fee owners of the Property.

21 5.2 The County stipulates that the Just Compensation for the Easements as shown in
22 Respondents' Integra Realty Appraisal for any taking, and damages to the Property is \$76,725.
23 The balance of the judgment amount, together with \$750 due to Respondents pursuant to RCW
24 8.25.020, is to be paid by County to Respondents.

25 5.3 The total just compensation paid by the County to Respondents for and in
26 connection with the taking and damaging of the real property described in the Petition for

FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF
APPROPRIATION AS TO PARCEL 28741 - 3

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11/10/2011 Page 4 of 19 12:28PM

1 Condemnation ("Petition") and in Exhibits A and B attached hereto (the Property and
2 Easements), together with all improvements thereon, attorney, expert/evaluation fees and
3 interest, if any, is the amount of Seventy-Seven Thousand Four Hundred Seventy-Five Dollars
4 (US \$77,475).

5 5.4 The balance due from the County is Seventy-Seven Thousand Four Hundred
6 Seventy-Five Dollars (US \$77,475) ("Judgment Amount").

7 5.5 Upon entry of this Judgment and payment of the Judgment Amount, as set forth
8 in Section 7, below, County shall have all right, title and interest in the Easements, and all of the
9 Respondents' rights to use the Easement Areas in a manner inconsistent with the purposes of the
10 Easements shall be extinguished.

11 6. EASEMENTS

12 6.1 Permanent Easement.

13 6.1.1 The County is granted a permanent, perpetual, public right-of-way
14 easement to construct, operate, and maintain right-of-way for vehicular and pedestrian purposes
15 with the attendant customary uses or appurtenances, including drainage and all above-ground
16 and underground utilities (including, but not limited to, water, sewer, gas, electric, cable, and
17 communications), specifically including any utilities placed under the terms of franchise
18 agreement(s) with the County, over, under, and across that portion of Respondents' real
19 property legally described on Exhibit B.

20 6.1.2 Respondents, Respondents' heirs, or assigns shall retain all underlying
21 fee interest in the real property legally described on Exhibit B subject to the use by the County
22 for the Permanent Easement. Respondents are prohibited from placing or constructing any
23 structure or improvement on the Permanent Easement. Use of the Permanent Easement shall be
24 subject to Washington state law and County ordinances governing public rights-of-way.

25 6.1.3 The County shall have the right to construct additional right-of-way or
26 utility facilities in the Permanent Easement should they become necessary for public use.

FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF
APPROPRIATION AS TO PARCEL 28741 - 4

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1 6.2 Temporary Construction Easement.

2 6.2.1 The County is granted a Temporary Construction Easement for the right,
3 privilege and easement over, upon, and across that portion of Respondents' property legally
4 described in Exhibit B for the purpose of providing a work area for road construction-related
5 activities, including the operation of all necessary machinery and equipment thereon, at any and
6 all times until the expiration date set forth in Section 6.2.2 below.

7 6.2.2 The Temporary Construction Easement shall commence fourteen days
8 after Respondents have been provided written notice of the commencement of construction.
9 The term of the Temporary Construction Easement shall expire one (1) year after
10 commencement.

11 6.3 Hold Harmless. To the full extent permitted by law, the County shall hold harmless
12 and defend Respondents from any and all claims, actions, damages or liability and to pay any award
13 or judgment occasioned wholly or in part by any negligent act or omission of the County, its agents
14 or invitees, relating to the construction, maintenance or repair of County improvements within the
15 Permanent Easement, or the Temporary Construction Easement areas, except to the extent
16 attributable to the acts or omissions of the Respondents, their agents, or invitees.

17 6.4 Covenants Shall Run With The Land. The Easements and each of the terms,
18 provisions, conditions and covenants herein shall be binding upon and inure to the benefit of the
19 parties hereto and their respective successors and assigns. Any covenant granted herein shall be
20 a covenant running with the land.

21 **7. JUST COMPENSATION**

22 7.1 On or before December 15, 2011, County shall pay into the court registry the
23 Judgment Amount as payment in full of just compensation for the Easements. If the Judgment
24 Amount is not deposited by December 15, 2011, then the Judgment Amount shall bear interest at
25 twelve percent (12%) per annum simple interest from December 15, 2011 until date of deposit.

26 7.2 The County shall have all right, title and interest in the Easements upon deposit of

FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF
APPROPRIATION AS TO PARCEL 28741 - 5

1 the Judgment Amount into the court registry. Respondents will remain the fee simple owner of the
2 Property subject to the County's Permanent Easement and Temporary Construction Easement.

3 7.3 The Court orders the disbursement of the Judgment Amount to the Respondents,
4 subject to any claims by County for delinquent general taxes and any clerk's fees for processing
5 the disbursement. Nothing in this Judgment addresses how the just compensation should be
6 apportioned among Respondents and any other party with an interest in the Property, and
7 County takes no position with respect to such apportionment.

8 **8. JUDGMENT AS TO FEWER THAN ALL OF THE PARTIES**

9 8.1 This Judgment is a Final Judgment as to fewer than all of the parties, namely
10 Marion Twomey, both in her personal capacity and as Personal Representative of the Estate of
11 Harry J. Twomey. The other remaining parties, Timothy B. and Fay C. White, and Janice Marie
12 Harman, own Skagit County Parcel No. P28761 and have no property interest in Parcel No.
13 P28741, Respondents' Property.

14 8.2 Upon the County's deposit, Respondents will have been paid just compensation
15 for the Permanent Easement and Temporary Construction Easement.

16 8.3 Respondents have no cross-claims or counterclaims pending in this matter.

17 8.4 Respondents do not have any additional rights to be adjudicated in this matter.

18 8.5 There is no just reason for delay of entry of judgment as to Respondents.

19 **9. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

20 Sections 3 through 8 above shall be and hereby are adopted as and made the Findings of
21 Fact and Conclusions of Law. Now, therefore, in accordance with the foregoing Findings of
22 Fact and Conclusions of Law, it is hereby ordered, adjudged and decreed as follows:

23 **10. JUDGMENT**

24 10.1 Sections 3 through 9 above are incorporated herein by this reference.

25 10.2 Upon entry of this Judgment, the County shall have all right, title and interest in
26

FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF
APPROPRIATION AS TO PARCEL 28741 - 6

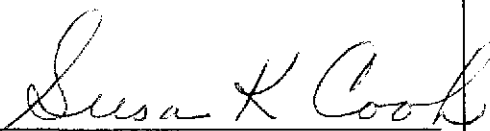


1 the Easements as described in Section 6, above, and Exhibit B attached hereto.

2 10.3 The total amount to be paid by the County to Respondents, as payment in full of
3 just compensation, attorney, expert/evaluation fees and interest, if any is Seventy-Seven
4 Thousand Four Hundred Seventy-Five Dollars (US \$77,475), with statutory costs waived. The
5 total balance due from the County is \$77,475.

6 10.4 Pursuant to Civil Rule 54(b), this Court recognizes that this Judgment is a final
7 judgment as to fewer than all of the parties. The entry of this Judgment as to fewer than all of
8 the parties is supported by the findings of fact incorporated in this Judgment. There is no just
9 reason for delay of entry of judgment as to Respondents in this matter and entry of this
10 Judgment as to these parties is expressly directed.

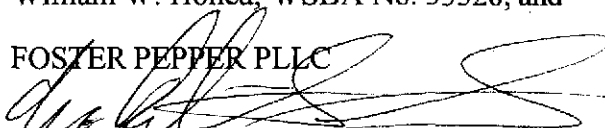
11 SO ORDERED this 10 day of November, 2011.

12
13 
14 JUDGE / COURT COMMISSIONER

15 Presented By:

16 Richard A. Weyrich
17 Skagit County Prosecuting Attorney
18 Stephen R. Fallquist, WSBA No. 31678
19 William W. Honea, WSBA No. 33528, and

20 FOSTER PEPPER PLLC

21 
22 P. Stephen DiJulio, WSBA No. 7139
23 Michael S. Schechter, WSBA No. 35602
24 Special Deputy Prosecuting Attorneys


25 Copy Received; Notice of Presentation Waived:

26 _____
Marion Twomey (pro se)

Copy Received; Notice of Presentation Waived:

Marion Twomey, as Personal Representative
for the Estate of Harry J. Twomey (pro se)

FINDINGS OF FACT, CONCLUSIONS OF
LAW, JUDGMENT AND DECREE OF
APPROPRIATION AS TO PARCEL 28741 - 7


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11/10/2011 Page 8 of 19 12:28PM

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
Phone (206) 447-4400 Fax (206) 447-9700

EXHIBIT A

Legal Description of the Twomey Property



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11/10/2011 Page 9 of 19 12:28PM

P28741

EXHIBIT "A"

That portion of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 29, Township 34 North, Range 4 East, W.M., lying Easterly of the following described line:

Beginning at a point on the South line of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, said Section 29, said point being South $88^{\circ}49'$ East 357.81 feet from the Southwest corner of said Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$; thence North 30 feet;
thence North $24^{\circ}38'$ East 159.50 feet;
thence North $45^{\circ}50'20''$ East 136.25 feet;
thence North $14^{\circ}42'$ East 121.46 feet;
thence North $14^{\circ}16'10''$ West 123.98 feet;
thence North $13^{\circ}19'10''$ East 110.04 feet;
thence North $6^{\circ}44'$ East 100.63 feet;
thence North $33^{\circ}04'30''$ East 118.92 feet;
thence North $35^{\circ}18'$ East 122.07 feet;
thence North $0^{\circ}24'15''$ East 60 feet;
thence South $89^{\circ}41'$ East 116.71 feet;
thence North $41^{\circ}26'30''$ East 199.13 feet to the Southeasterly corner of a tract of land conveyed to Joseph P. Souza and Jean P. Souza, husband and wife, by deed recorded July 15, 1957, under Auditor's File No. 553738;
thence along the Easterly line of said Souza tract, the following courses and distances;
thence North $49^{\circ}21'$ East 55.48 feet;
thence North $6^{\circ}39'$ East 144.33 feet, more or less, to the North line of said Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, said point being the terminal point of said line.

EXCEPT that portion lying within that certain County road known as the Blackburn Road,

AND EXCEPT that portion conveyed to Skagit County by deed recorded July 11, 1946, under Auditor's File No. 393775,

AND EXCEPT that portion conveyed to Skagit County by deed recorded July 28, 1969, under Auditor's File No. 729225.

Situate in the County of Skagit, State of Washington.



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EXHIBIT B

**Legal Descriptions of the Permanent Right-of-Way Easement
and Temporary Construction Easement**

Exhibit B



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Skagit County Auditor

P28741
Right of Way Acquisition

Acquisition Description

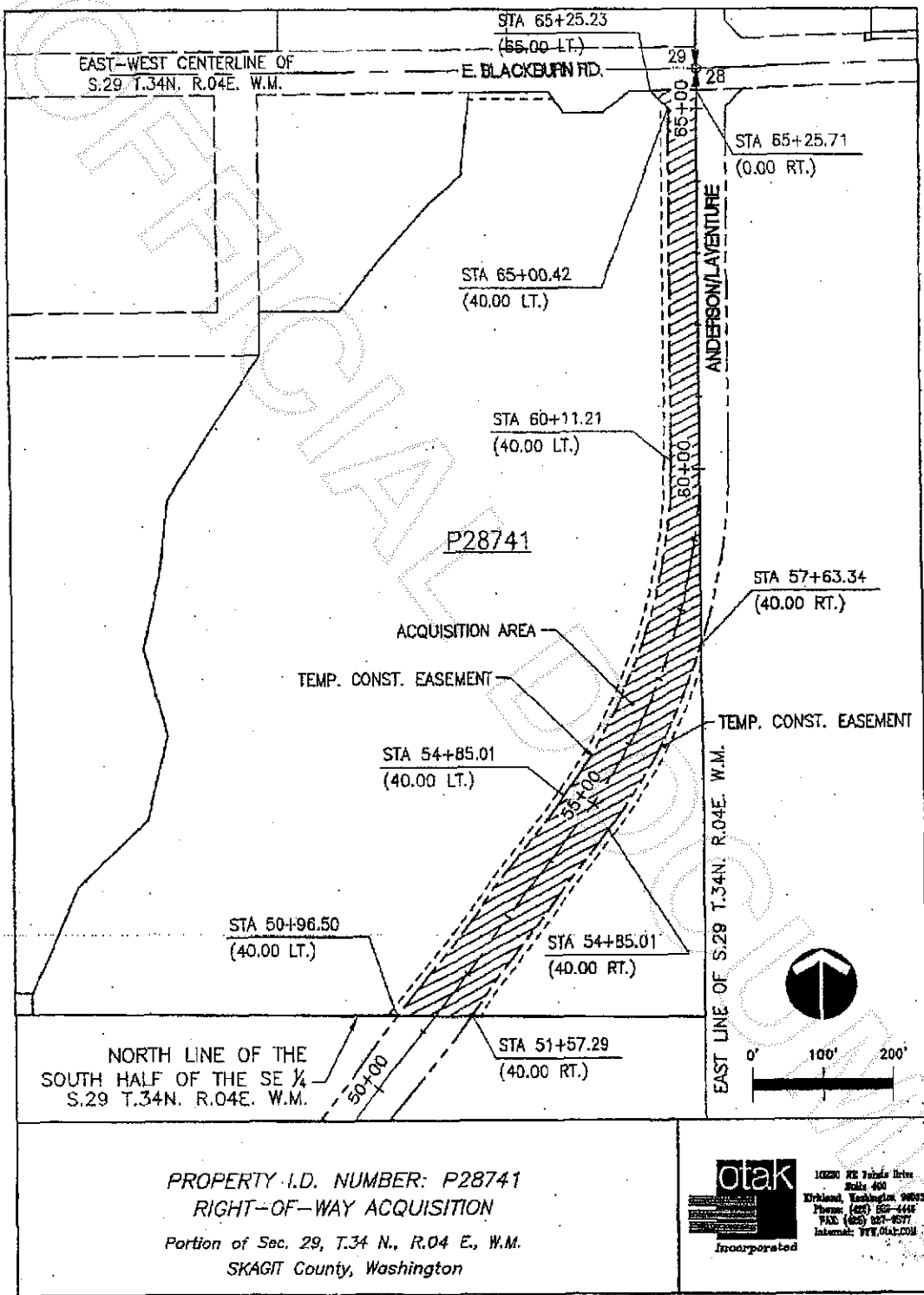
All that portion of that parcel of land as described in Warranty Deed Recorded under Auditor's File Number 795811, Records of Skagit County, State of Washington, described as follows:

Beginning at Highway Engineer's Station (hereinafter referred to as HES) 65+25.71 on the Anderson/LaVenture Road (Cedardale Rd. to Blackburn Rd.) Right of Way and Basement Plan when measured at right angles from Anderson/LaVenture centerline said point being the northeast corner of said Parcel; thence westerly along the north line of said Parcel to a point 65.00 feet left of HES 65+25.23; thence leaving said north line southeasterly to a point 40.00 feet left of HES 65+00.42; thence southerly to a point 40.00 feet left of 60+11.21, said point being a point of curve right of a 760.00 foot radius curve; thence along the arc of said curve right through a central angle of 37°41'12"; a distance of 499.89 feet to a point 40.00 feet left of HES 54+85.01; thence southwesterly to a point on the south line of said Parcel said point being 40.00 feet left of HES 50+96.50; thence easterly along the south line of said Parcel to a point 40.00 feet right of HES 51+57.29; thence northeasterly to a point 40.00 feet right of HES 54+85.01, said point being a point of curve left of a 840.00 foot radius curve; thence along the arc of said curve left through a central angle of 19°56'02", a distance of 292.25 feet more or less to a point on the west line of said Parcel said point being 40.00 feet right of HES 57+63.34; thence northerly along the west line to the Point of Beginning.

Containing 84,769 square feet, more or less.



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P28741
Temporary Construction Easement

TCE Description

All that portion of that parcel of land as described in Warranty Deed Recorded under Auditor's File Number 795811, Records of Skagit County, State of Washington, lying northerly of the following described line:

Beginning at a point 328.73 feet left of Highway Engineer's Station (hereinafter referred to as HES) 65+13.29 on the Anderson/LaVenture Road (Cedardale Rd. to Blackburn Rd.) Right of Way and Easement Plan when measured at right angles from Anderson/LaVenture centerline, said point being on the west line of said Parcel and 10.00 feet South of the North line of said Parcel when measured at right angles; thence easterly to a point 204.70 feet left of HES 65+14.20 said point being on the west line of the exception conveyed to Skagit County by deed under Auditor's File No. 729225 and the terminus of herein described line.

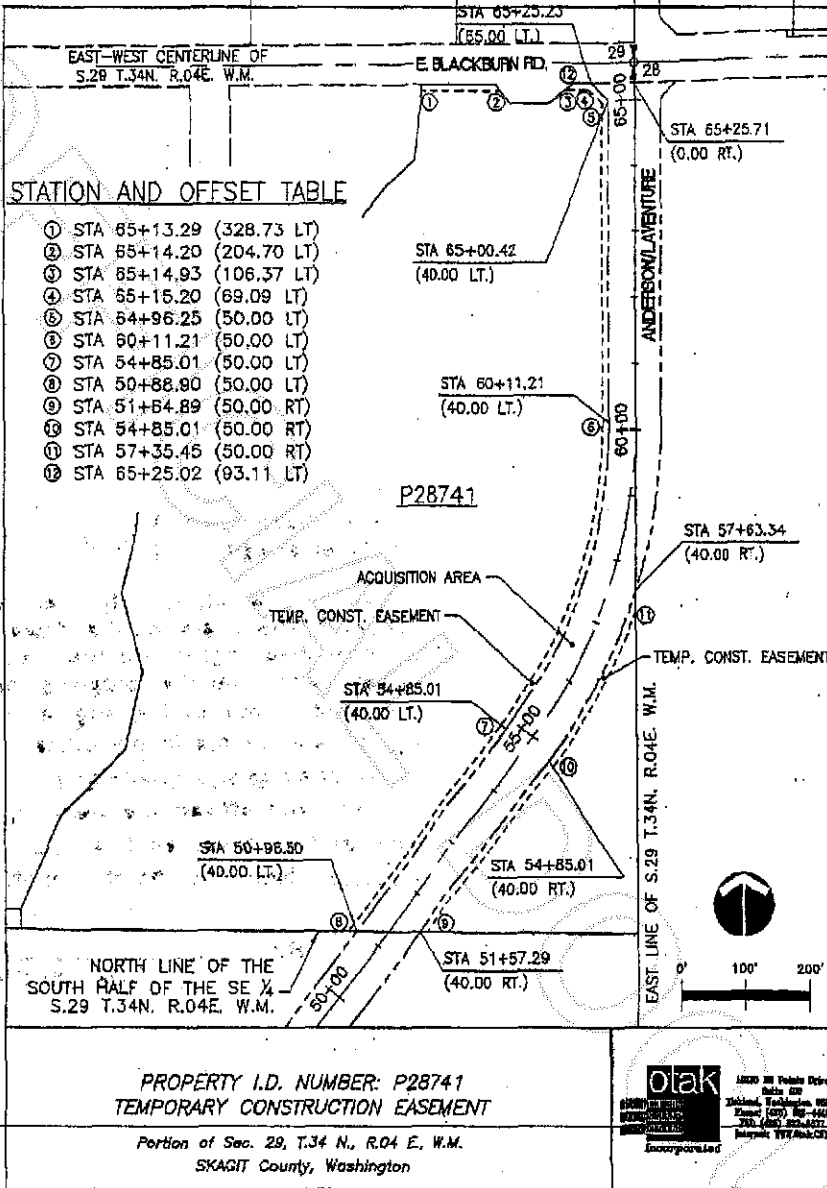
TOGETHER WITH a tract of land beginning at a point 65.00 feet left of HES 65+25.23 said point being on the north line of said Parcel; thence leaving said north line southeasterly to a point 40.00 feet left of HES 65+00.42; thence southerly to a point 40.00 feet left of 60+11.21, said point being a point of curve right of a 760.00 foot radius curve; thence along the arc of said curve right through a central angle of $37^{\circ}41'12''$; a distance of 499.89 feet to a point 40.00 feet left of HES 54+85.01; thence southwestery to a point on the south line of said Parcel said point being 40.00 feet left of HES 50+96.50; thence westerly along the south line of said Parcel to a point 50.00 feet left of HES 50+88.90; thence leaving said south line northeasterly to a point 50.00 feet left of HES 54+85.01, said point being a point of curve left of a 750.00 foot radius curve; thence along the arc of said curve left through a central angle of $37^{\circ}41'12''$, a distance of 493.32 feet to a point 50.00 feet left of HES 60+11.21; thence northerly to a point 50.00 feet left of HES 64+96.25; thence northwesterly to a point 69.09 feet left of HES 65+15.20; thence westerly to a point 106.37 feet left of HES 65+14.93 said point being on the east line of the exception conveyed to Skagit County by deed under Auditor's File No. 729225; thence northeasterly to a point 93.11 feet left of HES 65+25.02 said point being on the north line of said Parcel; thence easterly along the north line to the Point of Beginning.

AND TOGETHER WITH a tract of land beginning at a point 40.00 feet right of HES 51+57.29 said point being on the south line of said Parcel; thence leaving said south line northeasterly to a point 40.00 right of HES 54+85.01 said point being a point of curve left of a 840.00 foot radius curve; thence along the arc of said curve left through a central angle of $19^{\circ}56'02''$, a distance of 292.25 feet more or less to a point on the east line of said Parcel said point being 40.00 feet right of HES 57+63.34; thence southerly to a point 50.00 feet right of HES 57+35.45 said point being a point of nontangent curvature; thence southwestery along the arc of a 850.00 foot radius curve right (the radius point of which bears North $67^{\circ}47'15''$ West) through a central angle of $17^{\circ}56'12''$, a distance of 266.10 feet to a point 50.00 feet right of HES 54+85.01; thence southwestery to a point 50.00 feet right of 51+64.89 said point being on the south line of said Parcel; thence westerly along the south line to the Point of Beginning.

Containing 21,625 square feet, more or less.



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PROPERTY I.D. NUMBER: P28741
 TEMPORARY CONSTRUCTION EASEMENT

Portion of Sec. 29, T.34 N., R.04 E., W.M.
 SKAGIT County, Washington



201111100072
 Skagit County Auditor

UNOFFICIAL DOCUMENT

State of Washington, } ss.
County of Skagit

I, Nancy K. Scott, County Clerk of Skagit County and ex-officio Clerk of the Superior Court of the State of Washington, for the County of Skagit, do hereby certify that the foregoing instrument is a true and correct copy of the original, consisting of 134th pages, now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at my office at Mount Vernon this 10th day of November 20 11. Nancy K. Scott, County Clerk.

By Melissa Lopez Robinson
Deputy Clerk



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Skagit County Auditor

SKAGIT COUNTY SUPERIOR COURT
MOUNT VERNON WA
NANCY K. SCOTT
SKAGIT COUNTY CLERK

Rcpt. Date: 11/10/2011
Acct. Date: 11/10/2011
Receipt #: 2011-01-21349
Cashier ID: MTR
Time: 03:36 PM

Item	Case Number	Amount
01	11-2-01272-0	\$77,475.00
3150: Trust-Tender		
\$TRT		
in re skagit co (condemnation)		

Total Due: \$77,475.00
Check Tendered: \$77,475.00

Change Due: \$0.00

Paid By: skagit co, auditor



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Skagit County Auditor

FILED

SKAGIT COUNTY SUPERIOR COURT

NANCY K. SCOTT

SKAGIT COUNTY CLERK

MOUNT VERNON WA

11-2-01272-0

Time
03:36 PM

Acct. Date
11/10/2011

Recpt. Date
11/10/2011

Socket-Code
#TRT

Tran-Code
3150

Receipt/Item #
2011-01-21349/01

Cashier: MTR

Paid By: skagit co, auditor

Transaction Amounts
\$77,475.00

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

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SUPERIOR COURT OF WASHINGTON FOR SKAGIT COUNTY

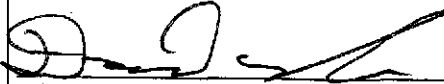
In re Skagit Co

Case No.: 11 2 01272 0

vs. (condemnation)

CIVIL TRUST TENDER SHEET

\$ 77,475.-



Skagit Co

Signature

Printed Name

DOB

11/10/11

Date

360 336 9420

Telephone Number

PO Box 1306 / 700 S Second St, Mt V 98273

Mailing Address

Funds to be deposited in B-1 C-1

Funds were for:

Garnishment

Civil Cash Bail

Rent

Bonds

Settlements

Other condemnation

Interpleader

Other _____

Judgments

Surplus Funds

Civil Fine/Sanctions

Trust Tender Sheet



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Skagit County Auditor

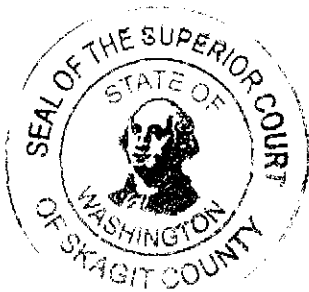
UNOFFICIAL

State of Washington, } ss.
County of Skagit

Nancy K. Scott, County Clerk of Skagit County and ex-officio Clerk of the Superior Court of the State of Washington, for the County of Skagit, do hereby certify that the foregoing instrument is a true and correct copy of the original, consisting of 2 pages, now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at my office at Mount Vernon this 10th day of November 20 11. Nancy K. Scott, County Clerk.

By Melissa Sage Roberson
Deputy Clerk



201111100072
Skagit County Auditor

INSTRUMENT