

11/28/2011 Page 1 of 11 9:20AM
201111280072
Skagit County Auditor

Recording Requested By And
When Recorded Mail To:
Skagit County
Public Works Department
Attn: Emily Derenne
1800 Continental Place
Mount Vernon, Washington 98273

DOCUMENT TITLE: TEMPORARY EASEMENT

SKAGIT COUNTY
Contract # C20110519
Page 1 of 11

GRANTOR(S): George Thelen and Linda Hart, husband and wife.

GRANTEE(S): Skagit County, a political subdivision of the State of Washington.

ABBREVIATED LEGAL DESCRIPTION: A temporary easement located within a portion of
O/S#5-98 AF#9902020074 2000 PTN N1/2 NE1/4 AKA PTN TR A SHORT PLAT#67-78
AF#885817 DAF BAT NW COR SD TR "A" TH N 89-27-57 E 186.16 FT ALG N LI SD TR "A" TH
S 6-17-28 W 487.33 FT TO S LI SD TR "A" TH S 89-27-57 W 129.80 FT ALG S LI S DTR "A" TO
SW COR SD TR "A" TH N 0-21-02 W 483.88 FT ALG W LI SD TR "A" TO POB.
ASSESSOR'S TAX / PARCEL NUMBER(S): P48408 (Xref ID: 360327-2-003-0007)

TEMPORARY EASEMENT

(For riparian restoration work under the Natural Resource Stewardship Program project)

The undersigned, George Thelen and Linda Hart, husband and wife (herein "Grantors" or
"Landowner"), for good and valuable consideration, receipt and sufficiency of which is hereby
acknowledged, hereby grants to Skagit County, a political subdivision of the State of Washington (herein
"Grantee" or "County"), a temporary, non-exclusive easement ("Temporary Easement"), as provided
herein. Landowner and County may be individually referred to herein as a "party", and may be
collectively referred to herein as the "parties." The terms of this Temporary Easement are further
provided as follows:

1. Nature and Location of Easement. The Temporary Easement hereby granted by Landowner
herein shall be a temporary easement to allow the County, the County's agents, employees, and
contractors over, upon, across, through, a portion of real property located within and upon Landowner's
Property, such Temporary Easement as legally described on Exhibit "A" and as further described and
depicted on Exhibit "B", attached hereto and incorporated herein by this reference, for the purpose of
providing a temporary easement (and any related appurtenances thereto), including the right of ingress
and egress with all necessary equipment for construction of the riparian restoration work, including any
livestock fencing, under the Skagit County Natural Resource Stewardship Program (NRSPP) as described
in Exhibit "C", attached hereto and incorporated by reference (herein referred to as the "Project"). A legal
description for the Landowner's Property is attached hereto as Exhibit "D", and is hereby incorporated by
reference.

1.1 The County, through its Department of Public Works (Natural Resources Division), will perform the Project as described in Exhibit "C" under its Natural Resources Stewardship Program (NRSF) for the improvement and enhancement of water quality and fish habitat in Skagit County streams.

1.2 Landowner represents and warrants to the County that the Landowner is the legal owner(s) of the property described in Exhibit "D" (the "Landowner's Property"), and further represent and warrant to the County that there are no outstanding rights which interfere with this Temporary Easement agreement. The Landowner also acknowledges that a change in property ownership will not change the encumbrance of the Landowner's Property created by the terms of this Temporary Easement, and the Landowner agrees to inform any future owner of Landowner's Property of this Temporary Easement prior to sale or transfer of the Landowner's Property during the term of this Temporary Easement (as the terms of this Temporary Easement shall be binding on any subsequent owner[s] of the Landowner's Property for the duration of this Temporary Easement). The Landowner agrees to notify the County, within thirty (30) days of transfer, of changes in ownership during the term of this Temporary Easement.

1.3 Landowner agrees to inform the County (and the County's agents, employees, and contractors) of all known safety hazards on Landowner's Property prior to the commencement of the activities described in Exhibit "C".

1.4 Landowner recognizes and agrees that County's agents may include, but are not limited to: Skagit Fisheries Enhancement Group and the Washington State Department of Ecology (only for the purposes of viewing, confirming project progress, and continued vegetation preservation during the term of this Temporary Easement).

1.5 Except as provided to the contrary by the terms of this Temporary Easement, the Landowner retains the right to control trespass on Landowner's Property, and Landowner shall retain all responsibility for taxes, assessments, and for any claims for damages to Landowner's Property.

1.6 Landowner recognizes and agrees that participation in the County's Natural Resource Stewardship Program does not eliminate or abrogate any jurisdictional authority, code requirements, or obligations required by any government entity including Skagit County.

2. Use of Easement. The County, County's employees, agents, and contractors shall have the right, with one (1) week notice, (or with such other notice as may be otherwise mutually agreed in writing by and between the parties), and during daytime hours, Monday through Saturday (unless otherwise arranged between the parties), to enter upon the Landowner's Property within the area of the Temporary Easement (as described and depicted in Exhibit "A"), for the purpose of constructing and implementing the Project (described at Exhibit "C") within the area of the Temporary Easement. Landowner shall not have the right to exclude the County, County's employees, agents, and/or contractors from the area of the Temporary Easement.

2.1 Project Components. This temporary easement includes the following components, as described in Exhibit "C": (1) initial site work, (2) monitoring and maintenance, and (3) project preservation.

2.1.1 Initial Site Work. The initial site work includes the removal of invasive vegetation and replanting with native vegetation as described in Exhibit "C". Initial site work will be conducted within one (1) year of mutual execution of this agreement.

2.1.2 Monitoring and Maintenance. A Restoration and Maintenance Plan (Plan) has been developed for the Project and is included as Exhibit "C". In accordance with the Plan, Skagit County shall provide maintenance of vegetation for three (3) years after planting. The Landowner shall be responsible for plant preservation following this three (3) year period.

2.1.3 Project Preservation. Landowner agrees to preserve the Project in the same condition as exists at the time of Project completion and agrees to refrain from cutting, damaging,



or otherwise harming any of the vegetation planted as part of the Project or in any way intentionally compromising the integrity of the Project for a period of ten (10) years from the date of mutual execution of this Temporary Easement agreement. Repair and maintenance of the fence is the sole responsibility of the Landowner, and except as provided in Section 2.1.2, the Landowner shall be responsible for all riparian restoration preservation required as part of the Project. Landowner may be required to reimburse the County for Project costs funded by the County in the event that the Landowner does not preserve the Project in accordance with the terms of this Temporary Easement.

2.2 The Landowner acknowledges that Landowner is voluntarily participating in the County's NRSF for riparian restoration (as described in Exhibit "C") that is the subject of this Temporary Easement and is permitting the Landowner's property to be used for such purposes pursuant to the terms of this Temporary Easement. The Landowner agrees that the Project (which consists of native vegetation planting and installation of fencing), when completed, will not now or in the future result in damages to the Landowner's Property, and that the County is not liable for any impacts to Landowner's Property resulting from the Project. The terms of this Section 2.2 shall survive the termination or expiration of this Temporary Easement.

2.3 The County agrees to be responsible for any damage arising from negligent acts of its employees, agents, or representatives on Landowner's Property in exercise of County's rights herein granted by this Temporary Easement. The County assumes no liability for any alleged damage to Landowner's Property resulting from this Temporary Easement, or from any source other than as may be expressly set forth herein.

3. **Termination of Temporary Easement.** The Project shall be considered complete following the completion of the activities described in Exhibit "C", including project maintenance activities. This Temporary Easement shall otherwise expire by its own terms ten (10) years from the date of mutual execution.

4. **Governing Law; Venue.** This Temporary Easement shall be construed under the laws of the State of Washington. It is agreed by the parties that the venue for any legal action brought under or relating to the terms of this Temporary Easement shall be in Skagit County, State of Washington.

5. **Entire Agreement.** This Temporary Easement contains the entire agreement between the parties hereto and incorporates and supercedes all prior negotiations or agreements. This Temporary Easement may not be modified or supplemented in any manner or form whatsoever, either by course of dealing or by parol or written evidence of prior agreements and negotiations, except upon the subsequent written agreement of the parties. Waiver or breach of any term or condition of this Temporary Easement shall not be considered a waiver of any prior or subsequent breach.

Easement
SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

NOV 28 2011

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



201111280072
Skagit County Auditor

DATED this 31 day of October, 2011.

GRANTOR:

George Thelen
George Thelen

DATED this 31 day of October, 2011.

GRANTOR:

Linda Hart
Linda Hart

STATE OF WASHINGTON
COUNTY OF SKAGIT

I certify that I know or have satisfactory evidence that George Thelen and Linda Hart, husband and wife, is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument, on oath stated that he/she/they executed the foregoing instrument as his/her/their free and voluntary act for the uses and purposes herein mentioned.

DATED this 31 day of October, 2011.



Notary Public
Print name: *Jodi A. Rogge*
Residing at: *1000 1st St NW*
My commission expires: *1-15-2015*

DATED this 21 day of November, 2011.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Ron Wesen, Chairman

ABSENT

Kenneth A. Dahlsstedt, Commissioner

Sharon D. Dillon, Commissioner

Authorization per Resolution R20050224

County Administrator

Attest:

Clerk of the Board

Recommended:

Department Head

Approved as to form:

Civil Deputy Prosecuting Attorney

Approved as to indemnification:

Risk Manager

Approved as to budget:

Budget & Finance Director



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Skagit County Auditor

STATE OF WASHINGTON

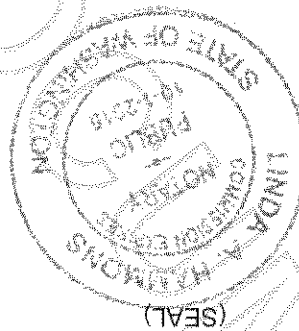
COUNTY OF SKAGIT

ss. }

I certify that I know or have satisfactory evidence that Ron Wesen, Kenneth A. Dahstedt and/or Sharon D. Dillon is/are the person(s) who appeared before me, and said person(s) acknowledged that she/he/they signed this instrument, on oath stated that she/he/they was/were authorized execute the instrument and acknowledged it as Commissioner(s) of Skagit County, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 21 day of November, 2011.

Linda A. Harmons
Notary Public
Print name: Linda Harmons
Residing at: Skagit County, WA
My commission expires: 10-1-2015



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EXHIBIT "A"

TEMPORARY EASEMENT LEGAL DESCRIPTION

The temporary easement begins at the junction of the Thelen property, Burlington Northern Santa Fe (BNSF) right-of-way (ROW) and the Colony road ROW; thence 175 feet along the Colony Road ROW to a point 100 feet west of the Thelen driveway; thence due north 215 feet; thence northwesterly 115 feet to a point along the currently vegetated corridor of Colony Creek and 85 feet due west of the Thelen pond; thence due north 210 feet to the intersection with Colony Creek; thence along the ordinary high water mark on the left bank of Colony Creek for 808 river feet; thence west 275 feet maintaining a 10 foot buffer from the driveway along the northern property line to the intersection with the historic Colony Creek channel; thence along the historic Colony Creek channel returning to the point of true beginning.



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Parcel Number: P48408
Address: 15481 Colony Road, Bow WA 98232
Situate in the County of Skagit, State of Washington

This easement includes the area required for invasive vegetation management and riparian replanting.



GRAPHIC DEPICTION OF TEMPORARY EASEMENT AREA

EXHIBIT "B"

EXHIBIT "C"

RIPARIAN RESTORATION AND MAINTENANCE PLAN SCOPE OF WORK

The project is designed to control reed canary grass and supplement native shrubs within the riparian zone along Colony Creek. The project area includes a CREP planting project that was installed in 1999. The landowner will provide SFEFG with a copy of the CREP plan prior to initiating work. All work performed on site will be consistent with CREP maintenance standards and will not compromise existing plantings. The CREP manager will be provided with a detailed planting plan for approval following initial site treatment in the fall of 2011, and will be notified of proposed maintenance activities each season prior to implementation.

GIS mapping indicates that the project area will cover approximately 8 acres of riparian zone with an average width of 180 feet on the west side of Colony Creek (Figure 1). Dominant vegetation within the site currently consists of reed canary grass with scattered conifers or willows that have survived from the original CREP planting. The planting area is divided in to three general treatment zones (Figure 1). Beaver are common along the creek and have constructed numerous small jams, flooding low areas along the creek and compromising the survival of trees. As a result, the unforrested area along Colony Creek to the north will be planted with willow cuttings for approximately 35-foot landward of each bank (approximately 1.5 acres). Willows establish rapidly from cuttings and will survive beaver predation and flooding.

The southern 480 feet of channel (0.5 acres total) are an old restoration project, and are currently bordered by a dense thicket of red alder that became established on the disturbed soils adjacent to the creek. Knotweed and other invasive weeds are present within this area. SFEFG will thin the red alder trees to an approximate spacing of 15x15 feet, and will underplant with approximately 75 western red cedar and spruce. Knotweed and other invasives will be spot treated with herbicide annually.

The remainder of the project area (~5.5 acres), including most of the CREP planting area, is currently overrun with reed canary grass. This area will be mowed in the fall of 2011 using a riding mower and/or weedwhackers. Following mowing SFEFG will mark and map areas with wet soils and/or standing water versus areas that are not submerged, and use this to guide plant installation. The boundary of each patch will be recorded using GIS. Areas that are covered by standing water during the winter months will be planted with a combination of willow stakes, twinberry and spirea. Western red cedar, spruce, Douglas-fir (if conditions are appropriate), black cottonwood and red alder will be established on areas that are covered with water only during floods or extreme rain events. All plants installed will be either bareroot stock or cuttings. All plants will be protected using tubes or spiral wraps. Plants will be installed to achieve a total stocking level of 435 stems per acre (10x10 ft spacing); at least 30 percent of those plants (130 stems per acre) will be conifers in areas deemed to support trees.

Site maintenance will continue through 2014. Maintenance will consist of weeding around plants, and hand spraying herbicide to control knotweed and other invasives. Landowners will be notified at least 48 hours prior to any construction or maintenance activities. Protective tubes will be removed prior to project completion.



Figure 1. Thelen site plan

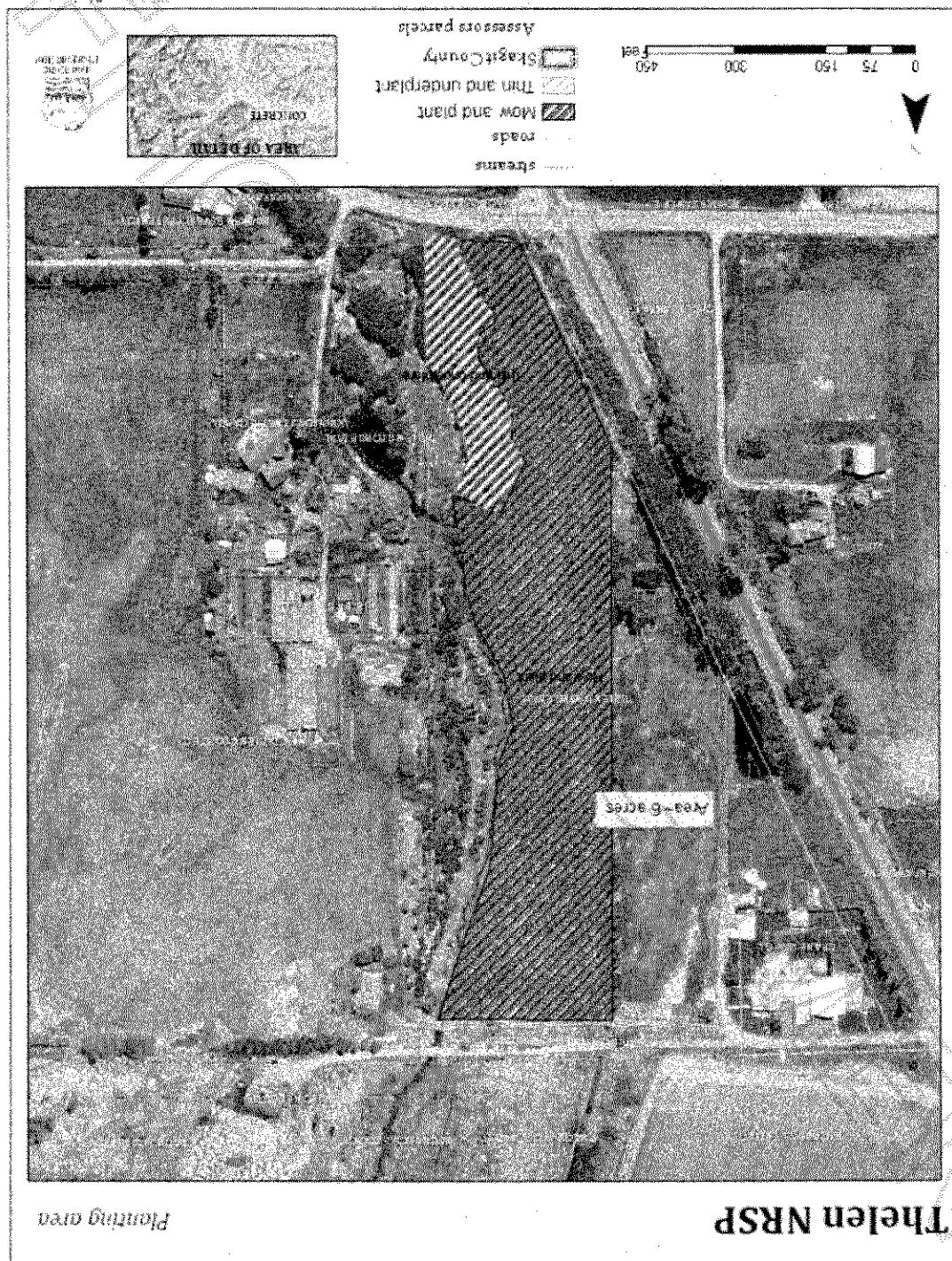


EXHIBIT "D"
LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY

(10.4000 ac) O/S#27-87 AF#8710080030: E 30RDS OF NE1/4 NW1/4 E OF CO RD & E OF RLY EXC FDT
BAAP 692FT S & 348FT W FR N1/4 COR SD SEC TH S 0-36 E 85FT TH S89-24 W 62FT TH N 0-36 W
85FT TH N 89-24 E 62FT TPOB LESS 273603-2-003-01
Situate in the County of Skagit, State of Washington.



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