



201203270135
Skagit County Auditor

3/27/2012 Page 1 of 34 4:08PM

WHEN RECORDED RETURN TO:

Triton-America, LLC
13593 Bayview Edison Road
Mount Vernon, WA 98273

POOR ORIGINAL

LAND TITLE OF SKAGIT COUNTY
141105-06

DOCUMENT TITLE(S):

Notice of Consent to Assignment of Lease No. 22-002724

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

201106070022

GRANTOR:

Washington State Department of Natural Resources

GRANTEE:

TRITON-AMERICA, LLC, a Washington limited liability company

ABBREVIATED LEGAL DESCRIPTION:

PtnTr5,Ptn Blk 5,Blks Q&R,LaConner;Ptn Blks19&20,Syndicate Add;Ptn Trs14-16,Plate 18,LaConner Tdlds.

TAX PARCEL NUMBER(S):

4123-017-001-0007, P74046, 4123-017-009-0009, P74047, 4123-017-018-0008, P74051, 4123-017-019-0007, P74053, 4123-018-009-0007, P74057, 4128-020-008-0009, P74392, 4129-018-014-0103, P74469, 4129-018-015-0003, P74470, 4129-018-900-1504, P74494, 4129-018-900-1603, P74495, 4129-018-900-1702, P74496



WASHINGTON STATE DEPARTMENT OF
Natural Resources
 Peter Goldmark - Commissioner of Public Lands

NOTICE OF AND CONSENT TO ASSIGNMENT OF LEASE No. 22-002724

THIS AGREEMENT is made by and between the STATE OF WASHINGTON, acting through the Department of Natural Resources ("State"), and LACONNER ASSOCIATES, a Limited Liability Company, whose address is PO Box 1155, LaConner, WA 98257 ("Assignor") and TRITON-AMERICA, a Limited Liability Company, whose address is 13593 Bayview Edison Road, Mount Vernon, WA 98273 ("Assignee").

BACKGROUND

- A. Lease No. 22-002724 was entered into on the 7th day of January, 1989, by and between MOORE-CLARK CO., INC. as Lessee and the STATE OF WASHINGTON, acting through the Department of Natural Resources, as landlord ("State"). Copies of the original lease are attached as Exhibit 1.
- B. The Lease was previously amended by Assignment, dated the 31st day of December, 1997, by and between MOORE-CLARK CO., INC, as Assignor and LACONNER ASSOCIATES, LLC, as Assignee. Copies of the Assignment are attached as Exhibit 2. Assignor now possesses the rights, duties, and liabilities under the Lease as amended.
- C. The Lease expired on January 1, 2001. The parties agreed to continue the terms of the Lease in accordance with a holdover agreement effective October 15, 2001, ("Holdover"). Copies of the Holdover are attached as Exhibit 3.
- D. The Lease was previously amended by Assignment for Security Purposes, dated the 23rd day of June, 2011, by and between the STATE OF WASHINGTON, acting through the Department of Natural Resources (the "State"), and LACONNER ASSOCIATES, LLC, ("Tenant"), and WHIDBEY ISLAND BANK, a Washington Corporation ("Lender"). Copies of the Assignment for Security Purposes are attached as Exhibit 4.
- E. Assignor desires to assign and Assignee desires to assume the rights, duties, and liabilities of Lessee under the amended Lease. Assignor acknowledges the receipt

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX Lease No. 22-002724



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MAR 27 2012

Amount Paid \$
 Skagit Co. Treasurer
 By *[Signature]* Deputy

and adequacy of consideration given by Assignee for this assignment. The Lease prohibits an assignment without State's consent. State is willing to give its consent based upon the assurances and agreements made in this Agreement.

THEREFORE, the parties agree as follows:

SECTION 1 NOTICE OF ASSIGNMENT

Assignor gives notice of its intent to assign all of its rights, title, and interest as Lessee under the amended Lease to Assignee effective the 8th day of March, 2012, for the balance of the Lease term as provided in the Lease.

SECTION 2 ACCEPTANCE AND INDEMNIFICATION

Assignee gives notice of its intent to assume the obligations as Lessee under the Lease, and agrees to faithfully perform and discharge those obligations according to the terms of the Lease.

SECTION 3 NO RELEASE

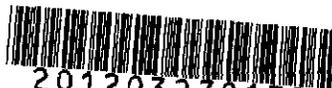
State is not releasing Assignor from fully performing the provisions of the Lease. Assignor remains liable to State to the same extent as if no assignment had been made.

SECTION 4 MODIFICATION OF LEASE AT TIME OF ASSIGNMENT

Assignor agrees that State and Assignee may change, modify, or amend the Lease in any way, including the rent to be paid. The assignment and any modification or amendment to the Lease shall occur contemporaneously. Assignee acknowledges receipt of a copy of the Lease and any previous or contemporaneous amendments. Assignor acknowledges receipt of a copy of the amended Lease. Further assignments may be made, without notice to or consent of Assignor, and without in any manner releasing or relieving Assignor from liability under the Lease. Assignor shall remain liable under all the terms, covenants, and conditions of the Lease as amended through the date of this assignment to the end of the term of the Lease.

SECTION 5 WARRANTIES

Assignor represents and warrants to State and to Assignee that (i) the Lease is in full force and effect; (ii) Assignor is not in default or breach of the Lease; (iii) Assignor has no knowledge of any claims, offsets, or defenses of any Lessee under the Lease; (iv) rents due subsequent to this assignment have not been paid in advance by any Lessee; and, (v) to the best of Assignor's



knowledge, the property is in full compliance with all applicable federal, state, and local governmental permits, rules, ordinances, and laws. Assignor shall defend, indemnify and hold State harmless from any breach of the foregoing warranties and from any claims or causes of action, known or unknown, of Assignor that have or may arise from circumstances that precede this assignment.

SECTION 6 NOTICE

Assignor instructs State to send all future notices to Assignee. Assignee has the obligation to keep Assignor informed about the activities on the property and Assignee's performance of its obligations under the Lease. Assignee shall send to Assignor copies of any notices it receives or sends to State. Assignor has the obligation to remain informed of Assignee's activities on the property, Assignee's performance of its obligations under the Lease, and Assignee's financial condition. State has no obligation to provide Assignor any notice or information concerning the Lease or Assignee and Assignor shall not rely on State to inform Assignor.

THIS AGREEMENT requires the signature of all parties and is executed as of the date of the last signature below.

LACONNER ASSOCIATES,
a limited liability company

Dated: March 15th, 2012

By: 
VAUGHN JOLLEY

Title: Owner
Address: PO Box 1155
LaConner, WA 98257

TRITON-AMERICA,
a limited liability company

Dated: March 15th, 2012

By: 
RON HALTERMAN

Title: CFO
Address: 13593 Bayview Edison Road
Mount Vernon, WA 98257



CONSENT TO ASSIGNMENT BY STATE

In consideration of the foregoing, State consents to the Assignment of the Lease to Assignee. However, State expressly conditions this consent on the understanding that neither State's consent nor its collection of rent from Assignee shall be a waiver of the covenant against future assignments or subletting. Furthermore, State's acceptance of Assignee as Lessee shall not be construed as releasing Assignor from full performance of the provisions of the Lease. Except as set forth in this Agreement, no provision of this consent alters or modifies any of the terms and conditions of the Lease, including the requirement that the written consent of the State be obtained before any further assignment of the Lease or subletting of the property occurs.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: 3.21.12, 2012


By: BRIDGET MORAN

Title: Deputy Supervisor for Aquatics &
Environmental Protection
Address: 1111 Washington St. SE
Olympia, WA 98504-7027

Approved as to form this
January, 2004
Mike Grossmann, Assistant Attorney General



STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that VAUGHN JOLLEY is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Owner of LACONNER ASSOCIATES, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: March 15th, 2012

(Seal or stamp)



Karen Ashley

(Signature)

Karen Ashley

(Print Name)

Notary Public in and for the State of Washington,
residing at Sedro-Woolley

My appointment expires 9/11/2014

STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that RON HALTERMAN is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the CFO of TRITON-AMERICA, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: March 15th, 2012

(Seal or stamp)



Karen Ashley

(Signature)

Karen Ashley

(Print Name)

Notary Public in and for the State of Washington,
residing at Sedro-Woolley

My appointment expires 9/11/2014

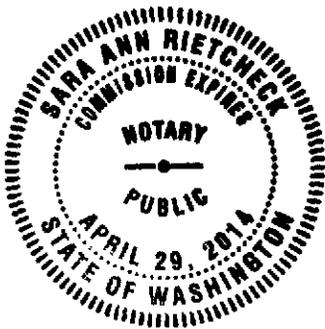


STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I certify that I know or have satisfactory evidence that BRIDGET MORAN is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Deputy Supervisor for Aquatics and Environmental Protection of the Department of Natural Resources, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 3-21-12

(Seal or stamp)



Sara Ann Rietchek
(Signature)
Sara Ann Rietchek
(Print Name)
Notary Public in and for the State of Washington,
residing at Olympia
My appointment expires 4/29/14



STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
Brian J. Boyle
Commissioner of Public Lands
Olympia, Washington 98504

EXHIBIT 1

HARBOR AREA LEASE NO. 22-002724

BY THIS LEASE, by and between the STATE OF WASHINGTON, acting by and through the Department of Natural Resources, hereinafter called the Lessor, and MOORE-CLARK CO., INC., hereinafter called the Lessee, the Lessor leases to the Lessee on the terms and conditions as hereinafter set forth, the following described Harbor Area situate in Skagit County, Washington, to wit:

The Harbor Area of the Swinomish Channel fronting Tracts 15 and 16 and southwesterly 26.50 feet of Tract 14 within Government Lots 3 and 4 of Section 36; Township 34 North, Range 2 East, W.M., La Conner Tidelands Plates, bounded by the inner and outer harbor lines; the northeast line of the southwesterly 26.50 feet of Tract 14 produced northwesterly across the Harbor Area and the southwesterly line of said Tract 16 produced northwesterly across the Harbor Area, as shown in red on the attached Exhibit A, containing approximately .56 acres, more or less.

SECTION 1 OCCUPANCY

1.1 Term. This lease shall commence on the 7th day of January 1989 and continue to the 1st day of January 2001.

SECTION 2 USE OF PREMISES

2.1 Permitted Use. The Lessee shall have use of the leased premises for the purposes of maintaining and operating a loading and unloading facility for the processing of fish as shown on the attached exhibit and approved by the Lessor: Exhibit A - plat.

SECTION 3 PAYMENT

3.1 Rent.

(1) Annual Rent. Initial rent in the amount of \$3,154.77, for the period January 7, 1989 to January 1, 1990, based on an annual rent of \$3,207.51; and subsequent annual rent, as determined by the Lessor in accordance with Chapter 221, Laws of 1984 (RCW 79.90.450 - .902), or as amended by subsequent legislation, is due and payable in advance by the Lessee to the Lessor and is the essence of this lease, and is a condition precedent to the continuance of this lease or any rights thereunder. Payment is to be to the Department of Natural Resources, Olympia, Washington 98504.

(2) Inflation Adjustment. After payment of the initial rent, annual rent shall be adjusted each year thereafter according to the change in the Producer Price Index, as provided by regulations of the Department of Natural Resources.

(3) Interest Penalty for Past Due Rent Balances. A one percent charge, per month, shall be due to Lessor, from the Lessee, on any rent balance which is more than thirty days past due.

3.2 Leasehold Tax. The Lessee shall pay to the Lessor at Olympia, Washington 98504, the leasehold tax, if applicable, as set forth in Chapter 61, Laws of 1976, 2nd Ex. Sess., or as may be amended. The tax shall be due and payable at the same time the rental charged herein is due and payable. Failure to pay said tax when due and payable shall be considered a breach of the provisions of this lease and the Lessor shall be entitled to all remedies they are entitled to by law, and the remedies provided herein for a breach of a provision of this lease. Any delinquent taxes shall be a debt to the Lessor and in the event the Lessor is subject to any penalties or interest because of the failure of the Lessee to pay such taxes, such penalties and interest shall be payable by the Lessee to the Lessor and shall be considered a debt to the Lessor. In the event the Lessor suffers any costs of whatsoever nature, including attorney fees, or other costs of litigation in collecting said tax, such costs shall be payable by the Lessee and shall be considered a debt due and owing to the Lessor by the Lessee.

3.3 Revaluation of Rent. The Lessor shall at the end of the first four year period of the lease term and at the end of each subsequent four year period of the lease term, determine the annual rental in accordance with RCW 79.90.480 or as amended by subsequent legislation.



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SECTION 4 RESERVATIONS AND CONDITIONS OF USE

4.1 Discrimination. The Lessee covenants and agrees that in the performance of this lease agreement, the Lessee shall conduct its activities in a manner that will assure fair, equal and non-discriminatory treatment of all persons regardless of race, creed, sex, marital status or ethnic origin. Notwithstanding any exemption contained in state or federal law, the Lessee shall comply with all federal and state laws, rules or regulations concerning hiring and employment and assuring the service of all patrons, customers, members or invitees without discrimination as to any person's race, creed, sex, marital status or ethnic origin.

Non-compliance with this clause by the Lessee shall constitute a breach of this lease and the Lessor may initiate appropriate formal or informal action to assure compliance or may, at its discretion, terminate this lease upon thirty day's notice to the Lessee setting forth the claimed violation or violations and giving the Lessee a right to appeal to the Commissioner of Public Lands for a contested case hearing in accordance with the State Administrative Procedures Act (RCW 34.04).

4.2 Improvements. No improvement in addition to those authorized by the Permitted Use clause herein, shall be placed upon the Harbor Area without the prior written authorization of the Lessor. Authorized improvements constructed or placed on the lease premises during the term of this lease by the Lessee, unless otherwise specified, are the property of the Lessee. Upon the cancellation or expiration of this lease, the Lessee agrees to sever, remove and dispose of those improvements on the premises designated by the Lessor within six months from date of termination or expiration. In those cases when the Lessor requires removal of improvements and such action is not taken by the Lessee, the Lessee agrees that the Lessor may remove such improvements and charge the Lessee for cost of removal and disposal. All improvements allowed to remain on the area herein described, upon termination or expiration of this lease, shall be the property of the Lessor.

4.3 Unauthorized Improvements. All improvements made on or to the premises without the written consent of the Lessor shall immediately become the property of the Lessor. The Lessor may, at its option, require the Lessee to remove and dispose of any or all improvements; and in those instances where such action is not taken by the Lessee, the Lessor may remove such improvements, charging the Lessee for the cost of the removal and disposal, and cancel the lease.

4.4 Entry.

(a) The State shall have access to the Property at all reasonable times for the purpose of inspecting the Property and securing compliance with the terms and conditions of this lease.

(b) The right reserved in Subsection 4.4(a) above includes the right to perform or have performed such environmental tests, audits, surveys or investigations as the State, in its sole discretion, deems appropriate. Such tests, audits, surveys, or investigations may include, but shall not be limited to, the determination of whether the Lessee is improperly storing, handling or disposing of Hazardous Substances, as defined in Subsection 4.6(d) below, or of refuse, as defined in Subsection 4.6(b) below.

4.5 Access. The Lessor reserves the right of access to and across the leasehold premises for all purposes and further reserves the right to grant easements and other land uses on the premises to others when the easement or other land uses applied for will not unduly interfere with the use to which the Lessee is putting the premises or interfere unduly with the approved plan of development for the premises. No easement or other land uses shall be granted to third parties until payment for damages to the leasehold have been paid to the Lessee or a waiver of damages is signed by the Lessee.

4.6 Restrictions on Use.

(a) Conformance With Laws. The Lessee shall, at its own expense, conform to all applicable laws, regulations, permits, orders or requirements of any public authority affecting the property and the use thereof. Copies of such permits or orders shall be supplied to the State upon request. The Lessee shall correct at the Lessee's own expense any failure of compliance created through the Lessee's fault or by reason of the Lessee's use.

(b) Refuse. The Lessee shall not make, or suffer to be made, any filling in of the Property or any deposit of rock, earth, ballast, refuse, garbage, waste matter (including chemical, biological or toxic wastes), hydrocarbons, any other pollutants, or other matter within or upon the Property, except as approved in writing by the State. If the Lessee shall fail to remove all nonapproved fill material, refuse, garbage, wastes or other of the above materials from the Property and restore the Property to its condition immediately prior to the deposition of the unauthorized material, the Lessee agrees that the State may remove such materials and charge the Lessee for the cost of removal and disposal together with interest thereon from the date of expenditure at the rate of one percent per month.



(c) Waste. At all times during the Term, the Lessee shall neither commit nor suffer waste to be committed to the Property.

(d) Hazardous, Toxic, or Harmful Substances.

1. The Lessee shall not keep on or about the Property, any substances now or hereinafter designated as, or containing components now or hereinafter designated as, hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance (hereinafter collectively referred to as "Hazardous Substances"), unless the Lessee fully complies with all federal, state and local laws, regulations, statutes, and ordinances, now in existence or as subsequently enacted or amended.

2. The Lessee shall immediately notify the State of all spills or releases of any Hazardous Substance, all failures to comply with any federal, state, or local law, regulation or ordinance, as now enacted, or as subsequently enacted or amended, all inspections of the Property by any regulatory entity concerning the same, all regulatory orders or fines, and all response or interim cleanup actions taken by or proposed to be taken by any government entity or private party on the Property.

3. The Lessee shall be fully and completely liable to the State, and shall indemnify, defend, and save harmless the State and its agencies, employees, officers, directors and agents with respect to any and all liability, damages (including damages to land, aquatic life and other natural resources), expenses, causes of action, suits, claims, costs (including testing, auditing, surveying and investigation costs), fees (including attorneys' fees and costs), penalties (civil and criminal), and response or cleanup costs assessed against or imposed as a result of Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of Lessee's employees, agents, assigns, sublessees, contractors, subcontractors, licensees, permittees, or invitees, and for any breach of this Subsection 4.6(d).

(e) Marine Plastics Act. The Lessee shall, in addition to compliance with all other applicable laws and regulations, comply with the Marine Plastic Pollution Research and Control Act (MPPRCA) of 1987 (Public Law 100-220), which will become effective December 31, 1988. Under that Act, Lessee may be required among other things to provide waste reception facilities, permit Coast Guard inspection of the adequacy of these facilities, and provide for waste handling and disposition.

(f) Any failure to comply with the above Subsections 4.6(a)-(e) shall be considered grounds for cancellation of the Lease, in addition to the exercise of any other remedies available to the State. The parties expressly agree that the Lessee will, at its own expense, upon any failure to comply with the above Subsections 4.6(a)-(e) and upon direction to do so by the State, take corrective action measures satisfactory to the State. If the Lessee fails to do so, the Lessee agrees that the State may take such corrective action and the State shall be entitled to receive full reimbursement therefrom from the Lessee upon demand, together with interest thereon from the date of expenditure at the rate of one percent per month.

4.7 Regulations. The Lessor shall have the right to regulate, under rules established by it, maintenance and design requirements of all improvements, rates of wharfage, docks and other tolls to be imposed by the Lessee upon commerce for any of the purposes for which leased Harbor Areas may be used, and to change such regulations and rates from time to time.

4.8 Testing. The Lessee agrees to conduct, at its own expense, all tests, audits, surveys, or investigations requested by the State during the term of the Lease as are necessary to ascertain the existence, scope, effects, or potential effects, of Hazardous Substances on the Property or associated natural resources resulting from or associated with the Lessee's use, occupation, or control of the Property and to provide the results of such tests, audits, surveys, or investigations to the State. If the Lessee fails to conduct such tests, the State may conduct such tests and the State shall be entitled to receive full reimbursement from the Lessee upon demand, together with interest thereon from the date of expenditure at the rate of one percent per month.

4.9 Reports. Lessee shall, at the State's request:

(a) Submit a written report to the State prior to January 31 of each calendar year in which the Lessee shall summarize and describe all uses which have occurred upon the Property during the preceding calendar year.

(b) Provide copies to the State of all monitoring reports required by permits issued by any federal, state or local regulatory agency related to water quality or sediment quality.

SECTION 5 REQUIREMENTS

5.1 Assignment and Sublease. This lease, or any portion thereof, may not be assigned, mortgaged, sublet or otherwise transferred without the prior written consent of the Lessor. In granting such consent the Lessor reserves the right to change the terms and conditions of this lease as it may affect the assignee. Further, if the Lessee is a corporation or partnership and if at any time during the term of this lease any part or all of the corporate shares or partnership interests of the Lessee shall be transferred



sale, assignment, bequest, inheritance, operation of law, or other disposition so as to result in a change in the present control of the corporation or partnership by the person or persons now owning a majority of the shares, or change in the holding of the corporate or partnership interest, the same shall constitute an assignment of this lease and as such shall require prior written consent of the Lessor. Failure to obtain written approval of any assignment defined in this lease shall be grounds for cancellation.

5.2 Maintenance.

(1) The Lessee, at its sole cost and expense, shall at all times keep, or cause all improvements regardless of ownership to be kept, in as good condition and repair as originally constructed or as hereafter put, except for reasonable use.

(2) The Lessee shall not allow debris or refuse to accumulate on the leased premises, caused either by itself or any person on the premises. Failure to comply with this provision shall be cause to permit the Lessor to remove the debris and refuse and collect the cost of such removal from the Lessee and/or cancel this lease.

(3) The Lessee may, following thirty days' notice to the Lessor, and after obtaining any required federal, state, or local permits, dredge the leased area as needed to maintain the water depths normal to the property. Specific written approval by the Lessor and payment for material is required for improvement dredging. In the event materials from improvement dredging are sold or deposited on privately owned property for improvement purposes, such material shall be paid for at the Lessor's appraisal.

5.3 Condition of Premises and Liability.

(1) The premises have been inspected by the Lessee and are accepted in their present condition. The Lessee agrees to defend and hold Lessor harmless from any and all claims suffered, or alleged to be suffered on the premises, or arising out of operations on the premises. The Lessor reserves the right to require the Lessee to conduct such sediment sampling and testing as the Lessor may direct. The Lessee agrees to remove any contaminated sediment, as may now or hereafter be defined by the federal and/or state regulatory agencies, as directed by the Lessor. The Lessee agrees to remove such sediments at its own expense and whether or not such sediments have been contaminated by the herein named Lessee.

(2) The Lessee shall carry with a responsible company or companies satisfactory to the Lessor, a sufficient amount of fire and casualty insurance to recover the value of all or all improvements located on the leased premises. A copy of such insurance policy or policies is to be endorsed and delivered to the Lessor with provision of ten days' notice of change, expiration and/or cancellation to the Lessor. In the event of fire or casualty damage to any improvement owned by the Lessor, or required to be left on the leased premises at the expiration of this lease, the paid insurance benefits shall be used to immediately replace said improvements in a manner acceptable to the Lessor or, if directed by the Lessor, rehabilitate the area in a manner suitable to the Lessor. Any portion of the insurance proceeds not so utilized shall be returned to the Lessor or if so permitted to be used to satisfy any outstanding obligations incurred by reason of this lease being utilized for loan security. In the event of fire or casualty damage to any improvement owned by the Lessee, the paid insurance benefits shall be used to either replace the improvement, or in lieu thereof, rehabilitate the area in a manner suitable to the Lessor. The Lessee shall guarantee that all sublessees shall have provisions to either replace their own damaged improvements or to rehabilitate the area, as defined above.

5.4 Assessments. The Lessee shall pay all the annual payments on all assessments that may be legally charged, whether or not such assessments have been levied against the leasehold or the Lessor by the assessing agency.

5.5 Insolvency of the Lessee. If the Lessee becomes insolvent, bankrupt, a receiver appointed, or his interest is transferred by operation of law, the Lessor may cancel this lease at its option. Insolvency as used herein, will mean the inability of the Lessee to meet obligations as they come due.

SECTION 6 MISCELLANEOUS

6.1 No Partnership. The Lessor is not a partner nor a joint venturer with the Lessee in connection with the business carried on under this lease and shall have no obligation with respect to the Lessee's debts or other liabilities.

6.2 Non-Waiver. Waiver by either party of strict performance of any provisions of this lease shall not be a waiver of, nor prejudice the party's right to require strict performance of the same provision or of any other provision in the future.

6.3 Attorneys' Fees. If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover, in addition to costs, such sum as the court may adjudge reasonable as attorneys' fees.



6.4 Succession. Subject to the limitations as stated in paragraph 5.1 on transfer of the Lessee's interest, this lease shall be binding upon, and inure to the benefit of the parties, their respective successors and assigns.

6.5 Notices. Any notice required or permitted under this lease shall be given when actually delivered or when deposited in the United States mail addressed as follows:
to the Lessor: Department of Natural Resources, Mail Stop QW-21, Olympia, Washington 98501
To the Lessee: At the address given by the Lessee in the signature block, or as shown in later official documents of record with this lease.

6.6 Liens.

(1) No person shall have the right to file or place any lien of any kind or character upon the land or improvements within the leasehold premises without the prior written consent of the Lessor.

(2) In the event unauthorized liens or other charges are placed on the leasehold premises, including land or improvements, arising out of the Lessee's actions directly or indirectly, the Lessee shall immediately cause such liens or charges to be discharged. The Lessor may forthwith cancel this lease if the Lessee fails to discharge such liens or charges after ten days' notice to do so by the Lessor. The Lessee shall pay and indemnify the Lessor for all costs, damages or charges of whatsoever nature, including attorneys' fees necessary to discharge such liens or charges, whether such costs, damages or charges are incurred prior or subsequent to any cancellation of this lease.

6.7 Default. If the Lessee shall violate or default any of the covenants and agreements contained herein, including the obligation to pay rent, then the Lessor may cancel this lease provided that the Lessee has been notified of the violation or default thirty days prior to such cancellation and such violation or default has not been corrected within such time. In the event the Lessor elects to cancel this lease, all improvements local thereon shall become the property of the state of Washington.

6.8 The Lessor's Right to Cure Defaults.

(1) If the Lessee fails to perform any requirements or obligations under this lease, the Lessor shall have the option to correct any default of this lease by the Lessee after thirty days' written notice to the Lessee. All of the Lessor's expenditures to correct the default shall be reimbursed by the Lessee on demand, with interest at the rate of one percent per month accrued from the date of expenditure by the Lessor.

(2) In the event any violation or breach of the provisions of this lease is causing damage to the leasehold premises or the Lessee is utilizing the leasehold premises in a manner not permitted by the provisions of this lease, or in any case damages are occurring to the leasehold premises, the Lessor may immediately enter upon the leasehold premises and take such action as necessary to cease such damages or use. In the event damage to the leasehold is occurring the Lessee shall be liable for all costs incurred by the Lessor if the Lessor acts to cure such damages. The Lessor, at its option may send notice to the Lessee of such violations and the Lessee shall immediately cease such use, violation and correct and remedy such violations.

6.9 Security. The Lessee shall furnish a surety bond in such amount as may be determined by the Lessor from time-to-time in accordance with Title 79 RCW, as amended, as a guarantee of the faithful performance of the conditions and terms prescribed in this lease. Security other than a surety bond may be substituted if first approved in writing by the Lessor. The amount of the surety bond as of the date of this lease shall be \$6,500.00.

6.10 Litigation. In the event this lease, its terms, its use, its occupation or it in any way becomes a matter of litigation, the Lessor shall be notified of such litigation.



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Skagit County Auditor

within fifteen days after such litigation is begun. Failure to notify the Lessor of such action shall be cause for cancellation or termination of this lease.

The Lessee expressly agrees to all covenants herein, and binds himself for the payment hereinbefore specified.

Executed this 26th day of May, 19 89.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

James A. Stearns
JAMES A. STEARNS, Supervisor

Signed this 5th day of May, 19 89.

MOORE-CLARK CO., INC.

Larry J. Lee
Larry J. Lee
PO Box M
813 S Second
La Conner, WA 98257

CERTIFICATE OF ACKNOWLEDGMENT
JAMES A. STEARNS

STATE OF WASHINGTON)
County of Shuikton } ss.

I certify that I know or have satisfactory evidence that

James A. Stearns signed this instrument, and oath stated that he was
JAMES A. STEARNS

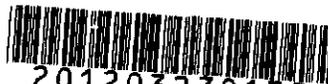
authorized to execute the instrument and acknowledge it as the Supervisor of the Department of Natural Resources, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 5-26-89

Ann M. Rosta
Notary Public in and for the
State of Washington

My appointment expires 2-1-93

(Seal or stamp)



CERTIFICATE OF ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
County of Skagit)

I certify that I know or have satisfactory evidence that Larry J. Lee
Name of Person
signed this instrument, and oath stated that (he/she/they) (was/were) authorized to
execute the instrument and acknowledged it as the President
(type of authority, e.g., officer
Moore-Clark Co., Inc.
of (name of party(ies)-on behalf of
trustee, partner, marital community, etc.)
to be the free and voluntary act of such party(ies) for the
whom instrument was executed)
uses and purposes mentioned in the instrument.

Dated: 05/05/89

Donna D. Eschbach
Donna D. Eschbach

Notary Public in and for the state of
Washington

(seal or stamp)

My appointment expires

03/04/91



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Skagit County Auditor

UNRECORDED

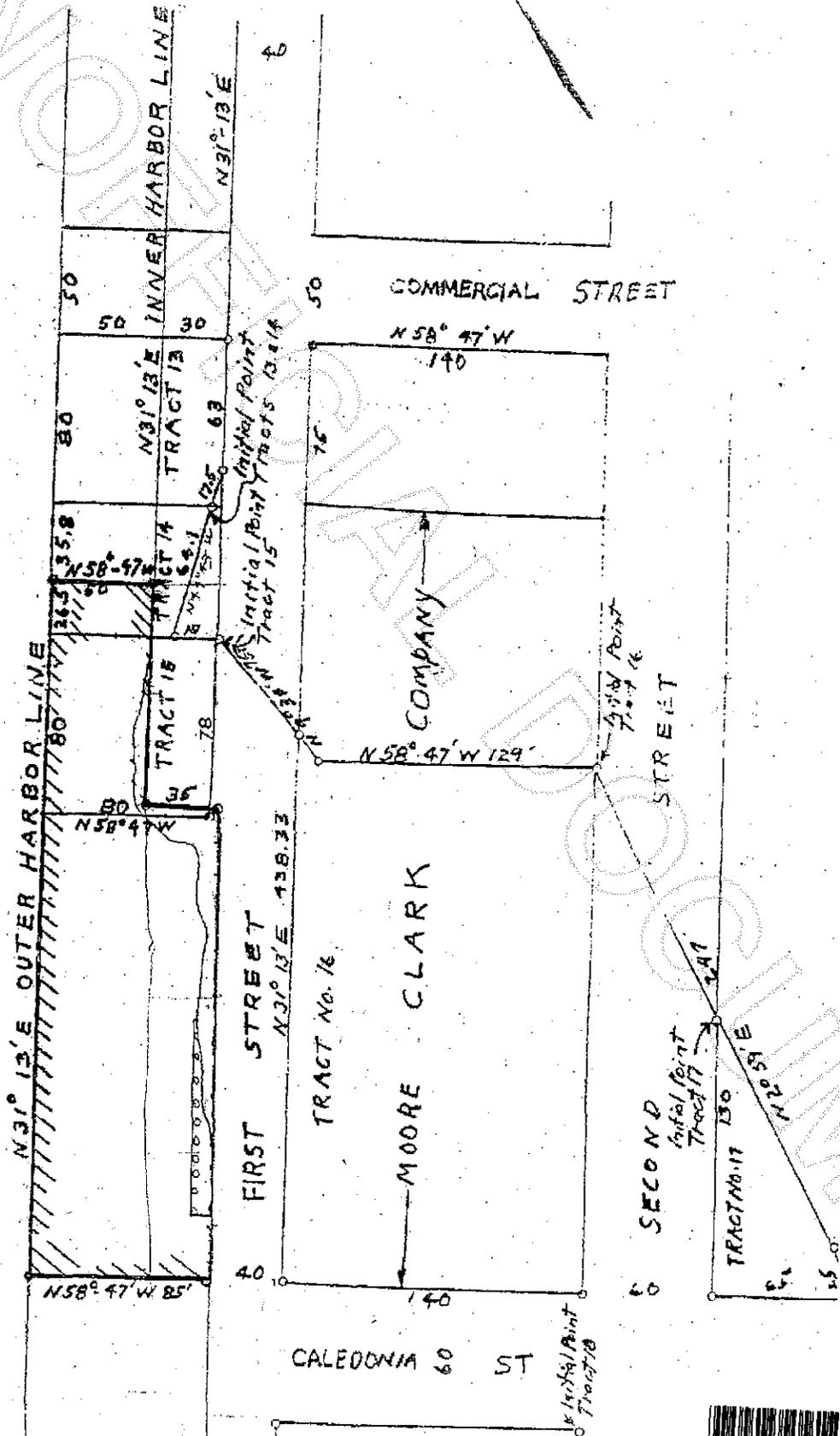
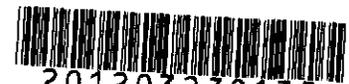


EXHIBIT A



201203270135
Skagit County Auditor

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
JENNIFER M. BELCHER
Commissioner of Public Lands
Olympia, WA 98504

NOTE CAREFULLY

EXHIBIT 2

The Commissioner of Public Lands will not approve or enter any assignment unless the lease or contract is in good standing. The original lease or contract must be submitted along with three (3) copies of this assignment form and a \$25.00 fee.

ASSIGNMENT OF LEASE w/ Exh B - updated lease language

FOR VALUE RECEIVED, the undersigned hereby assigns that certain Lease No. 22-002724 (the "Lease"), dated the 1st day of September, 1997, between the Washington State Department of Natural Resources (the "Department") as Grantor, and the undersigned as Grantee/Assignor MOORE-CLARK CO., INC., a Delaware Corporation, covering those certain premises situated in the County of Skagit, State of Washington, particularly described as follows:

The Harbor Area of the Swinomish Channel fronting Tracts 15 and 16 and Southwesterly 26.50 feet of Tract 14 within Government Lots 3 and 4 of Section 36, Township 34 North, Range 2 East, W.M., LaConner Tidelands Plates, bounded by the inner and outer harbor lines, the Northeast line of the Southwesterly 26.50 feet of Tract 14 produced Northwesterly across the Harbor Area and the Southwesterly line of said Tract 16 produced Northwesterly across the Harbor Area, as shown in red on the attached Exhibit A, containing approximately .56 acres, more or less.

The undersigned hereby Assigns all right, title and interest in and to and under the said lease, to LACONNER ASSOCIATES, a Limited Liability Company (the "Assignee"), whose address is P. O. Box 1155, LaConner, Washington 98257, and said assignee LACONNER ASSOCIATES, a Limited Liability Company, hereby binds and obligates themselves to perform all the conditions and covenants of said lease or contract.

In consideration of this Assignment and of the consent of the Department, the undersigned Assignor and Assignee agree as follows:

1. The Assignee hereby assumes and agrees to make all the payments required under the Lease, and to do and perform and be bound by all covenants, conditions, terms, stipulations, and agreements in the Lease binding upon Lessee;
2. The Department, through its consent to this Assignment, hereby releases Assignor from any liability that may be incurred under the lease by the Assignee from and after the effective date of the Assignment;
3. The Assignment shall not modify any of the terms and conditions of the Lease, except as provided in Exhibit B;
4. The Assignment shall not preclude the Department from exercising its right to consent to any further Assignment of the Lease;
5. Assignor represents and warrants that to the best of its knowledge, after due and diligent inquiry, it is unaware of the presence or dispersal of any hazardous or toxic substance on the property;
6. Assignor represents and warrants that it has no knowledge, after due and diligent inquiry, of any state of facts which would give rise to claims against the Department or pending or threatened litigation or claims against the Department;
7. Assignor represents and warrants that it is not in default under the lease, and has no knowledge, after due and diligent inquiry, of any state of facts or events which, with the passage of time or the giving of notice thereof would constitute a default thereunder; and



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22-002724

REGION FILE
22-002724
OLYMPIA FILE

8. Assignor represents and warrants that to the best of its knowledge, after due and diligent inquiry, the property is in full compliance with all applicable federal, state, and local governmental permits, rules, ordinances, laws, and statutes.

GRANTEE/ASSIGNOR
MOORE-CLARK CO., INC.
a Delaware Corporation

ASSIGNEE
LACONNER ASSOCIATES
a Limited Liability Company

By: [Signature]

By: [Signature]

Title: PRESIDENT

Title: [Signature]

P.O. Box 200
Public Square 10-B
Cleveland, Ohio 44114-2375

P.O. Box 1155
LaConner, WA 98257

Date: 10/30/97

Date: 10/3/97

CONSENT TO ASSIGNMENT

The Department consents to the Assignment of the above-mentioned Lease unto LACONNER ASSOCIATES, a Limited Liability Company upon the express conditions contained in said Assignment; and no further Assignment of said lease or subletting of said premises or any part thereof shall be made without the written consent of the Department.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

[Signature]
CHARLES BAUM
Department Supervisor

Date: 12/31/97

lease



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Skagit County Auditor

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF WASHINGTON)

COUNTY OF Thurston) ss.

On this 31st day of December, 1997, personally appeared before me CHARLES BAUM, to me known to have signature authorization delegated to her to sign for JENNIFER M. BELCHER, Commissioner of Public Lands, and ex officio administrator of the Department of Natural Resources of the State of Washington, the Department that executed the within and foregoing instrument on behalf of the State of Washington, and acknowledged said instrument to be the free and voluntary act and deed of the State of Washington for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument and that the seal affixed is the official seal of the Commissioner of Public Lands for the State of Washington.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

SEAL



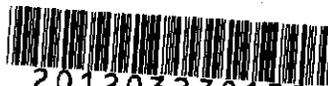
DATE: 12-31-97

Charles Baum
Charles Baum

(Type or Print Name)

Notary Public in and for the State of Washington

My Commission Expires 3/15-2000



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Skagit County Auditor

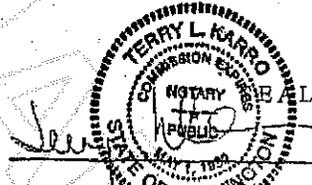
3/27/2012 Page 18 of 34 4:08PM

CERTIFICATE OF ACKNOWLEDGMENT
CORPORATION
GRANTEE/ASSIGNOR

STATE OF)
) ss.
County of)

On this 9th day of October, 1997, personally appeared
before me Virginia W. Dallen, to me known to be the Manager
of the corporation that executed the within and foregoing instrument, and acknowledged said
instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes
therein mentioned, and on oath stated that (he/she was) (they were) authorized to execute said instrument
for said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and
year first above written.



NOTARY PUBLIC in and for the
state of Washington
My commission expires 11/1/99

CERTIFICATE OF ACKNOWLEDGMENT
CORPORATION
~~ASSIGNEE~~ ASSIGNOR

STATE OF)
) ss.
County of)

On this 30th day of October, 1997, personally appeared before me
Cericham H. Evans, to me known to be the President
of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be
the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on
oath stated that (he/she was) (they were) authorized to execute said instrument for said corporation, and that the
seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year
first above written.

SEAL
Glenn F. Torsh

NOTARY PUBLIC in and for the
state of Ohio
GLENN F. TORSH, Attorney at Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date.
Section 247.03 R.C.
My commission expires _____



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Skagit County Auditor

3/27/2012 Page 19 of 34 4:08PM

EXHIBIT B

Paragraph 3.1(3) is modified to provide as follows:

3.1(3) Interest Penalty for Past-Due Rent and Other Sums Owed. Lessee shall pay interest at the rate of one percent (1%) per month (or at such higher rate as may be authorized by statute subsequent to the Commencement Date hereof), until paid, on Rent or other sums owing under the terms of this Lease commencing the next day after the date such Rent or other sum is due and payable. In the event State pays any sum or incurs any expense which Lessee is obligated to pay under this Lease, or which is made on behalf of Lessee, State shall be entitled to receive reimbursement thereof from Lessee upon demand, together with interest thereon from the date of expenditure at the rate stated above.

Paragraph 4.4 is modified to provide as follows:

4.4 Entry.

(d) State shall have access to the Property at all reasonable times for the purpose of inspecting the Property and securing compliance with the terms and conditions of this Lease. State shall exercise its right of access in a manner that will not unreasonably interfere with Lessee's permitted use of the Property.

(b) The right reserved in Subsection 4.4(a) above includes the right to perform or have performed such environmental tests, audits, surveys or investigations as State, in its sole discretion, deems appropriate. Such tests, audits, surveys, or investigations may include, but shall not be limited to, the determination of whether Lessee is improperly storing, handling or disposing of Hazardous Substances, as defined in Subsection 4.6(d) below, or of refuse, as defined in Subsection 4.6(b) below.

(c) This reserved right imposes no obligation upon State to make inspections, tests, audits, surveys, or investigations and shall impose no liability upon State for failure to do so. This reserved right is in addition to and separate from Lessee's obligation to test under Subsection 4.6(d)(3) below.

Paragraph 4.6 is modified to provide as follows:

4.6 Restrictions on Use.

(a) Conformance With Laws.

1. Lessee shall, at its own expense, conform to all applicable laws, regulations, permits, orders or other directives of any public authority affecting the Property or Lessee's use or occupation of the Property.

2. Lessee shall, at its own expense, obtain all regulatory or proprietary consents or approvals required to be obtained from any public authority or third party in connection with any work on the Property (including, but not limited to, the construction, repair, or replacement of any improvements) or Lessee's use or occupation of the Property.

3. Upon the State's request, Lessee shall provide, at its own expense, evidence of compliance with Subsections 1 and 2 above (including, but not limited to, copies of permits, licenses, or orders

4. Lessee shall correct, at Lessee's own expense, any failure of compliance with the terms of Subsections 1 through 3 above.

(b) Refuse. Lessee shall not make, or suffer to be made, any filling in of the Property or any deposit of rock, earth, ballast, refuse, garbage, waste matter (including chemical, biological or toxic wastes), hydrocarbons, any other pollutants, or other matter within or upon the Property, except as approved in writing by State. If Lessee shall fail to remove all non-approved fill material, refuse, garbage, wastes or other of the above materials from the Property and restore the Property to its condition immediately prior to the deposition of the unauthorized material, Lessee agrees that State may remove such materials and charge Lessee for the cost of removal and disposal together with interest thereon from the date of expenditure at the rate specified in Subsection 3.1(3) above.

(c) Waste. At all times during the Term, Lessee shall neither commit nor suffer waste to be committed to the Property.

(d) Hazardous, Toxic, or Harmful Substances.

1. Lessee shall not keep, use, dispose, transport, generate, and/or sell on or about the Property, any substances now or hereinafter designated as, and/or containing components now or hereinafter designated as, and/or which are subject to regulation as, hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance, including but not limited to RCRA, CERCLA, SARA, and the Washington Model Toxic Control Act (hereinafter collectively referred to as "Hazardous Substances"), in violation of any such law, regulation, statute, or ordinance.

2. Lessee shall promptly notify State of all spills or releases of any Hazardous Substances, which are otherwise required to be reported to any federal, state, or local regulatory agency and, upon notice



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thereof, shall promptly notify State of all failures to comply with any federal, state, or local law, regulation or ordinance, as now enacted, or as subsequently enacted or amended, all inspections of the Property by any regulatory entity concerning the same, all regulatory orders or fines, and all response or interim cleanup actions taken by or proposed to be taken by any government entity or private party on the Property.

3. Lessee agrees to conduct, at its own expense, all tests, audits, surveys, or investigations requested by State, in writing, during the Term of the Lease as are reasonable and necessary to ascertain the existence, scope, or effects of Hazardous Substances on the Property, adjacent property, or associated natural resources where State has reason to believe the Hazardous Substances result from or are associated with Lessee's use, occupation, or control of the Property or adjacent property by Lessee, any predecessor-in-interest of Lessee, or any entity related to Lessee, and to provide the results of such tests, audits, surveys, or investigations to State. If Lessee fails to conduct such tests, State may conduct such tests and State shall be entitled to receive full reimbursement from Lessee upon demand, together with interest thereon from the date of expenditure at the rate stated above.

4. Lessee shall be fully and completely liable to State, and shall waive any claims against State for contribution or otherwise, and shall indemnify, defend, and save harmless State and its agencies, employees, officers, directors, and agents with respect to any and all liability, damages (including damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs (including testing, auditing, surveying, and investigation costs), fees (including attorneys' fees and costs), penalties (civil and criminal), and response, cleanup, or remediation costs assessed against or imposed upon Lessee, State, or the Property, as a result of Lessee's control of the Property, or Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of Lessee's employees, agents, assigns, sublessees, contractors, subcontractors, licensees, permittees, or invitees, and for any breach of this Subsection 4.6(d).

(e) **Marine Plastics Act.** Lessee shall, in addition to compliance with all other applicable laws and regulations, comply with the Marine Plastic Pollution Research and Control Act of 1987 (Public Law 100-220). Under that Act, Lessee may be required among other things to provide waste reception facilities, permit Coast Guard inspection of the adequacy of these facilities, and provide for waste handling and disposition.

(f) **Lessee to Take Corrective Action.** The parties expressly agree that Lessee will, at its own expense, upon any failure to comply with the above Subsections 4.6(a)-(e), and upon direction to do so by State take corrective or remediation action measures satisfactory to State to restore the Property, as nearly as possible to the condition the Property would have been in absence of such failure to comply (with lack of or failure to expend funds not to adversely affect the possibility of restoration). If Lessee fails to do so, Lessee agrees that State may take such corrective action and State shall be entitled to receive full reimbursement therefrom from Lessee upon demand, together with interest thereon from the date of expenditure at the rate in Subsection 3.1(c) above.

(g) **Oil and Hazardous Substance Act.** At its own expense, Lessee shall conform to all applicable laws, regulations, permits, orders or other directives of any public authority affecting the Property or the Lessee's use or occupation of the Property, including, but not limited to, Laws of 1991, Chapter 200 (an Act Relating to Oil and Hazardous Substances). If applicable, Lessee shall comply with all requirements of Laws of 1991, Chapter 200, including, but not limited to, operation in accordance with the required plan of operations and maintenance of concurrent plan of operation.

Paragraph 4.9 is modified to provide as follows:

4.9 **Reports.** Lessee shall:

(a) Submit a written report to State prior to January 1st of each calendar year in which Lessee shall summarize and describe all uses which have occurred upon the Property during the preceding calendar year.

(b) Provide copies to State of all monitoring reports prepared and submitted by Lessee as required any federal, state or local permit, including but not limited to any NPDES Permit, Army Corps of Engineer Permit, State Hydraulics Permit, State Water Quality Certification, or Substantial Development Permit, where such reports concern water quality or sediment quality.

Paragraphs 6.9 are modified to provide as follows:

6.9 **LESSEE'S INDEMNITY, FINANCIAL SECURITY**

6.9(1) **Indemnity.**

(a) Lessee shall indemnify and save harmless the State, its employees, officers, and agents from and all liability, damages (including damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs, fees (including attorneys' fees and costs), penalties (civil, administrative, and criminal), or judgments, by any reason whatsoever caused, arising out of the use, occupation, or control of the Property by Lessee, its sublessees, invitees, agents, employees, licensees, or permittees except as may arise solely out of the willful or negligent act of the State or the State's elected officials, employees, or agents.



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(b) To the extent RCW 4.24.115 is applicable to any indemnification provision of this Lease, the State and Lessee agree that provision shall not require Lessee to indemnify and save the State harmless from the State's sole or concurrent negligence.

6.9(2) Bond or Other Security.

(a) At its own expense Lessee shall procure and maintain a corporate surety bond or provide other financial security satisfactory to the State (the "Bond") in an amount equal to \$16,000.00, which shall secure the full performance by Lessee of its obligations under this Lease. The Bond shall be in a form and issued by a surety company acceptable to the State. The amount of the Bond may be adjusted by the State:

1. At the same time as revaluation of the Rent,
2. As a condition of approval of assignment or sublease of this Lease,
3. Upon any breach of Subsections 4.6 (a)-(d) above,
4. Upon a change in the condition of any improvements, or
5. Upon a request by Lessee for a change in the Permitted Use.

A new or modified Bond shall be delivered to the State within thirty (30) calendar days after adjustment by the State of the amount of the Bond.

(b) Upon any default by Lessee in its obligations under this Lease, any or all of the Bond may be appropriated by the State to offset the liability of Lessee to the State. The State's appropriation shall in no way limit the liability or other security or obligations of Lessee or the rights or remedies of the State nor shall such appropriation in any manner reinstate, cure or relieve Lessee from a termination of its rights under this Lease.

(c) Lessee's failure to have a Bond in force at all times during the Term in the full amount as required by this paragraph shall constitute a breach of this Lease.

6.9 (3) Acquisition of Insurance Policies. At its own expense Lessee shall procure and maintain during the Term of this Lease, the insurance described in Subsections 6.9 (3)(a) and (b) below. This insurance shall be issued by an insurance company or companies licensed to do business in the state of Washington reasonably satisfactory to the State.

(a) **Types of Required Insurance.**

1. **Comprehensive General Liability Insurance.** Comprehensive General liability insurance covering all claims with respect to injuries to persons or damage to property sustained in or about the Property and any improvements. Limits of liability shall be not less than \$1,000,000.00 for each occurrence and not less than \$2,000,000.00 annual aggregate. Such limits may be achieved through the use of umbrella liability insurance. The limit of liability may be adjusted by the State:

- (i) At the same time as revaluation of the Rent,
- (ii) As a condition of approval of assignment or sublease of this Lease,
- (iii) Upon any breach of Subsections 4.6(a)-(d) above,
- (iv) Upon a change in the condition of any improvements, or
- (v) Upon a request by Lessee for a change in the Permitted Use.

New or modified insurance coverage shall be in place within thirty (30) calendar days after adjustment by the State of the limit of liability.

2. **Physical Property Damage Insurance.** Physical property damage insurance covering all real and personal property, excluding property paid for by sublessees or paid for by Lessee for which sublessee have reimbursed Lessee, located on or constituting a part of the Property in an amount equal to at least one hundred percent (100%) of replacement value of all such property, with commercially reasonable deductibles.

3. **Worker's Compensation Insurance.**

(i) State of Washington Worker's Compensation coverage, as applicable, with respect to any work by employees of Lessee on or about the Property and any improvements.

(ii) Longshore and Harbor Worker's Act and Jones Act coverage, as applicable, with respect to any work by employees of Lessee on or about the Property and any improvements.

4. **Builder's Risk Insurance.** Contingent liability and all builder's risk insurance in an amount reasonably satisfactory to the State during construction, or replacement or during material repair, alteration, maintenance, of the Property or improvements on the Property. Coverage shall be in place until such work is completed and evidence of completion is provided to the State.

(b) **Terms of Insurance.** The policies required under Subsection 6.9(3) shall name the State as an additional insured (except for State of Washington Worker's Compensation coverage). Lessee shall provide certificates of insurance and, if requested, copies of policies to the State. Receipt of such certificates or policies by the State does not constitute approval by the State of the terms of such policies. Further, all policies of insurance described in Subsection 6.9(3) shall:

1. Be written as primary policies not contributing with and not in excess of coverage that the State may carry;



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Skagit County Auditor

2. Expressly provide that such insurance may not be materially changed, amended or canceled with respect to State except after forty-five (45) calendar days prior written notice from the insurance company to State;

3. In regard to physical property damage and builder's risk coverage, have an endorsement containing an express waiver of any right of subrogation by the insurance company against the State and the State's elected officials, employees or agents;

4. In regard to physical property damage and builder's risk coverage, expressly provide that the insurance proceeds of any loss will be payable notwithstanding any act or negligence of Lessee which might otherwise result in a forfeiture of said insurance;

5. Expressly provide that the State shall not be required to give notice of accidents or claims and that the State shall have no liability for premiums;

6. In regard to physical property damage and builder's risk coverage, expressly provide that all proceeds shall be paid jointly to the State and Lessee.

6.9(4) State's Acquisition of Insurance. If Lessee fails to procure and maintain the insurance described above, the State shall have the right to procure and maintain substitute insurance and to pay the premiums thereon. Lessee shall pay to the State upon demand the full amount paid by the State, together with interest thereon at the rate provided in Subsection 3.1 (3) from the date of such expenditure by the State until repayment thereof by Lessee.

Paragraphs 6.11, 6.12, 6.13 and 6.14 are added to provide as follows:

3.11 Unapproved Holdover. Any holding over by Lessee without the express written consent of State shall not constitute a renewal or extension of this Lease or give Lessee any rights in or to the Property and this Lease shall terminate without further notice at the Termination Date. Such occupancy shall be subject to the same terms and conditions as set forth herein. At State's option, Rent may be charged for each month of occupancy, or any portion thereof, on a prorated basis, equal to one hundred sixty percent (160%) of the amount of full fair market Rent due for the last month of the term of this Lease.

6.12 Approved Holdover. If Lessee shall, with the written consent of State, holdover after the Termination Date, the resulting tenancy shall, unless otherwise mutually agreed, be for an indefinite period of time on a month-to-month basis. During such month-to-month tenancy, Lessee shall pay State Rent as provided herein, unless a different rate shall be agreed upon, and shall be bound by all the terms of this Lease.

6.13 Survival. All obligations of Lessee to be performed after the Termination Date shall not cease upon the Termination of this Lease, and shall continue as obligations until fully performed. All clauses of this Lease which require performance beyond the Termination Date shall survive the Termination Date of this Lease.

6.14 Recordation. Grantee shall record this Easement in the county in which the Easement Property is located, at Grantee's sole expense. Grantee shall provide State with recording information, including the date of recordation and file number. Grantee shall have thirty (30) days from the Commencement Date to comply with the requirements of this section. If Grantee fails to record this Easement, State may record it and Grantee shall pay the cost of recording, including interest, upon State's demand.



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Exhibit 3
22-002724

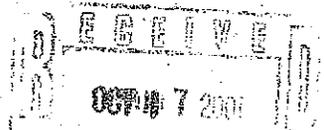
WASHINGTON STATE DEPARTMENT OF
Natural Resources

DOUG SUTHERLAND
Commissioner of Public Lands

September 20, 2001

CERTIFIED MAIL
7099 3400 0016 5143 2714

LaConner Associates
Vaughn Jolley, Manager
PO Box 1155
LaConner, WA 98257



Re: Holdover of Aquatic Lands Lease No. 22-002724

Dear Mr. Jolley:

The subject agreement, which expired on January 1, 2001, refers to the lease between the State, as Lessor, and Moore-Clark Co. as lessee. The lease was previously amended by Assignment respectively dated December 31, 1997 to LaConner Associates, a Limited Liability Company. Assignor now possesses the rights, duties, and liabilities under the Lease as amended.

The legal description for this lease is stated as follows:

The Harbor Area of the Swinomish Channel fronting Tracts 15 and 16 and Southwesterly 26.50 feet of Tract 14 within Government Lots 3 and 4 of Section 36, Township 34 North, Range 2 East, W.M., LaConner Tidelands Plates, bounded by the inner and outer harbor lines, the Northeast line of the Southwesterly 26.50 feet of Tract 14 produced Northwesterly across the harbor Area and the Southwesterly line of said Tract 16 produced Northwesterly across the Harbor Area, containing approximately .56 acres, more or less.

It is agreed, it is in the best interest of both Lessor and Lessee to extend the subject lease for an indefinite period time, on a month-to-month tenancy, which may be terminated by either party on Thirty (30) days written notice, or to the commencement date of the new lease.

We are forwarding this letter to confirm our mutual agreement regarding this extension from the expiration date of lease No. 22-002724 and Lessee ability to remain on the premises. The extension of this lease is acceptable to the State of Washington and Lessee, with all conditions thereto remaining the same. The rent and leasehold tax (LHT) to be paid under this holdover agreement by the Lessee shall be as provided by the expired lease as if it continued.

The rent and LHT amount is \$3,265.08. This rent and LHT must be paid in a timely manner as if

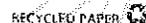
Holdover Letter For 22-002724

1

NORTHWEST REGION ■ 919 N TOWNSHIP ST ■ SEDRO-WOOLLEY ■ WA 98284-9384

FAX: (360) 856-2150 ■ TTY: (360) 856-1371 ■ TEL: (360) 856-3500

Equal Opportunity/Affirmative Action Employer



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Skagit County Auditor

the lease were in effect for this holdover agreement to be valid and upon timely payment will represent full payment through December 31, 2001. Late payment will also cause interest to be added to your account at one percent (1%) per month as provided by law.

In the event that the holdover granted by this Agreement is revoked by State or terminated by Lessee, Lessee shall be entitled to a refund of a prorated portion of the paid rent based upon the unexpired term of the holdover.

This holdover is issued with the understanding that you will diligently pursue and consummate a lease agreement.

Please acknowledge your agreement to the above by signing this letter where provided and returning it no later than October 25, 2001 to:

Department of Natural Resources
919 N. Township Street
Sedro-Woolley, WA 98284

If you have any questions, please contact JoAnn Gustafson at (360) 854-2832.

State:

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
RESOURCES

Lessee:

LACONNER ASSOCIATES
a Limited Liability Company

By:

William J. Wallace
WILLIAM J. WALLACE

Its: Northwest Region Manager

Dated:

October 15, 2001

By:

Vaughn W. Jolley
VAUGHN W. JOLLEY

Its: General Manager

Dated:

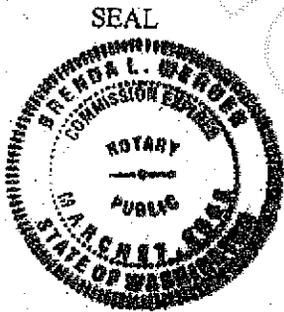
10/03/01



CERTIFICATE OF ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

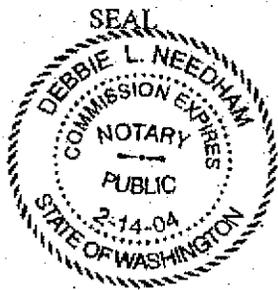
I certify that I know or have satisfactory evidence that WILLIAM J. WALLACE is the person who appeared before me, and is the Northwest Region Manager of the STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES. I further certify that said person acknowledged the foregoing to be the free and voluntary act of the STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES for the uses and purposes mentioned in the instrument, and on oath stated that he is duly authorized to execute and acknowledge said instrument.



DATED: October 15, 2001
Brenda L. Warder
Brenda L. Warder
Notary Public in and for the State of Washington
residing at Burlington
My Commission Expires Mar 27, 2002

STATE OF WASHINGTON)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that VAUGHN W. JOLLEY is the person who appeared before me. I further certify that said person acknowledge the foregoing instrument to be his free and voluntary act for the uses and purposes mentioned in the instrument



DATED: October 3, 2001
Debbie L. Needham
Debbie L. Needham
(Type/Print Name)
Notary Public in and for the State of Washington
residing at Sedro-Woolley WA
My Commission Expires 2-14-04

Holdover Letter for 22-002724



201203270135
Skagit County Auditor



WASHINGTON STATE DEPARTMENT OF
Natural Resources
Peter Goldmark - Commissioner of Public Lands

CONSENT TO ASSIGNMENT FOR SECURITY PURPOSES

Lease No. 22-002724

THIS CONSENT is made by and between the STATE OF WASHINGTON, acting through the Department of Natural Resources (the "State"), and LACONNER ASSOCIATES, a Limited Liability Company ("Tenant"), and WHIDBEY ISLAND BANK, a Washington Corporation ("Lender").

BACKGROUND

- A. Tenant entered into a lease, known as Lease No. 22-002724, dated the 7th day of January, 1989, (the "Lease") and the STATE OF WASHINGTON, acting through the Department of Natural Resources, as landlord ("State"). Copies of the lease are attached as Exhibit 1.
- B. The Lease was previously amended by Assignment respectively dated December 31, 1997. Copies of the Assignment are attached as Exhibit 2.
- C. The Lease expired on January 1, 2001. The parties agreed to continue the terms of the Lease in accordance with a holdover agreement effective October 15, 2001, ("Holdover"). Copies of the Holdover are attached as Exhibit 3.
- D. Lender has agreed to make a loan to Tenant in the amount of Four Million Nine Hundred Fifty-two thousand Eight Hundred Seventy-two Dollars and 67/100 (the "Loan"). Part of the security for payment of the Loan is an assignment of the Holdover. State is willing to give its consent based upon the assurances and agreements made in this Agreement.

Therefore, the parties agree as follows:



SECTION 1 TENANT'S REPRESENTATIONS

Tenant represents and warrants to State and to Lender that (i) the Holdover is in full force and effect, (ii) Tenant is not in default or breach of the Holdover, (iii) Tenant has no knowledge of any claims, offsets or defenses under the Holdover or against State, (iv) the rents due subsequent to the assignment have not been paid in advance, (v) to the best of its knowledge, the property which is described in the Holdover is in full compliance with all applicable federal, state, and local governmental permits, rules, ordinances, and laws, and (vi) the Holdover, a copy of which is attached, represents the entire agreement between State and Tenant and has not been modified or amended.

SECTION 2 STATE CONSENTS TO THE ASSIGNMENT OF LENDER

In the event of foreclosure of the Lender's security interest or delivery of an assignment of Holdover in lieu of foreclosure and upon Lender notifying State of the completion of such foreclosure or assignment in lieu of foreclosure, the Holdover shall continue in full force and effect as a direct Holdover between Lender and State. Lender shall be fully liable for all obligations of Tenant under the Holdover. The notice to State shall specifically confirm that Lender has acquired Tenant's interest in the Holdover and that it is assuming the Tenant's obligations under the Holdover, including curing any prior defaults. Prior to such foreclosure or assignment and notification as set forth above, Lender shall not be liable for any of the obligations of Tenant under the Holdover. This Consent shall not apply to any assignee of Lender or any purchaser of Tenant's interest other than Lender.

SECTION 3 NOTIFICATION OF DEFAULT OR TERMINATION

State will exercise a good faith effort to send to Lender a copy of any notices of default or termination it issues to Tenant. Failure to provide notices to Lender shall not relieve Tenant of its obligations under the Holdover nor extend the time in which Tenant has the right to cure the default. State grants to Lender the same time to cure any default as is provided to Tenant under the Lease. This time to cure shall commence upon State's provision of notice of the default to Lender. If Tenant's interest has been terminated because of the default before Lender has had an opportunity to cure the default or State terminates in accordance with the Holdover, then State will grant Lender an option to enter into a new Lease.

SECTION 4 COLLECTION ON BONDS

If Tenant defaults, State reserves the right to collect on any bonds posted by Lender for the benefit of State. Lender acknowledges that its interest in the bonds are inferior to those of State. Lender will post a new bond in favor of State in accordance with the terms of the Lease if it acquires Tenant's interest as a result of a foreclosure or assignment in lieu of foreclosure.



201203270135

Skagit County Auditor

SECTION 5 NOTICE

Any notice to Lender shall be to the following address or other address as may be designated by Lender in writing to State and shall be deemed to have been given on the date delivered in the case of personal delivery, or if mailed, three (3) days after the postmark thereof:

DEPARTMENT OF NATURAL RESOURCES
Northwest Region
919 North Township Street
Sedro-Woolley, WA 98284

SECTION 6 CONSENT OF LENDER

No agreement between State and Tenant modifying the Holdover shall be effective without the prior written consent of Lender. State may terminate in accordance with the Holdover.



SECTION 7 RATIFICATION OF LEASE

Except as expressly modified herein, the lease remains in effect as is hereby ratified and confirmed.

THIS AGREEMENT requires the signature of all parties and is executed as of the date of the last signature below.

LACONNER ASSOCIATES, a Limited Liability Company

Dated: 6/3, 20 11

By: *Vaughn Jolley*
VAUGHN JOLLEY

Title: Manager
Address: PO Box 1155
LaConner, WA 98257
Phone: 360-770-7306

WHIDBEY ISLAND BANK, a Washington Corporation

Dated: 6/7, 20 11

By: *Bryan McDonald*
BRYAN MCDONALD

Title: EVP & Chief Operating Officer
Address: 435 E George Hopper Rd
Burlington, WA 98233
Phone: 360-757-5057



STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: June 23, 2011

By: 
PETER GOLDMARK



Commissioner of Public Lands
Address: 1111 Washington St. SE
Olympia, WA 98504-7027

Approved as to form this
May 2011
Janis Snoey, Assistant Attorney General

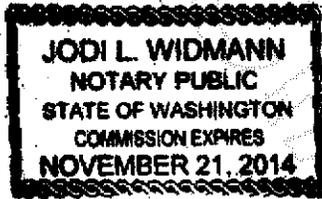


STATE OF WASHINGTON)
) ss.
COUNTY OF Snohomish)

I certify that I know or have satisfactory evidence that VAUGHN JOLLEY is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of LaConner Associates, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: June 3, 2011

(Seal or stamp)



Jodi L Wid
(Signature)

Jodi L WIDMANN
(Print Name)

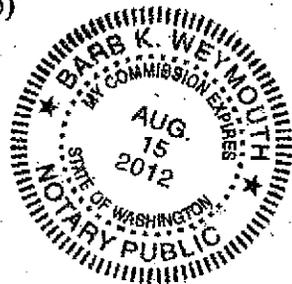
Notary Public in and for the State of Washington,
residing at Lake Stevens
My appointment expires 11-21-14

STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that BRYAN MCDONALD is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the EVP & Chief Operating Officer of Whidbey Island Bank to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 6-7-11

(Seal or stamp)



Barb Weymouth
(Signature)

Barb Weymouth
(Print Name)

Notary Public in and for the State of Washington,
residing at Mt Vernon
My appointment expires 8/15/12

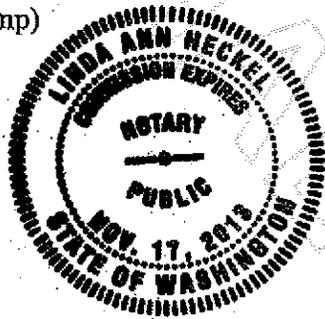


STATE OF WASHINGTON)
) SS
County of Thurston)

I certify that I know or have satisfactory evidence that PETER GOLDMARK is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Commissioner of Public Lands, and ex officio administrator of the Department of Natural Resources of the State of Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 6-23-11

(Seal or stamp)



Linda Heckel

(Signature)

Linda Heckel

(Print Name)

Notary Public in and for the State of Washington,
residing at Alyssa

My appointment expires 11-17-13

