

Recording Requested By And
When Recorded Mail To:

Skagit County
Public Works Department
Attn: Emily Derenne
1800 Continental Place
Mount Vernon, Washington 98273



201210250102

Skagit County Auditor

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SKAGIT COUNTY
Contract # C20120428
Page 1 of 15

DOCUMENT TITLE: TEMPORARY EASEMENT

REFERENCE NUMBER OF RELATED DOCUMENT: *Not Applicable*

GRANTOR(S): John Shea and Jeanne Shea, 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 (CONSERVATION EASEMENT) PTN SEC 26 & 27 AKA TR 32 PRAIRIE LANE MEADOWS 5 AC PCL MAP 132-78 AF#893745 O/S#57 1977 AF#829812 EXCEPT THAT PORTION LYING SOUTH OF FOLLOWING DESCRIBED LINE: BEGINNING AT THE SW CORNER OF LOT 31 OF PRAIRIE LANE MEADOWS; THENCE SOUTH 83-34-40 WEST TO EAST BANK OF SAMISH RIVER; and (CONSERVATION EASEMENT) O/S#57 AF#829812 1977 TRACT 34 PRAIRIE LANE MEADOWS PCL MAP#132-78 AF#893745. LOCATED IN SW1/4. ALSO INCLUDES A PORTION OF TRACT 32 LYING SOUTH OF FOLLOWING DESCRIBED LINE: BEGINNING AT THE SW CORNER OF TRACT 31; THENCE SOUTH 83-34-40 WEST TO THE EAST BANK OF SAMISH RIVER AND END OF LINE DESCRIPTION.

ASSESSOR'S TAX / PARCEL NUMBER(S): P50065 and P50067
(XrefID: 360426-2-006-3206 and 360426-2-006-3404)

TEMPORARY EASEMENT

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

The undersigned, **John Shea** and **Jeanne Shea**, 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 (NRSP) 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 (NRSP) 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, except during limited times of agricultural activity with one (1) week notice, (or with such other notice as may be otherwise mutually agreed in writing by and between the parties). Grantor shall accompany the Department of Ecology grant manager on site visits.



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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 riparian vegetation restoration and fence installation 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 intentionally harming any of the vegetation planted as part of the Project, removing any fencing intended to exclude livestock from the watercourse 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. Landowner may mow a strip on the river side of the fence, as necessary to maintain the fence. Landowner is not responsible for damage to the Project caused by beavers, flood events or other acts of nature. 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. Weed mowing "weed-eating", spraying, or other noxious weed removal shall not be part of the landowner responsibility for project preservation. 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 NRSP 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.



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5. **Entire Agreement.** This Temporary Easement contains the entire agreement between the parties hereto and incorporates and supersedes 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.



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DATED this 2ND day of OCTOBER, 2012.

GRANTOR:

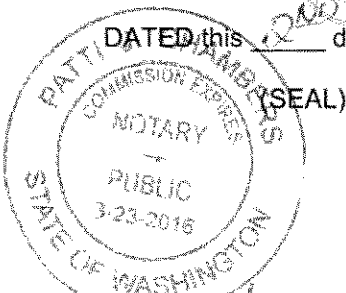
John Shea
John Shea

STATE OF WASHINGTON

COUNTY OF SKAGIT

} ss.

I certify that I know or have satisfactory evidence that **John Shea** 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 forgoing instrument as his/her/their free and voluntary act for the uses and purposes herein mentioned.



DATED this 2ND day of OCTOBER, 2012.

Notary Public

Print name: PATTI J. CHAMBERS

Residing at: MOUNT VERNON

My commission expires: 3/23/2016

DATED this 4 day of Oct., 2012.

GRANTOR:

Jeanne Shea
Jeanne Shea

STATE OF WASHINGTON

COUNTY OF SKAGIT

} ss.

I certify that I know or have satisfactory evidence that **Jeanne Shea** 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 forgoing instrument as his/her/their free and voluntary act for the uses and purposes herein mentioned.

DATED this 4TH day of OCTOBER, 2012.

(SEAL)

Notary Public

Print name: PATTI J. CHAMBERS

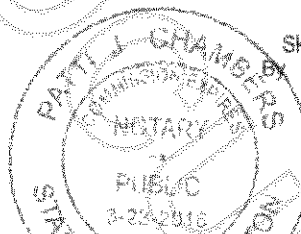
Residing at: MOUNT VERNON

My commission expires: 3/23/2012

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

OCT 25 2012

Amount Paid \$
Skagit Co. Treasurer
Deputy



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GRANTEE:

DATED this 22 day of October, 2012.

**BOARD OF COUNTY
COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Kenneth A. Dahlstedt

Kenneth A. Dahlstedt, Chairman

Sharon D. Dillon

Sharon D. Dillon, Commissioner

Ron Wesen

Ron Wesen, Commissioner

Attest:

Linda Hammer
Clerk of the Board

For contracts under \$5,000:
Authorization per Resolution R20030146

Recommended:

Henry Hark
Department Head

County Administrator

Approved as to form:

[Signature] 10/11/12
Civil Deputy Prosecuting Attorney

Approved as to indemnification:

[Signature]
Risk Manager

Approved as to budget:

[Signature]
Budget & Finance Director



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STATE OF WASHINGTON

COUNTY OF SKAGIT

} ss.

I certify that I know or have satisfactory evidence that Kenneth A. Dahlstedt, Sharon D. Dillon and/or Ron Wesen 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 22 day of October, 2012.

(SEAL)

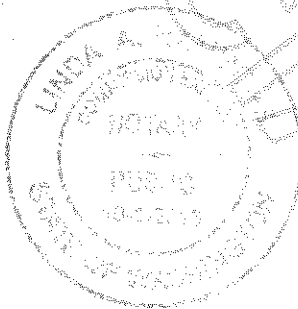
Linda Hammans

Notary Public

Print name: Linda Hammans

Residing at: Skagit County

My commission expires: 10-1-2015



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EXHIBIT "A"

TEMPORARY EASEMENT LEGAL DESCRIPTION

The temporary easement **commences** at the most northwestern corner of Skagit County tax parcel P50065, more particularly described as:

TRACTS 32 AND 34 OF THAT CERTAIN 5 ACRE PARCEL SUBDIVISION NO. 132-78, ENTITLED "PRAIRIE LANE MEADOWS", APPROVED DECEMBER 26, 1978, AND RECORDED DECEMBER 27, 1978, IN VOLUME 3 OF SHORT PLATS, PAGES 52 THROUGH 56, INCLUSIVE, UNDER AUDITOR'S FILE NO. 893745, RECORDS OF SKAGIT COUNTY, WASHINGTON, BEING A PORTION OF SECTION 26, 27, 35 AND 36, TOWNSHIP 36 NORTH, RANGE 4 EAST, W.M;

Thence southerly along the ordinary high water mark (OHWM) of the eastern bank of the Samish River to a point along the existing fence that is 935 feet south of the northwestern corner of Skagit County tax parcel P50067, more particularly described as:

TRACTS 32 AND 34 OF THAT CERTAIN 5 ACRE PARCEL SUBDIVISION NO. 132-78, ENTITLED "PRAIRIE LANE MEADOWS", APPROVED DECEMBER 26, 1978, AND RECORDED DECEMBER 27, 1978, IN VOLUME 3 OF SHORT PLATS, PAGES 52 THROUGH 56, INCLUSIVE, UNDER AUDITOR'S FILE NO. 893745, RECORDS OF SKAGIT COUNTY, WASHINGTON, BEING A PORTION OF SECTION 26, 27, 35 AND 36, TOWNSHIP 36 NORTH, RANGE 4 EAST, W.M;

Thence northeasterly 35 feet from the OHWM of the eastern bank of the Samish River; thence northeasterly maintaining a minimum distance of 35 feet from the OHWM of the eastern bank of the Samish River or along the existing fence line, whichever is greater, to a point 35 feet east of the northwestern most corner of Skagit County tax parcel P50065; thence **returning** to the true point of beginning.



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EXHIBIT "C"

RIPARIAN RESTORATION AND MAINTENANCE PLAN SCOPE OF WORK

The Project will install large woody debris to reduce bank erosion, extend livestock exclusion fencing, remove invasive plant species from the riparian zone, and replant with native species along the Samish River (Figure 1). This Project work is a continuation of (and supplements) another project initiated in 2011. The fence will be approximately 2,300 feet long and will protect a riparian zone consisting of about 3.5 acres. The fence will be located a minimum of 35 feet landward from actively eroding banks of the Samish River. Vegetation within the riparian area is currently dominated by Japanese knotweed and Himalayan blackberry. All in-stream work will be completed by Skagit County. All other work will be completed by Skagit Fisheries Enhancement Group (SFEG) and the Washington Conservation Corp (WCC).

Large woody debris will be installed in accordance with Washington Department of Fish and Wildlife's Stream Habitat Restoration Guidelines. Wood will be installed during late September or early October 2012 by Skagit County.

Existing fencing will be removed and new fencing will be installed further from the Samish River along the riparian buffer by SFEG. The fence will be designed with five barbed wire strands as depicted in Figure 2. SFEG will install 5-strands of barb wire and insulators for a "hot" wire on each post. Landowner will provide and install hot wire. Based on the configuration discussed with the landowner this proposal assumes that the fence will consist of steel t-posts with H-or T-braces at each corner. Metal t-posts will be installed at intervals of no more than 20-feet. Every 4th t-post will be replaced with a 5-6" round wood post such that no fence section of more than 120 feet will occur without a wood post. Brace construction specifications are provided in Figure 3. Field corners and the T-brace between fields will consist of H-braces with 6"x8" juniper posts as uprights. Three heavy duty steel 10-foot wide six rail gates will be included in the installation; the landowner will provide three of the gates (purchase or re-use of existing gates). Each gate will be hung between either a corner and H-brace or two H-braces.

Final placement of the fence will be established and agreed upon on the ground by the contractor and landowner. SFEG will contact the landowner in late summer to arrange a site visit and will walk and flag the proposed fence and gate locations with the landowner just prior to construction. This plan assumes that there will be no more than 9 corners, including four new T-corners and five H-braces as depicted in Figure 1. Deviations from the assumptions used to develop this plan and cost estimate will be approved by both the county and landowner prior to construction.

Fencing work will begin in October 2012 when the site is dry and can be accessed by truck. To the extent possible fencing will commence following in-stream restoration work; however installation of braces may begin earlier if needed in order to complete fence construction by November 1, 2012. Access to the site will be accomplished via pickup truck. Travel across the field will be restricted to a 15-foot corridor along the existing access route unless specifically approved by the landowner in writing. SFEG will notify the landowner at least one week prior to any planned work, and will stay out of the field when farming activities are occurring.



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EXHIBIT "B"

GRAPHIC DEPICTION OF TEMPORARY EASEMENT AREA



This easement includes the shaded area required for: installation of large woody debris, livestock exclusion fencing and native plantings.

Parcel Numbers: P50065 and P50067

Address: 4530 Prairie Lane

Sedro Woolley, WA 98284

Situate in the County of Skagit, State of Washington



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Shea Riparian Restoration- Phase 2

SKCO 12-3-20



Figure 1. Shea Phase 2 site plan. Location of gates and posts is approximate and will be finalized in the field with the landowner.



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Invasive species in the riparian zone will be removed and treated using best management practices prior to planting. Invasive species control in the riparian zone began in the summer of 2011, when the Samish Indian Nation initiated treatment of knotweed at the site. A second season of knotweed treatment was completed in 2012, also completed by the Samish Indian Nation. Knotweed is being treated with an Imazapyr mix solution, which can remain in the soil and inhibit plant growth for more than 6 months. As a result, planting will not occur until March 2013. Control of Himalayan blackberries will be conducted by SFEG staff and/or WCC Contract crews.

Existing native riparian vegetation will be retained to the maximum extent practicable. The planting will include the installation of up to 1,200 native trees and shrubs throughout the 3.4 acre riparian zone, including conifers beneath the existing tree canopy, and a mix of conifers, deciduous trees and shrubs in the area currently dominated by invasive species. Plants will be installed at a minimum 8-10-foot spacing (lower density in areas with existing canopy). Plants installed within 15 feet of the fence will be limited to hardwoods with a single stem growth form (alder, Big leaf maple, cottonwood, Oregon ash) to minimize future fence maintenance needs.

Installed plants will be protected from vole and rodent damage using protective tubes. Skagit County will provide plants and tubes for the Project. Tubes will be maintained for at least 3 years following planting. Site maintenance will continue through 2015. Maintenance will consist of weedeating once per year around plants, and hand spraying herbicide to control blackberries and knotweed. Landowners will be notified prior to any construction or maintenance activities. Protective tubes will be removed prior to Project completion.



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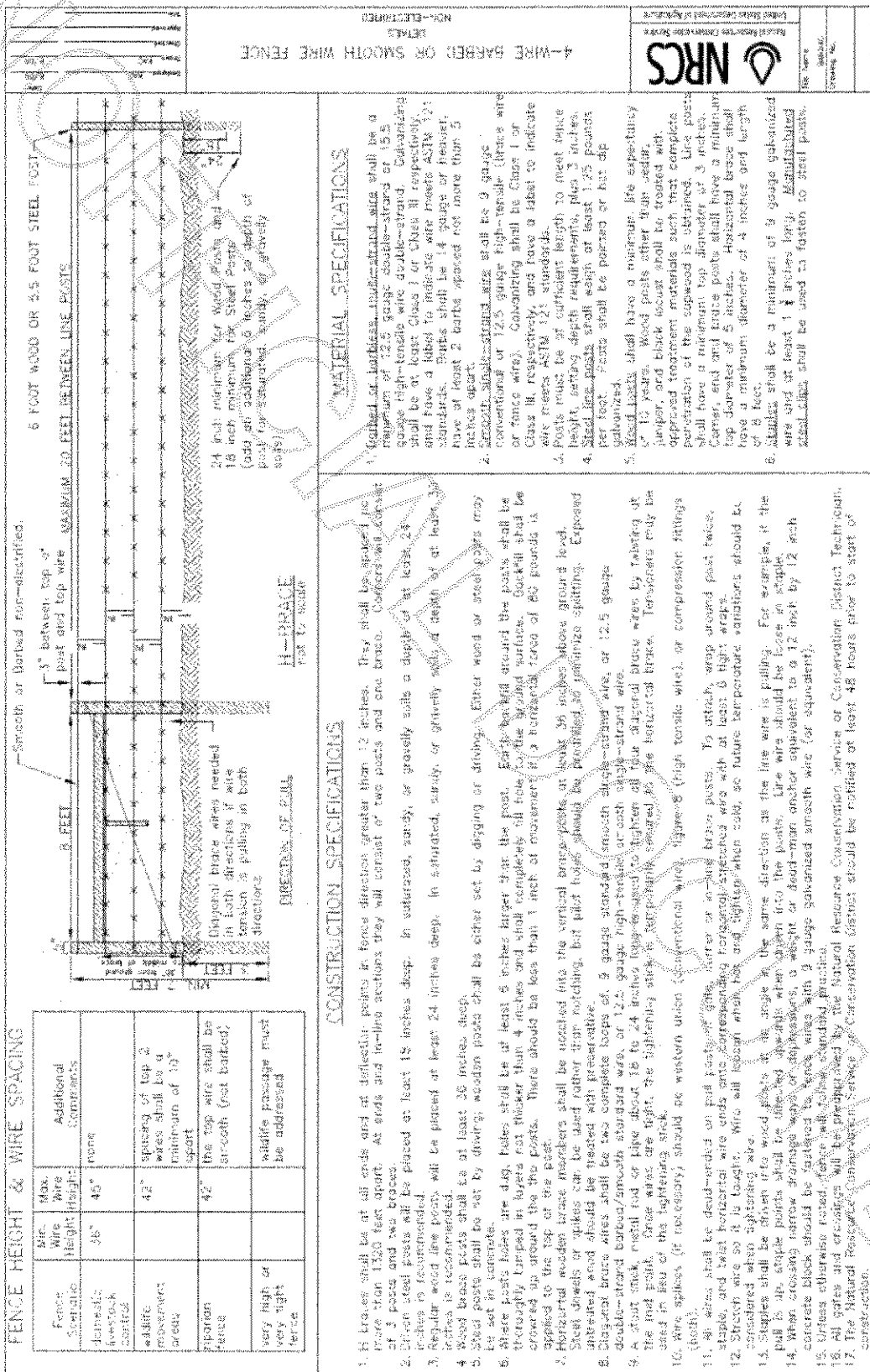


Figure 2. General fence specifications. Note: actual fence will be 5-strand of all barbwire.



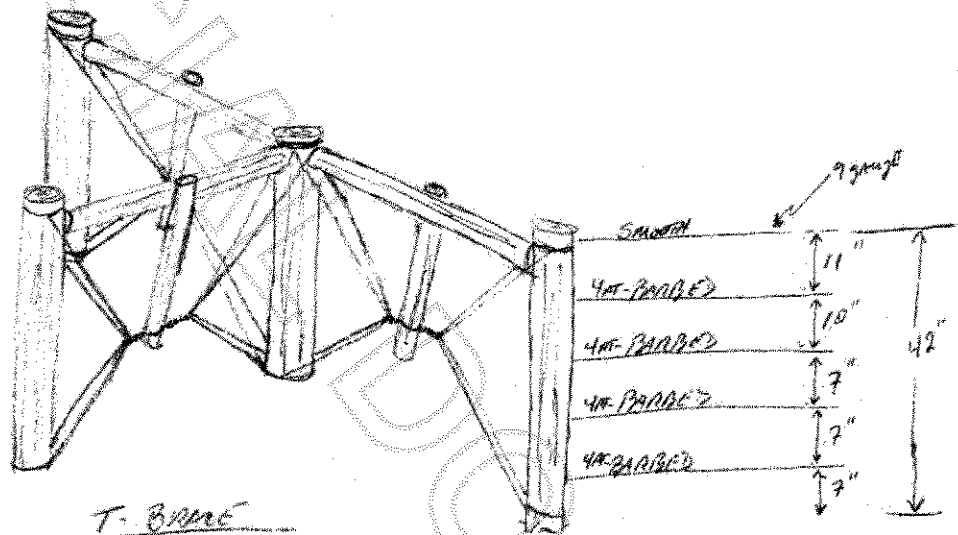
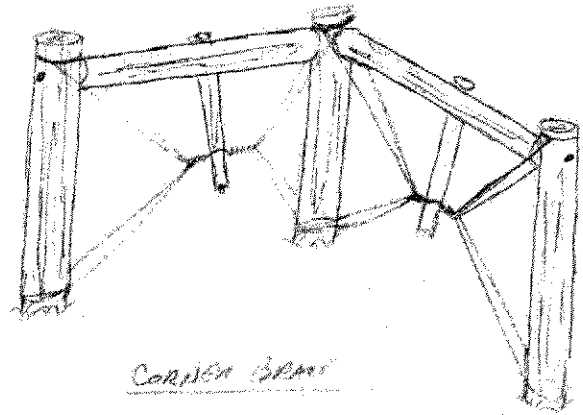
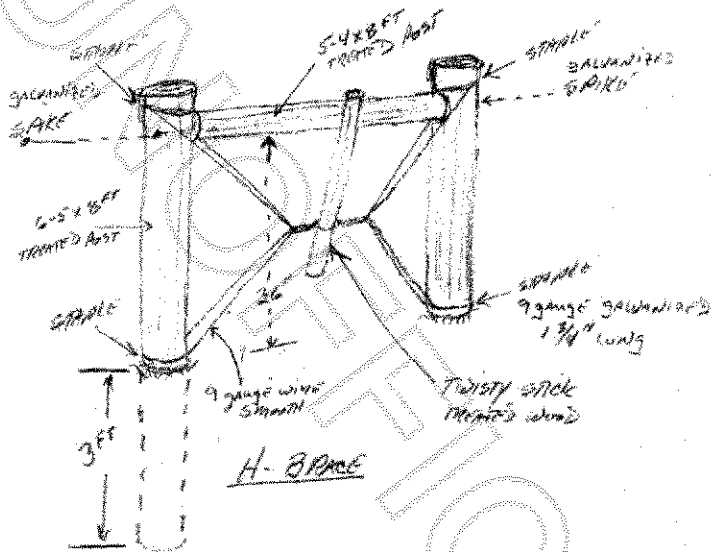


Figure 3. H-Brace construction specifications



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EXHIBIT "D"
LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY

Tracts 32 and 34 of that certain 5 acre Parcel Subdivision No. 132-78, entitled "PRAIRIE LANE MEADOWS", approved December 26, 1978, and recorded December 27, 1978, in Volume 3 of Short Plats, pages 52 through 56, inclusive, under Auditor's File No. 893745, records of Skagit County, Washington, being a portion of Section 26, 27, 35 and 36, Township 36 North, Range 4 East, W.M.

Situate in the County of Skagit, State of Washington.



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