

Recording Requested By And  
When Recorded Mail To:

Skagit County  
Public Works Department  
Attn: Emily Derenne  
1880 Continental Place  
Mount Vernon, Washington 98273

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

AUG 27 2015

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

SKAGIT COUNTY  
Contract # C20150364  
Page 1 of 14



201508270141

Skagit County Auditor \$85.00  
8/27/2015 Page 1 of 14 3:52PM

**DOCUMENT TITLE: TEMPORARY EASEMENT**

**REFERENCE NUMBER OF RELATED DOCUMENT:** *Not Applicable*

**GRANTOR(S):** **Herbert M. Wiseman and Nancy Jean Wiseman**, husband and wife.

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

**ABBREVIATED LEGAL DESCRIPTION:** A temporary easement located within 1986 LOT 4 SHORT PLAT#99-0020 AF#200111300188 LOCATED IN SW1/4 NE1/4 O/S#32 AF#8503220002 1986 LOT 4 SHORT PLAT#99-0020 AF#200111300188 LOCATED IN SW1/4 NE1/4

**ASSESSOR'S TAX / PARCEL NUMBER(S):** **P118658** (Xref ID: 340530-1-007-0500)

### TEMPORARY EASEMENT

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

The undersigned, **Herbert M. Wiseman and Nancy Jean Wiseman**, as husband and wife (herein "Grantors" or "Landowners"), 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. Landowners 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 Landowners 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 Landowners' 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 the installation of livestock exclusion 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 Landowners' 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 Landowners represent and warrant to the County that the Landowners are the legal owners of the property described in Exhibit "D" (the "Landowners' Property"), and further represent and warrant to the County that there are no outstanding rights which interfere with this Temporary Easement agreement. The Landowners also acknowledge that a change in property ownership will not change the encumbrance of the Landowners' Property created by the terms of this Temporary Easement, and the Landowners agree to inform any future owner of Landowners' 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 Landowners' Property for the duration of this Temporary Easement). The Landowners agree to notify the County, within thirty (30) days of transfer, of changes in ownership during the term of this Temporary Easement.

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

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

1.5 Landowners recognize and agree 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 Landowners' 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. Landowners shall not have the right to exclude the County, County's employees, agents, and/or contractors from the area of the Temporary Easement.

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

2.1.1 Initial Site Work. The initial site work includes site preparation, removal of invasive vegetation, riparian planting, and installation of livestock exclusion fencing and large woody debris, as described in Exhibit "C". Initial site work will be conducted within one (1) year of mutual execution of this agreement.

2.1.2 Monitoring and Maintenance. A Restoration and Maintenance Plan (Plan) has been developed for the Project and is included as Exhibit "C". In accordance with the Plan, Skagit County shall provide maintenance of vegetation for three (3) years after planting. The Landowners shall be responsible for plant preservation, not to include active maintenance, following this three (3) year period.

2.1.3 Project Preservation. Landowners agree to preserve the Project in the same condition as exists at the time of Project completion and agrees to refrain from cutting, damaging, or otherwise harming any of the vegetation planted as part of the Project or in any way intentionally compromising the integrity of the Project for a period of ten (10) years from the date of mutual execution of this Temporary Easement agreement. Except as provided in Section 2.1.2, the Landowners shall be responsible for all riparian

restoration preservation required as part of the Project. Landowners may be required to reimburse the County for Project costs funded by the County in the event that the Landowners do not preserve the Project in accordance with the terms of this Temporary Easement.

2.2 The Landowners acknowledge that Landowners are 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 Landowners' Property to be used for such purposes pursuant to the terms of this Temporary Easement. The Landowners agree that the Project, when completed, will not now or in the future result in damages to the Landowners' Property, and that the County is not liable for any impacts to Landowners' 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 Landowners' Property in exercise of County's rights herein granted by this Temporary Easement. The County assumes no liability for any alleged damage to Landowners' Property resulting from this Temporary Easement, or from any source other than as may be expressly set forth herein.

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

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

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

DATED this 8-6 day of 2015, 2015.

GRANTORS:

Herbert M. Wiseman  
Herbert M. Wiseman

DATED this 8-6 day of Aug, 2015.

Nancy Jean Wiseman  
Nancy Jean Wiseman

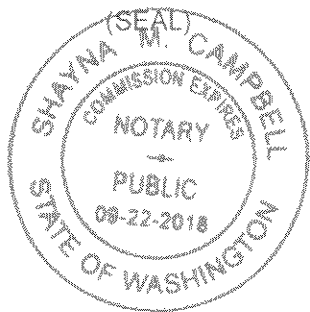
STATE OF WASHINGTON

COUNTY OF SKAGIT

} ss.

I certify that I know or have satisfactory evidence that **Herbert M. Wiseman** and **Nancy Jean Wiseman**, as husband and wife, are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that they executed the forgoing instrument as their duly authorized free and voluntary act for the uses and purposes herein mentioned.

DATED this 8<sup>th</sup> day of August, 2015.



Shayna M. Campbell  
Notary Public  
Print name: Shayna M. Campbell  
Residing at: Skagit County  
My commission expires: 09-22-2018

GRANTEE:  
DATED this 25 day of August, 2015.

~~BOARD OF COUNTY  
COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON~~

~~Kenneth A. Dahlstedt, Chair~~

~~Lisa Janicki, Commissioner~~

~~Ron Wesen, Commissioner~~

Attest:

Clerk of the Board

Authorization per Resolution  
R20050224

~~County Administrator~~

Recommended:

Department Head

Approved as to form:

8/19/15  
Civil Deputy Prosecuting Attorney

Approved as to indemnification:

Risk Manager

Approved as to budget:

Budget & Finance Director

EXHIBIT "A"

TEMPORARY EASEMENT LEGAL DESCRIPTION

THE TEMPORARY EASEMENT BEGINS AT THE NORTHWESTERN CORNER OF SKAGIT COUNTY TAX PARCEL P118658, MORE PARTICULARLY DESCRIBED AS 1986 LOT 4 SHORT PLAT#99-0020 AF#200111300188 LOCATED IN SW1/4 NE1/4 O/S#32 AF#8503220002 1986 LOT 4 SHORT PLAT#99-0020 AF#200111300188 LOCATED IN SW1/4 NE1/4; THENCE EASTERLY ALONG THE NORTHERN PROPERTY LINE 215 FEET TO A POINT 35 FEET FROM THE ORDINARY HIGH WATER MARK (OHWM) ON THE WESTERN BANK OF WALKER CREEK TO THE **TRUE POINT OF BEGINNING**; THENCE SOUTHERLY MAINTAINING A MINIMUM DISTANCE OF 35' FROM THE OHWM OF THE WESTERN BANK OF WALKER CREEK TO A POINT ADJACENT TO THE SOUTHERN PROPERTY LINE; THENCE EASTERLY 70 FEET TO A POINT 35 FEET EAST OF THE OHWM OF THE EASTERN BANK OF WALKER CREEK; THENCE NORTHERLY MAINTAINING A MINIMUM DISTANCE OF 35' FROM THE OHWM OF THE EASTERN BANK OF WALKER CREEK TO A POINT ADJACENT TO THE NORTHERN PROPERTY LINE AND THE SOUTHERN RIGHT-OF WAY FOR TAYLOR ROAD; THENCE WESTERLY **RETURNING** TO THE TRUE POINT OF BEGINNING.

Situate in Skagit County, State of Washington.

## EXHIBIT "B"

### GRAPHIC DEPICTION OF TEMPORARY EASEMENT AREA



This temporary easement includes the above-depicted shaded area required for removal of non-native plants and installation of riparian vegetation, livestock exclusion fencing, and large woody debris.

Parcel Number: P118658

Address: 24528 Wiseman Lane  
Mount Vernon, WA 98273

Situate in the County of Skagit, State of Washington

## EXHIBIT "C"

### RIPARIAN RESTORATION AND MAINTENANCE PLAN SCOPE OF WORK

#### Overview

The Wiseman restoration project site is located along Walker Creek between Taylor Road and Gunderson Lane, which is just East of Big Lake. Walker Creek is a tributary that flows into the Nookachamps River. It is home to multiple species of salmonids, including Chinook, Coho and Steelhead. The project area is about 4 acres. The overall goal is to remove invasive plant species located at the site, install native plants in the cleared areas, build a livestock exclusion fence to keep horses out of the stream, and install bank stabilizing large woody debris (Figure 1). Specific plan elements follow.

#### Large Woody Debris Installation

The County will install large wood in four locations throughout the site in an effort to reduce bank erosion and the associated fine sediment input. A slash pile will be installed in the fourth location.

#### Fencing

As the County's contractor, Skagit Fisheries Enhancement Group (SFEG), will build a 3,450-foot section of fence to exclude horses from Walker Creek. This fence will be constructed according to NRCS standards (Figures 2 and 3), consisting of 5 strands of smooth wire. The second smooth wire from the bottom shall be insulated to allow the Landowners to hook up to an electric box. Two ten foot gates and all the necessary support braces including wooden posts and t-posts and hardware shall be installed at the north end of the site. This will allow the horses to cross from one pasture to another. T-posts shall be equally installed 10-20' apart, depending on distance between wooden posts. Because there is little elevation change through the site, wooden support posts shall be installed at any juncture where there is more than 100' of space between H or corner braces. Support h-braces shall be installed on the ends of the fence and at the gate tie-offs. Corner braces will need to be constructed in areas where the fence will change direction.

#### Invasive Plant Species

The restoration area along Walker Creek mostly consists of pasture grass. Bordering Walker Creek is a buffer intermixed with shrubs including invasive plant species Himalayan blackberries and native shrubs, particularly pacific ninebark. There are also boarder sections with invasive reed canary grass and some small mature alders. Strategies for controlling these plant species are as follows:

- For the reed canary grass, site preparation will consist of mowing the grass down prior to planting. This will be accomplished with weed-whackers or a high-weed mower. This work will be done in spring or fall, depending on the planting timeline.
- The blackberries will be mowed down at the same time as the grass using the same methods. For the first year, they will then be allowed to grow back for approximately 6-8 weeks until the canes are about two feet high and then hand-sprayed with herbicide (glyphosate). Because time may not allow for a full 6 week growth period of blackberries in 2015, SFEG may alternatively cut the blackberries down and immediately paint the canes with a 100% glyphosate.
- If needed, pasture grass will be mowed once before planting for ease of plant installation.
- There are many native plant species already growing onsite. SFEG will leave as much native plants onsite as possible when removing the invasive ones.



Herbicide will be applied under the supervision of a licensed applicator. The applicator is required to be licensed to work in and around water and in a terrestrial environment. Herbicide will be applied in accordance with guidelines designated by the Environmental Protection Agency on appropriate herbicides for fish bearing streams. Skagit County and the Landowners will be notified at least one (1) week prior to any herbicide application. Application records will be maintained and provided to the County on request.

### **Planting**

The planting area will consist of approximately 4 acres. Plants will be installed in the fall of 2015 after chemical and mechanical treatment of invasive plants is completed. About 2800 native trees and shrubs will be planted, at least 30% of which will be conifers. Plants will be planted with 8 foot spacing. Plant material provided in containers shall not be removed from the containers until the time of planting at the planting location. All plant material shall be handled in such a manner that the root systems are kept covered and damp until installation. In their final position, all plants shall have their top true root (non-adventitious root) no more than 1-inch below the soil surface, no matter where that root was located in the original container.

Planting shall not occur during unsuitable soil or weather conditions as determined by the Project Manager. SFEG will not plant during freezing weather conditions or in frozen ground.

Trees will be protected with plant tubes to prevent rodent predation. All plants and plant protectors will be provided by Skagit County. Protectors shall be buried a minimum of 2" in the ground and supported with wooden stakes. Protectors will be removed during the final season of maintenance in 2018. If additional maintenance and/or a longer time period with protectors is recommended, SFEG will provide Skagit County with a description and estimated cost for additional work.

As requested by the Landowners, SFEG will not install western red cedar near the creek access where the horses can eat them. Also, SFEG will focus on having some flowering shrubs in the restoration area that will be favored by bees.

### **Maintenance**

Maintenance will be conducted for 3 seasons after planting is complete. Reed canary grass will be mowed 2 times per year; once in the spring and once in the summer months. Blackberry re-treatment will occur at least once per year for three years after project implementation if regrowth occurs. Depending on the speed of the blackberry regrowth, mechanical maintenance may need to be carried out with weedeaters before blackberry herbicide treatment can occur.

### **Monitoring**

Planting maintenance is intended to achieve at least 80% survival of installed plants in year 3 following planting. Vegetation survival will be monitored annually during the early summer. If survival rates of less than 80% are observed by the 3<sup>rd</sup> season following planting, then additional plants will be installed in the fall of that year to bring the stocking rate to at least 80% of the original planting target.

Monitoring results will be provided annually to Skagit County's Project Manager. SFEG's site lead and/or Project Manager will conduct a final season site visit in 2018 to confirm project success and identify corrective actions if any.

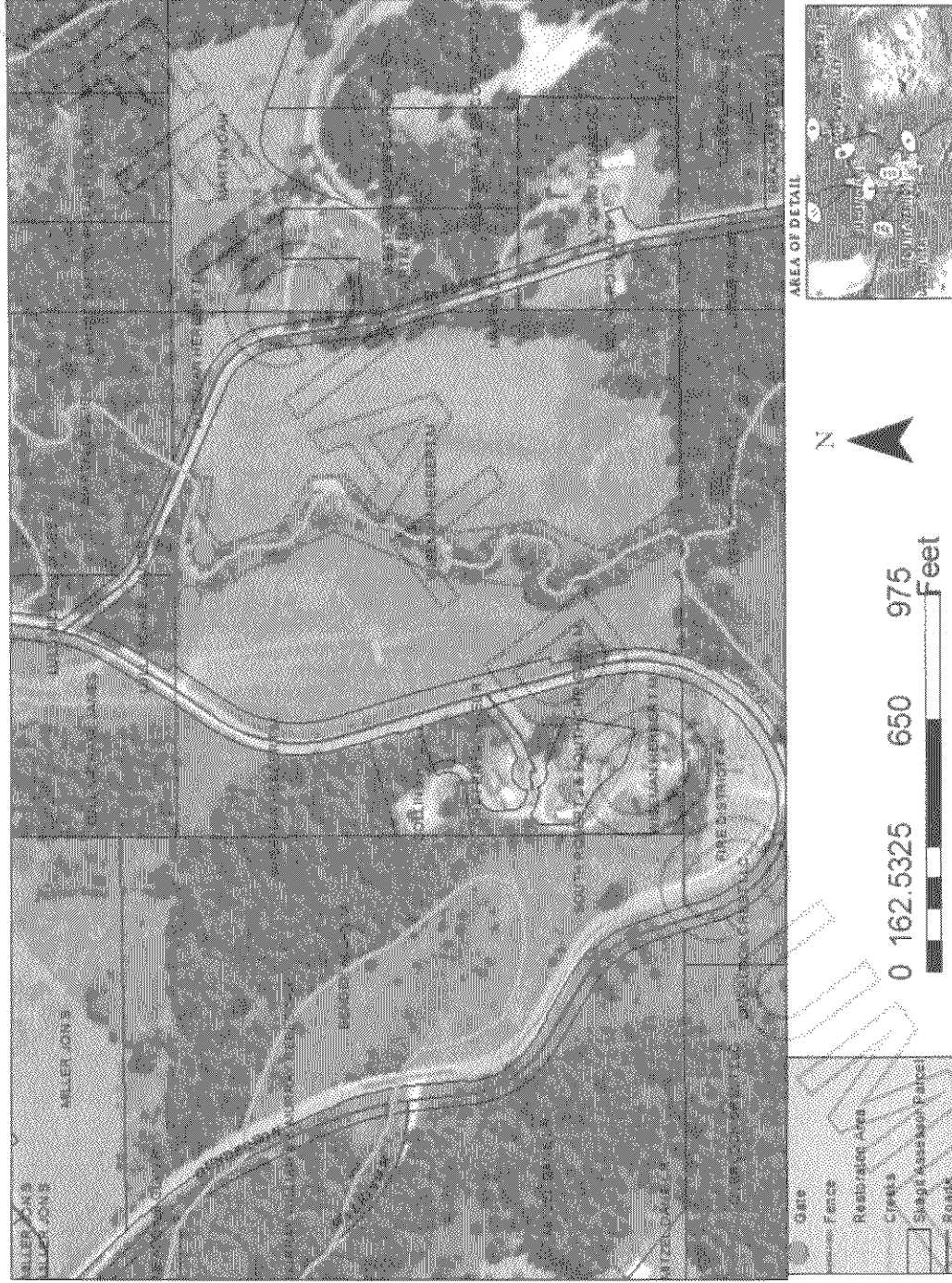
### **Timeline**

The fence will be constructed in the fall of 2015. Invasive control to prepare the site for planting will occur in the summer of 2015, starting with weed-eating the site in late summer. The next step will be the herbicide application, which will occur in the fall (September to early October).

In the late fall of 2015, after shrubs have achieved dormancy, the plants will be installed. Maintenance will occur annually in the summer and fall, consisting of weed-whacking around plants as needed and treating with herbicide any invasive species that remain or colonize the area. SFEG will conduct maintenance of the planting area under contract to Skagit County for three summers following planting. Landowners will be notified at least one (1) week prior to any work at the site.

# NRSP Wiseman

## Walker Creek Habitat Restoration Plan



NAME: XX DATE: XX File: XXXXXXXX.AX

Figure 1. Fence and Restoration Area



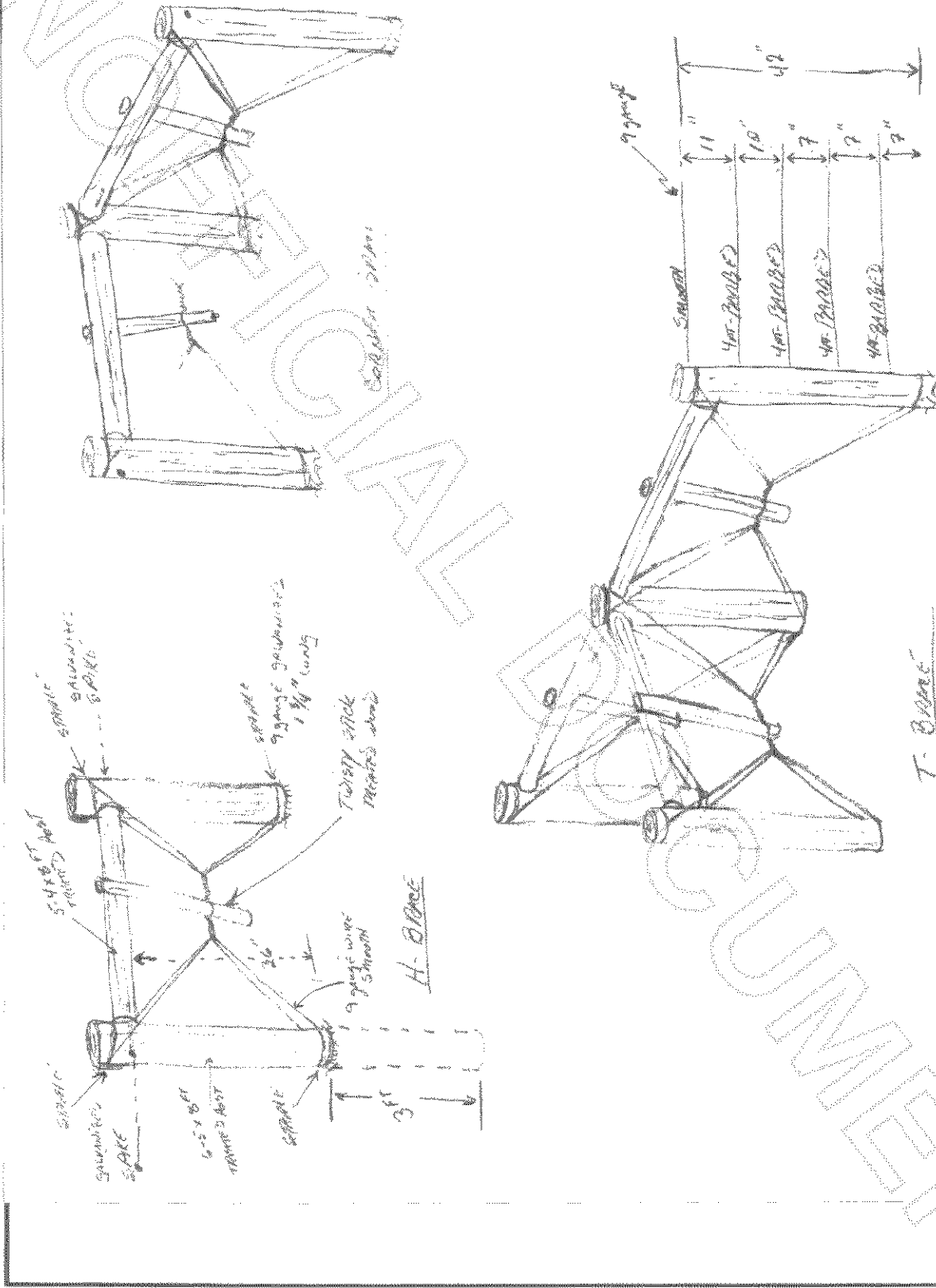


Figure 3. Corner and H-brace detail

**EXHIBIT "D"**  
**LEGAL DESCRIPTION OF LANDOWNERS' PROPERTY**

Lot 4, including Tracts "C", "D", "E", "F" and "G" of Short Plat No. 99-020 recorded November 30, 2001, under Auditor's File No. 200111300188, records of Skagit County, Washington, and being a portion of the Southwest 1/4 of the Northeast 1/4, of Section 30, Township 34 North, Range 5 East, W.M.

Situate in the County of Skagit, State of Washington.