

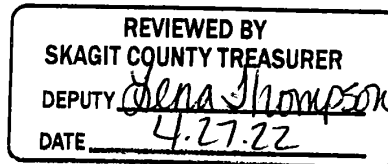


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04/27/2022 08:30 AM Pages: 1 of 12 Fees: \$214.50
Skagit County Auditor

Recording Requested By And
When Recorded Mail To:

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



DOCUMENT TITLE: **TEMPORARY EASEMENT**

REFERENCE NUMBER OF RELATED DOCUMENT: *Not Applicable*

GRANTOR(S): **Curtis W. Bruns and Charmaine L. Bruns**, as husband and wife.

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

ABBREVIATED LEGAL DESCRIPTION: A temporary easement located within W 475.25FT OF GOVERNMENT LOT 1, SECTION 18, TOWNSHIP 35 NORTH, RANGE 6 EAST, W.M., N OF ST HWY.

ASSESSOR'S TAX / PARCEL NUMBER(S): **P41565** (Xref ID: 350618-0-004-0009).

TEMPORARY EASEMENT

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

The undersigned, **Curtis W. Bruns and Charmaine L. Bruns**, 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 area 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 removal of invasive vegetation and installation of native plantings 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 protection, improvement, and enhancement of water quality in Skagit County streams for the benefit of downstream saltwater shellfish habitat.

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 Landowners' 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 a forty-eight (48) hour 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"* and *Exhibit "B"*), for the purpose of constructing and implementing the Project (described at *Exhibit "C"*) within the area of the Temporary Easement. Landowner shall not have the right to exclude the County, County's employees, agents, and/or contractors from the area of the Temporary Easement.

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

2.1.1 Initial Site Work. The initial site work includes site preparation, removal of invasive vegetation and installation of native riparian planting 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 a substantially similar 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 Landowner's Property in exercise of County's rights herein granted by this Temporary Easement (including for the workplace safety of the County's employees, agents, or representatives while performing Project work on the Landowners' Property). 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.

GRANTORS:

Curtis W. Bruns and Charmaine L. Bruns, husband and wife.


By: **Curtis W. Bruns**

DATED this 7 day of April, 2022.


By: **Charmaine L. Bruns**

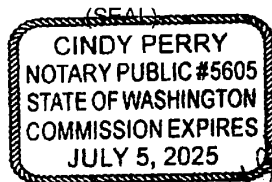
DATED this 7 day of April, 2022.


STATE OF WASHINGTON

COUNTY OF SKAGIT

} ss.

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

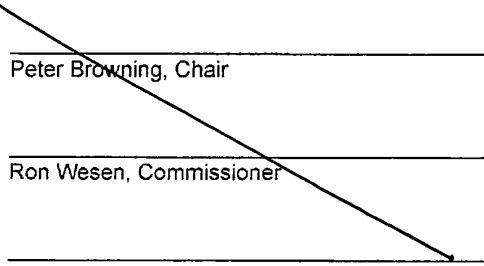
DATED this 7th day of April, 2022.

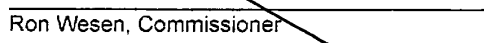

Notary Public

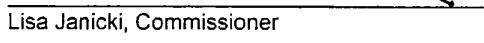
Print name: CINDY PERRYResiding at: Sedro-Woolley, WAMy commission expires: July 5, 2025

DATED this 22 day of April, 2022.

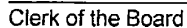
BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON


Peter Browning, Chair



Ron Wesen, Commissioner


Lisa Janicki, Commissioner

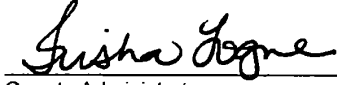
Attest:


Clerk of the Board


Recommended:


Department Head

Authorization per Resolution: R20160001



County Administrator

Approved as to form:


Civil Deputy Prosecuting Attorney

4/22/22

Approved as to indemnification:


Risk Manager

Approved as to budget:


Budget & Finance Director

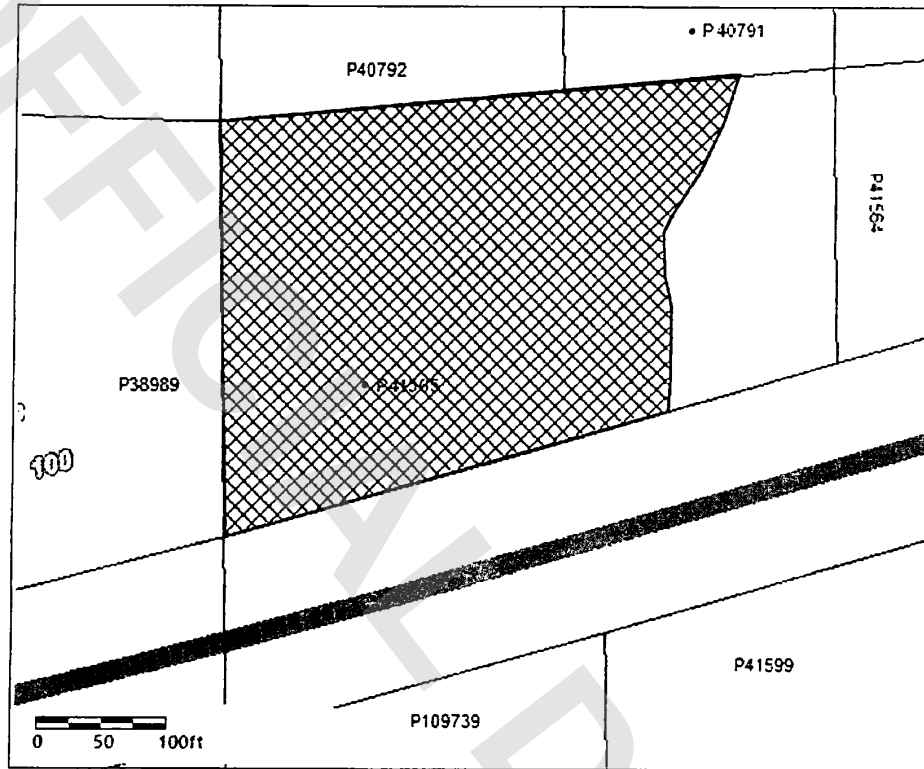
EXHIBIT "A"
TEMPORARY EASEMENT AREA LEGAL DESCRIPTION

A temporary easement for the purpose of restoration and maintenance within parcel P41565, described in Exhibit "D" of this document, being the West 475.25 feet of that portion of Government Lot 1 in Section 18, Township 35 North, Range 6 East, W.M., lying Northerly of State Highway condemned in Skagit County Superior Court Cause No. 25060, easement more particularly described as follows:

All that portion of said parcel lying westerly of the East bank of the unnamed tributary to Child's Creek.

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 the Project.

Parcel Numbers: P41565
Address: 30081 State Route 20
Sedro Woolley, WA 98284
Situate in the County of Skagit, State of Washington

EXHIBIT "C"

RIPARIAN RESTORATION AND MAINTENANCE PLAN SCOPE OF WORK

Overview

The restoration site ("Project") is located near Child's Creek. The goal of this Project is to remove invasive vegetation on the hillside and banks of the creek and replace it with native trees and shrubs. The planting area is comprised of a roughly 0.9 acre of blackberry and reed canarygrass, 0.5 acres of lawn and landscape trees, and another 0.4 acres of mixed forest and lawn area. The site is transected by a power line easement, which would be planted with compatible native vegetation, following the approval from the Puget Sound Power and Light Company. Planting this area would improve roughly 500 linear feet of stream. Removal of invasive plants in favor of a diverse native planting will enhance the riparian buffer to improve both streamside habitat and improve water quality for the benefit, protection, and improvement of downstream saltwater shellfish habitat. Total planting area is about 1.70 acres (Figure 1).



Figure 24. Planting Area



Figure 12. Existing conditions

SITE PREPARATION

Invasive Species Control

The Project will control invasive weeds on the site in preparation for planting. The weeds of concern that have been identified at this site are Himalayan blackberry and reed-canarygrass with some other invasive vegetation throughout.

Himalayan Blackberry: Blackberry grows in the understory and open areas throughout the site, primarily below the road. Prior to planting, blackberries will be mowed and treated with appropriate herbicide in the summer of 2022. In the fall of 2022, County will brush cut the treated blackberry canes, and manually remove any remaining living individuals in final preparation for planting.

Reed canarygrass: Reed canarygrass will be mowed prior to planting, and subsequently during the growing seasons as part of maintenance. Control is not expected during the maintenance period. Establishment of native forest canopy cover will serve to outcompete reed canarygrass in the long term.

Invasive weed species that can impede establishment and growth of native plants at riparian restoration sites will be controlled in a manner that is cost effective and consistent with accepted ecological restoration methods. Use of herbicides will be reduced to the maximum extent practical. Herbicide is applied under the supervision of a licensed applicator, with a licensed operator on site at all times during work. Operators are 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. No herbicide application is conducted when rain is predicted within 6-hours or winds speeds are greater than 10mph.

The following herbicides are proposed to control invasive vegetation at this site:

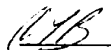
Roundup Custom: <https://www.sdslibrary.monsanto.com/MSDS%20Datasheet/8121f99d-ad3b-49ac-875d-228b0ccdb7f3/RoundupCustom-AquaticTerrestrialUse.O15.pdf>

Cornerstone Plus: <http://www.cdms.net/ldat/mp9LA003.pdf>

Polaris (if knotweed is found onsite): <http://www.cdms.net/ldat/mp8KR003.pdf>

If chemicals proposed for use change Grantee will notify the landowner in writing, provide updated MSDS sheets and obtain approval prior to utilization. Landowners will be notified by phone at least 48 hours prior to any herbicide treatment.

I acknowledge that I have been informed of and agree to use of herbicide at my property.

 (Landowner's initials)

Cooperative weed management

Additional weeds may be identified on site during restoration. Washington State Class A weeds are those species where control is required when these species are found. If encountered in the field Grantee will report Class A weeds to the Landowners in writing and will provide information on state control requirements and recommended methods. If approved by the Landowners, Grantee will control these weeds using recommended methods, and will report infestations to the appropriate Cooperative Weed Management Area (CWMA).

Washington State Class B weeds are those species where control is recommended by the state and/or recommended/required by the county noxious weed board. If encountered at a work site, Grantee will inform the Landowners of the presence of Class B species and provide information on recommended means of control. Control of Class B weeds will not be conducted as part of this restoration Project.

The following Class C weeds are considered to be a threat to successful riparian restoration if they occur within restoration sites:

- Himalayan blackberry (*Rubus armeniacus*)
- Evergreen blackberry (*Rubus laciniatus*)
- Morning glory (*Convolvulus arvensis*)
- English ivy (*Hedera spp.*)
- Old man's beard/Travelers joy (*Clematis vitalba*)
- Reed canary grass (*Phalaris arundinacea*)

The above class C weeds will be controlled as part of restoration site preparation and maintenance when they occur within the restoration area. The above weeds will be controlled within the restoration area for the duration of the contract.

RIPARIAN RESTORATION

Riparian Planting

Following initial site preparation in 2022, planting will begin in the winter of 2022/2023. A crew will plant 850 native trees and shrubs. Available species can be found in Table 1. Crew members will plant native trees and shrubs along the stream and in the understory. Plantings in the forested riparian understory will be a mix of conifer and shrub species, while plantings in open areas will be a mix of conifers, deciduous trees, and shrubs. Plants will be spaced to take advantage of available growing space in the understory, and on average 8' spacing in open or disturbed areas. Protectors will only be used in open areas. Flagging will be used to mark each plant in the understory to make them visible during future site maintenance.

Table 1. Typical plant species

Plant Type	
Oceanspray	Vine maple
Red-flowering currant	Red-osier dogwood
Baldhip rose	Pacific ninebark
Red-osier dogwood	Hardhack
Nootka rose	Western red cedar
Oregon grape	Sitka spruce
Thimbleberry	Western hemlock
Salmonberry	Douglas fir
Spirea	Shore pine
Redstem ceanothus	Sitka willow
Ground juniper	Bigleaf maple
Sitka willow	Snowberry

Maintenance

After planting, maintenance will transition to manual removal of blackberry where feasible. While the goal is to be able to maintain the site without using herbicide, achieving this goal is dependent on the weed load and site specific conditions. If dense re-growth occurs recommend utilizing a combination of spot spraying and manual control. The status of control will be monitored on a yearly basis, and any

regrowth may require continued herbicide treatment. Maintenance should continue for a minimum of one visit per year through the end of the County's grant in 2025.

Monitoring

Revegetation success will be monitored following standard monitoring protocol. Vegetation monitoring plots will be distributed across the planting area. Planting sites are monitored for 10-years following establishment, by staff during the time when the project is active, and by volunteers in subsequent years. Plots are sampled in years 1, 2, 3, 5, 7 and 10. Monitoring visitations may be limited by available funding.

Plant mortality, health, and herbivory or other damage are recorded to derive an overall site condition each year. Survival percentage (compared to the original number of plants installed) and tree-stocking (total trees per acre including both planted and naturally recruited trees) in each year that monitoring occurs. These data are used to determine the need for revegetation; at least 80% of the plants originally installed shall be live at the end of the grant, or 80 conifers per acre stocking is met throughout the planting area. The need for re-planting will be evaluated in the summer of 2024.

Timeline

	2022												2023											
Project Tasks	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Site Preparation																								
Planting																								
Maintenance																								
Monitoring																								
	2024												2025											
Project Tasks	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Site Preparation																								
Planting																								
Maintenance																								
Monitoring																								

EXHIBIT "D"
LEGAL DESCRIPTION OF GRANTOR'S PROPERTY

Per Statutory Warranty Deed filed under Auditor's File No. 201511170047, records of Skagit County, Washington.

The West 475.25 feet of Government Lot 4 in Section 7 and the West 475.25 feet of that portion of Government Lot 1 in Section 18, lying Northerly of State Highway condemned in Skagit County Superior Court Cause No. 25060, all in Township 35 North, Range 6 East, W.M.

Situate in the County of Skagit, State of Washington.