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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

REVIEWED BY  
SKAGIT COUNTY TREASURER  
DEPUTY Bena Thompson  
DATE 7.7.22

DOCUMENT TITLE: **TEMPORARY EASEMENT**

REFERENCE NUMBER OF RELATED DOCUMENT: *Not Applicable*

GRANTOR(S): **Jennifer L. Lewis and Nicholas C. Lewis**, a married couple.

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

ABBREVIATED LEGAL DESCRIPTION: A temporary easement located within PTN.  
GOV LOT 2 AND SW NE, 05-35-05

ASSESSOR'S TAX / PARCEL NUMBER(S): **P17896** (Xref ID: 330505-0-003-0008)

**TEMPORARY EASEMENT**

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

The undersigned, **Jennifer L. Lewis and Nicholas C. Lewis**, a married couple, (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 construction of bank stabilizing large woody debris 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. 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, and installation of bank stabilizing large wood and riparian plantings 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 Landowners' 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:**

**Jennifer L. Lewis and Nicholas C. Lewis, a married couple.**

Jennifer L Lewis  
Jennifer L. Lewis  
DATED this 9 day of June, 2022.

STATE OF WASHINGTON }  
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that **Jennifer L. Lewis** is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she executed the forgoing instrument as her duly authorized free and voluntary act for the uses and purposes herein mentioned.

DATED this 9 day of June, 2022.

(SEAL)

Emily Dorene  
Notary Public  
Print name: EMILY DORENE  
Residing at: Bellingham WA  
My commission expires: 5/23/24

Nicholas C. Lewis  
DATED this 9 day of June, 2022.

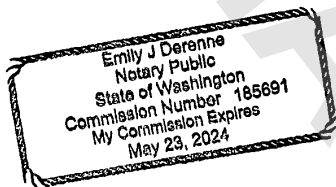
STATE OF WASHINGTON }  
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that **Nicholas C. Lewis** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he executed the forgoing instrument as his duly authorized free and voluntary act for the uses and purposes herein mentioned.

DATED this 9 day of June, 2022.

(SEAL)

Emily J. Derenne  
Notary Public  
Print name: EMILY DERENNE  
Residing at: Bellevue WA  
My commission expires: 5/23/24



DATED this 6 day of July, 2022.

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

\_\_\_\_\_  
Peter Browning, Chair

\_\_\_\_\_  
Ron Wesen, Commissioner

\_\_\_\_\_  
Lisa Janicki, Commissioner

Attest:  
\_\_\_\_\_  
Clerk of the Board

Authorization per Resolution R20160001

Susha Gagne  
County Administrator

Recommended:  
[Signature]  
Department Head

Approved as to form:  
[Signature] 7/5/22  
Civil Deputy Prosecuting Attorney

Approved as to indemnification:  
[Signature]  
Risk Manager

Approved as to budget:  
Susha Gagne  
Budget & Finance Director

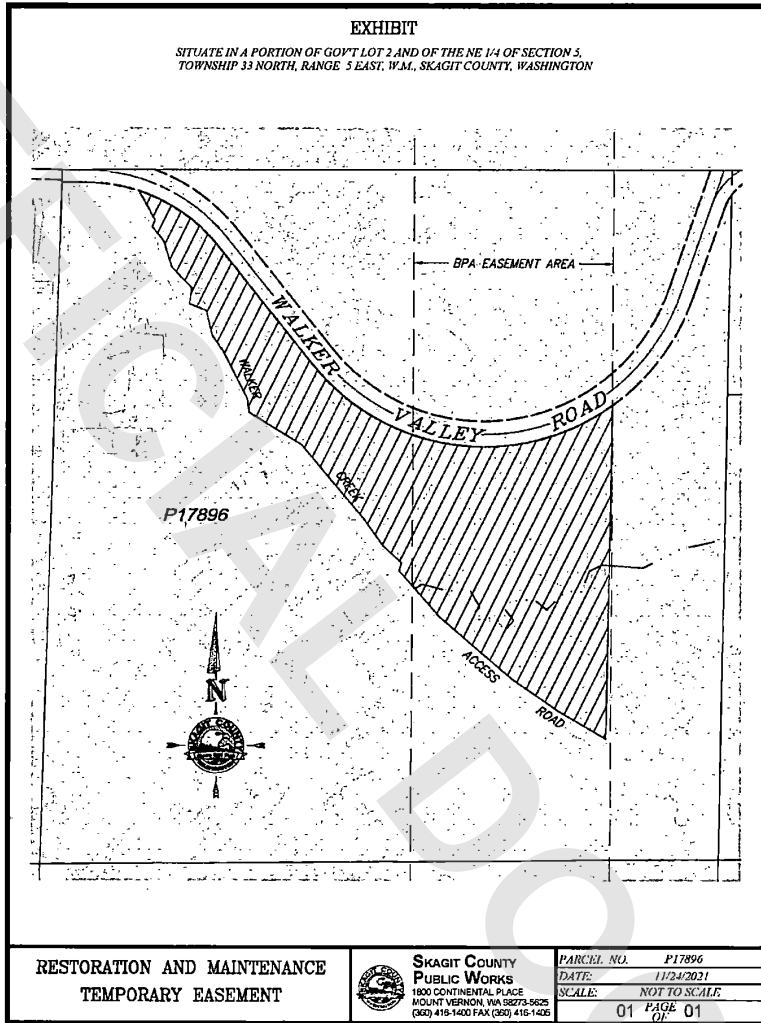
**EXHIBIT "A"**  
**TEMPORARY EASEMENT AREA LEGAL DESCRIPTION**

A TEMPORARY EASEMENT FOR THE PURPOSE OF RESTORATION AND MAINTENANCE WITHIN PARCEL NUMBER P17896, BEING A PORTION OF GOVERNMENT LOT 2, AND THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 33 NORTH, RANGE 5 EAST, W.M., FURTHER DESCRIBED IN EXHIBIT "D" OF THIS DOCUMENT, EASEMENT MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE INTERSECTION OF THE WEST BANK OF WALKER CREEK AT THE ORDINARY HIGH WATER MARK AND THE SOUTHERLY RIGHT OF WAY MARGIN OF WALKER VALLEY ROAD (CO. RD #05750);  
THENCE SOUTHEASTERLY ALONG SAID WEST BANK TO THE WEST MARGIN OF THE BPA EASEMENT FILED UNDER AUDITOR'S FILE NO. 391625, RECORDS OF SKAGIT COUNTY, WASHINGTON;  
THENCE CONTINUING SOUTHEASTERLY ALONG A PRIMITIVE ACCESS ROAD TO THE EAST MARGIN OF THE EASEMENT FILED UNDER AUDITOR'S FILE NO. 782736, RECORDS OF SKAGIT COUNTY, WASHINGTON;  
THENCE NORTHERLY ALONG SAID EAST EASEMENTS TO SAID RIGHT OF WAY MARGIN OF WALKER VALLEY ROAD;  
THENCE WESTERLY ALONG SAID RIGHT OF WAY MARGIN TO THE **POINT OF BEGINNING**.

CONTAINING AN AREA OF ±8.3 ACRES, MORE OR LESS,  
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 installation of the Project

Parcel Number: P17896  
Address: 25406 Walker Valley Road  
Mount Vernon, WA 98274  
Situate in the County of Skagit, State of Washington

## EXHIBIT "C"

RIPARIAN RESTORATION AND MAINTENANCE PLAN  
SCOPE OF WORK**Overview**

The restoration Project site at the Lewis property (Landowners' Property) is located on Walker Creek, south of Walker Valley Rd (County Road # 05750) in the vicinity of the crossing of the transmission lines owned, operated, and maintained by the Bonneville Power Administration (BPA), identified as Line 1. Approximately one half (1/2) of the restoration Project area is located within the area of a Bonneville Power Administration ("BPA") easement (Auditor's File Nos.: 391628, 635305, and 782736) on Landowners' Property (the "BPA easement"), which influences species selection in these areas. The goal of the Project is to remove invasive species including Himalayan blackberry from the Project restoration site and replant the area with native trees and shrubs. Along with invasive species control, goals of native plant establishment include improved water quality through reducing erosion and increasing canopy cover over the creek and improved forest buffer habitat. The Project includes fencing along active pasture areas, separating grazing areas from stream buffers.

The planting area is comprised of a 2.8 acre triangle of mixed forest and blackberry between the road and the north fence line, an area including a 3.8 acre easement area in the vicinity of a Bonneville Power Administration (BPA) transmission line within the area of the BPA easement the "BPA easement area", and a 1.9 acre buffer in and along the forest edge to the east of the BPA easement area. The total Project planting area is about 8.3 acres. This Project and temporary easement agreement shall not alter or interfere with the terms of the BPA easement. Planting this area would improve roughly 1,200 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 of downstream saltwater shellfish habitat. Before Project work begins, the County (in coordination with the Landowners) will obtain formal written approval from Bonneville Power Administration (BPA) for all Project work (including plantings) to be performed within the BPA easement area (and Landowners shall provide reasonable assistance to the County in seeking such written approval).

**Invasive Species Control.** Subject to the "Riparian Planting" terms, below:

Control of invasive weeds in preparation for planting will start in the summer of 2022. The weeds of concern that have been identified at this site are Himalayan blackberry and common tansy. Consistent with the Integrated Vegetation Management practices, mechanical, cultural, and biological methods will be used as appropriate for control.

Himalayan Blackberry: Blackberry is growing prolifically along the fence line northeast of the house on Landowners' Property, and is scattered throughout the rest of the Project area. In the summer or fall of 2022 crews will brushcut the blackberry and treat it where regeneration occurs. In the fall of 2022, crews will brushcut the treated blackberry, and manually remove any remaining living individuals near desirable native vegetation in final preparation for planting. In especially dense areas, a second year of treatment will occur in 2023.

Washington State Class A weeds are those species where control is required when these species are found. If encountered in the field, Class A weeds will be reported to the Landowners in writing. If approved by the Landowners, these weeds will be controlled 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, Class B weeds will be reported to the Landowners. Control of Class B weeds will not be conducted as part of this Project.

Class C weeds will be controlled as part of the Project work for restoration site preparation and maintenance when they occur within the Project restoration area. The above weeds will be controlled within the Project restoration area for the duration of this contract. The following Class C weeds are 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*)

To accomplish this restoration plan, the following herbicides at this site are proposed:

**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 found onsite):** <http://www.cdms.net/ldat/mp8KR003.pdf>

Safety Data Sheets (SDS) PDF links are attached to this planting plan. If chemicals proposed for use change SFEG will notify the landowner in writing, provide updated SDS sheets and obtain approval prior to utilization. Landowners will be notified by phone at least forty eight (48) hours prior to any herbicide treatment.

I acknowledge that I have been informed of and agree to use of herbicide at my property (Landowners' Property).

 and  (Landowners' initials)

### Riparian Planting

Following initial site preparation in summer 2022, planting will occur in the winter of 2022/2023 in areas not dominated by blackberries. Planting native trees and shrubs will occur in the forested areas on the east and west side of the Project restoration area. These plantings will be concentrated to take advantage of available growing space along edges and where invasive species have been removed, as well as canopy gaps where existing forest cover has declined. In densely vegetated areas patches of native shrubs may be cut to facilitate establishment of long-lived conifer species. Project work in the BPA easement area shall be limited to and consistent with the terms of the BPA easement, and all Project work within the BPA easement area (specifically including planting) will be limited to shrubs and ground cover duly approved by BPA in writing prior to the commencement of such Project work. Access roads on the Landowners' property located in the BPA easement area and the overall temporary easement area will not be planted. Planting in the BPA easement area and the overall temporary easement area will be spaced on average 8' centers but may be clustered to take advantage of natural topography, water, and canopy gaps. Protectors may be used in the Project area, and each planting will be marked with a bamboo stake in order to make them visible during future site maintenance. Areas where blackberry is dominant will be planted after two years of initial treatment, in winter of 2023-2024. Crews will plant approximately 4,000 native trees and shrubs total.

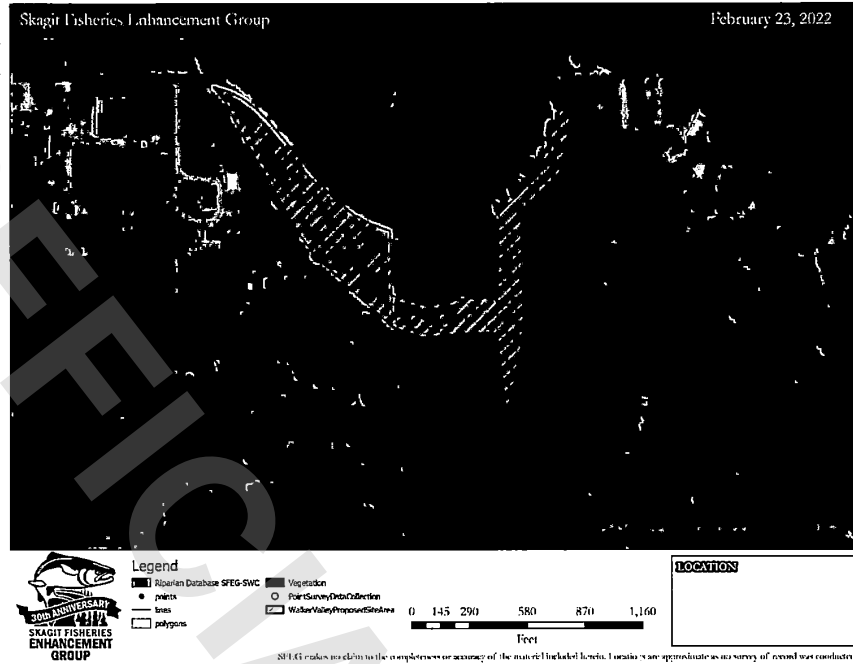


Figure 1. Planting area schematic

### Fencing

During the summer or fall of 2022 the Project will install 365 linear feet of livestock exclusion fencing (Figure 2). Fencing will include one access gate to be located during construction. The fence will be installed to be as straight as possible while maintaining 35 feet from the waterbody. Fencing will be either 5 strand electric or no-climb fencing. Type of fencing will be determined by cost and availability at the time of installation. If electric fencing is installed, the Landowners shall be responsible and liable for the use, maintenance, and operation of said electric fencing, including, but not limited to, for installation of the control box and power supply (and for providing electrical power for the electric fencing at Landowners expense). The fence will tie into existing barbed wire fencing on the east and west of the Project site.



Figure 2. Fencing location. One gate up to 12' wide will be installed during construction. Off-channel watering nose pump will be installed in a location with the shortest lift required for the pump.

### Off-Channel Watering

One off-channel watering device will be installed on the south side of the BPA easement area (subject to the terms herein). The specific location of the watering device will be field fit to

ensure adequate water supply during the summer months. The watering device will include the nose pump and watering station (Figure 3). The pump will be installed in a way to reasonably attempt to prevent sediment from plugging the intake, but the Landowners shall be responsible and liable for the use, maintenance, and operation of said watering device, including, but not limited to, performing maintenance to include cleaning the intake (and if applicable, for providing electrical power for the watering device at Landowners expense).



Figure 3. Nose pump installation.

#### **Bank Stabilizing Large Wood**

The Landowner's access the eastern field via a driveway. In one location the driveway is eroding for approximately 50 feet. If funding becomes available, this area will have large woody debris installed to improve downstream saltwater shellfish habitat by reducing fine sediment inputs from increased erosion. Bank stabilization work will occur in either summer 2023 or 2024, if at all. A small wood structure will be installed to stabilize the bank and increase the planting area between the driveway and the creek. The wood structure will be field fit based on the size of the delivered rootwads but will consist of up to six (6) logs with rootwads attached. Landowner recognizes and agrees that the Project is not intended to provide any flood control protection or benefit.

#### **Culvert**

There is a small culvert within the temporary easement area identified as a barrier to fish passage. Removal and replacement of this culvert may be included in the restoration Project, subject to the availability of additional Project funding. Should such additional Project funding become available to the County (as determined by the County), the culvert may be upsized as part of the Project to provide for fish passage and will be installed in 2023 or 2024. The culvert will only be installed once all required permitting is obtained by the County.

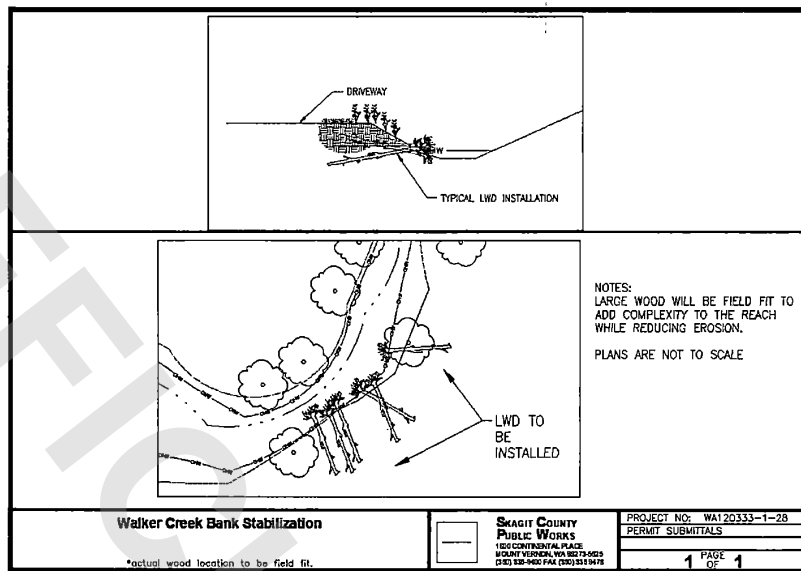


Figure 4. Bank Stabilizing Large Wood

### Maintenance and Monitoring

After planting, mechanical, chemical, cultural, and biological control of invasive weeds will occur for the duration of the Project. After planting, transitioning to manual removal of blackberry where feasible will occur. 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 invasive weeds will be monitored on a yearly basis for years 1, 2, and 3 and may continue through the duration of this agreement. Maintenance will be conducted at least twice per growing season for years 1, 2, and 3. Appropriate signage shall be installed in the vicinity of the BPA easement area, specifically including on the BPA access gate within the BPA easement area, and along the BPA easement area specifying no spraying should occur in such restoration area (subject to the terms herein and the terms of the BPA easement).

Revegetation success will be monitored following the standard monitoring protocol. For sites larger than two acres, vegetation monitoring plots distributed across the planting area will be used. Plant mortality, health, and herbivory or other damage, and prevalence of invasive species 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) are recorded in each year that monitoring occurs. These data are used to determine the need for revegetation; at least 80% of the plants originally installed are alive at the end of the grant, or that 80 conifers per acre stocking is met throughout the planting area, otherwise replanting will occur. The need for re-planting will be evaluated in the summer of 2025.

**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																								
Fencing <sup>1</sup>																								
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																								
Culvert (if funded) <sup>2</sup>																								
Large Wood (if funded) <sup>3</sup>																								
Monitoring																								

<sup>1</sup>fencing will be installed *either* in late spring or early fall 2022 or 2023, pending availability of materials.

<sup>2</sup>culvert will be installed pending funding availability and permit approval

<sup>3</sup>large wood will be installed pending funding availability and permit approval

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

GOVERNMENT LOT 2, AND THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 33 NORTH, RANGE 5 EAST, W.M., EXCEPT COUNTY ROAD RIGHT OF WAY AND EXCEPT THOSE PORTIONS CONVEYED TO SKAGIT COUNTY FOR ROAD PURPOSES BY DEEDS DATED FEBRUARY 8, 1937, AND RECORDED MARCH 9, 1937, UNDER AUDITOR'S FILE NOS. 287481 AND 287482 RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATED IN SKAGIT COUNTY, WASHINGTON.