

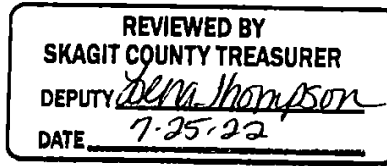


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07/25/2022 04:01 PM Pages: 1 of 16 Fees: \$218.50
Skagit County Auditor

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 CONSTRUCTION EASEMENT

REFERENCE NUMBER OF RELATED DOCUMENT: Not Applicable

SKAGIT COUNTY
Contract # C20220263
Page 1 of 16

GRANTOR(S): Dennis Clark Spore, a single man.

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

ASSESSOR'S TAX / PARCEL NUMBER(S): P47795 and P112889 (XrefID: 360312-2-005-0002 and 360312-2-002-0100)

ABBREVIATED LEGAL DESCRIPTION: DF-81 #8 AF#8103160026 N1/2 N1/2 NW1/4, SECTION 12, TOWNSHIP 36 NORTH, RANGE 3 EAST, W.M., EXC FDT BAT INT OF TH W EDGE OF SHAW RD & TH SO LI N1/2 N1/2 NW1/4 OF SD SEC TH W 730FT ALG SO LI OF N1/2 N1/2 NW1/4 OF SD SEC TO POB TH E 540FT ALG SD SO LI TH NLY 550FT PLT W LI OF SHAW RD TH W 200FT PLT N LI OF SEC TH SLY 554.5FT M/L TO POB; and INC M/H ORFLK48A10200BS FLEETWOOD 90 56X28: LOC IN THE FOLLOWING DESCRIBED TRACT IN THE N1/2 OF THE N1/2 OF THE NW1/4 DAF BEGINNING AT THE INT OF THE WEST EDGE OF SHAW RD AND THE SOUTH LINE OF THE N1/2 OF THE N1/2 OF THE NW1/4 OF SAID SECTION THENCE WEST 730 FEET ALONG SOUTH LINE OF THE N1/2 OF THE N1/2 OF THE NW1/4 OF SAID SECTION TO THE POINT OF BEGINNING THENCE E 540 FEET ALONG SAID SOUTH LINE THENCE NORTHERLY 550 FEET PARALLEL TO THE WEST LINE OF SHAW RD THENCE WEST 200 FEET PARALLEL TO THE NORTH LINE OF SECTION THENCE SOUTHERLY 554.5 FEET M/L TO THE POINT OF BEGINNING (Complete LEGAL DESCRIPTION provided at Exhibit "D").

TEMPORARY CONSTRUCTION EASEMENT

The undersigned, **Dennis Clark Spore**, a single man, ("Grantor") and **Skagit County**, a political subdivision of the State of Washington ("Grantee"), for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby grants a temporary, non-exclusive construction easement and appurtenances thereto ("Temporary Easement"), as provided herein. Grantor and Grantee 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 Grantor herein shall be a temporary construction easement for the benefit of Grantee, Grantee's agents, employees, and contractors over, upon, across, through, a portion of real property located within and upon Grantor's 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 construction easement (and any related appurtenances thereto), including the right of ingress and egress with all necessary equipment for installation of a Project, including but not necessarily limited to the design and removal of the Barrel Springs Creek dam and the removal and fish passage improvements on Barrel Springs Creek culvert and Dry Creek culvert (as further described in *Exhibit "C"* and *Exhibit "E"*) within said Temporary Easement area, and for any and all other purposes reasonably related thereto. A legal description for the Grantor's Property is attached hereto and

incorporated by reference as *Exhibit "D"*. The Temporary Easement shall be for the purpose of a Project (described in *Exhibit "C" and Exhibit "E"*).

2. Use of Easement. Except as provided herein to the contrary, the Grantee, Grantee's employees, agents, and contractors, shall have the sole right, without notice, and at all times, to enter upon the Grantor's Property within the Temporary Easement area (as described and depicted in *Exhibit "A" and "B"*) for purposes of using the Temporary Easement for the Project (as described in *Exhibit "C" and Exhibit "E"*, attached hereto and incorporated by reference). This includes the area needed for staging (stockpile of materials to be used in Project). Grantor shall not have the right to exclude Grantee, Grantee's employees, agents, contractors, or other third parties from the Temporary Easement area. Grantor shall not place, construct, or cause to be placed or constructed or maintained any building, structure, obstruction, and/or improvements within or upon the Temporary Easement area (or otherwise alter, interfere with, or disturb the Project) while the Temporary Easement is in effect, without approval of the Grantee.

2.1 Grantor recognizes and agrees that the Project may result in drainage impacts to Grantor's Property (including, but not necessarily limited to, changes in the flow of water at Grantor's Property). Grantor specifically recognizes and agrees that the Grantee is not responsible or liable for any drainage impacts or damage to Grantor's Property resulting from the Project and/or this Temporary Easement. Grantor releases and holds harmless Grantee from any drainage impacts or damage to Grantor's Property resulting from and/or related to the Project or this Temporary Easement, upon completion of the Project. The Grantor specifically recognizes and agrees that Grantee is in no way obligated in the future to make, construct, operate, maintain, or repair the Project or any specific drainage facilities at (or within the vicinity of) Grantor's Property pursuant to the terms of this Temporary Easement. The terms of this Section 2.1 shall survive the termination or expiration of this Temporary Easement (and shall be perpetual in nature).

3. Termination of Temporary Easement. This Temporary Easement shall expire and terminate at such time as the Grantee has completed the Project or activity necessitating the use of the Temporary Easement as described hereinabove (as determined by Grantee). This Temporary Easement shall otherwise expire by its own terms and terminate on December 31, 2026, whichever is sooner.

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 arising from or relating to this Temporary Easement agreement 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. It may not be modified or supplemented in any manner for 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. The parties agree that this Temporary Easement agreement shall specifically supersede the terms of a previous Temporary Construction Easement executed by and between the parties dated May 26, 2020 (Skagit County Contract # C20200194, recorded under Auditor's File No.:202006020021).

GRANTOR:

Dennis Clark Spore
Dennis Clark Spore

DATED this 30th day of June, 2022.

STATE OF WASHINGTON

COUNTY OF SKAGIT

} ss.

I certify that I know or have satisfactory evidence that **Dennis Clark Spore**, a single man, is the person who appeared before me, and said person acknowledges 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 30 day of June, 2022.

(SEAL)

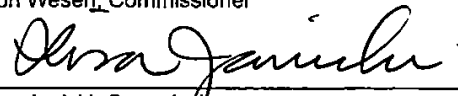
Notary Public

Print name: EMILY DORRANCEResiding at: Bellingham WAMy commission expires: 5/23/24

Emily J Derenne
Notary Public
State of Washington
Commission Number 185691
My Commission Expires
May 23, 2024


GRANTEE:DATED this 11 day of July, 2022.**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Peter Browning, Chair

Ron Wesen, Commissioner

Lisa Janicki, Commissioner

Attest:

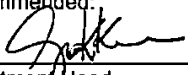


Clerk of the Board

Authorization per Resolution R20160001:

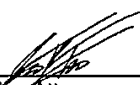
County Administrator

Recommended:



Department Head

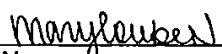
Approved as to form:



Civil Deputy Prosecuting Attorney

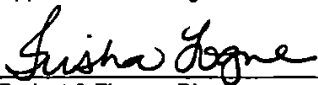
7/5/22

Approved as to indemnification:



Risk Manager

Approved as to budget:



Budget & Finance Director

EXHIBIT "A"
P47795 and P112889
TEMPORARY EASEMENT AREA LEGAL DESCRIPTION

A TEMPORARY CONSTRUCTION EASEMENT BEING AN AREA OF ± 12.76 ACRES, FOR THE PURPOSE OF DAM REMOVAL AND RESTORING FISH PASSAGE IN BARREL SPRINGS CREEK AND DRY CREEK WITHIN SKAGIT COUNTY TAX PARCELS P47795 and P112889 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERN CORNER OF SKAGIT COUNTY TAX PARCEL P47795;

THENCE NORTHWESTERLY ± 687 FEET ALONG THE EASTERN PROPERTY LINE TO THE NORTHERN PROPERTY LINE;

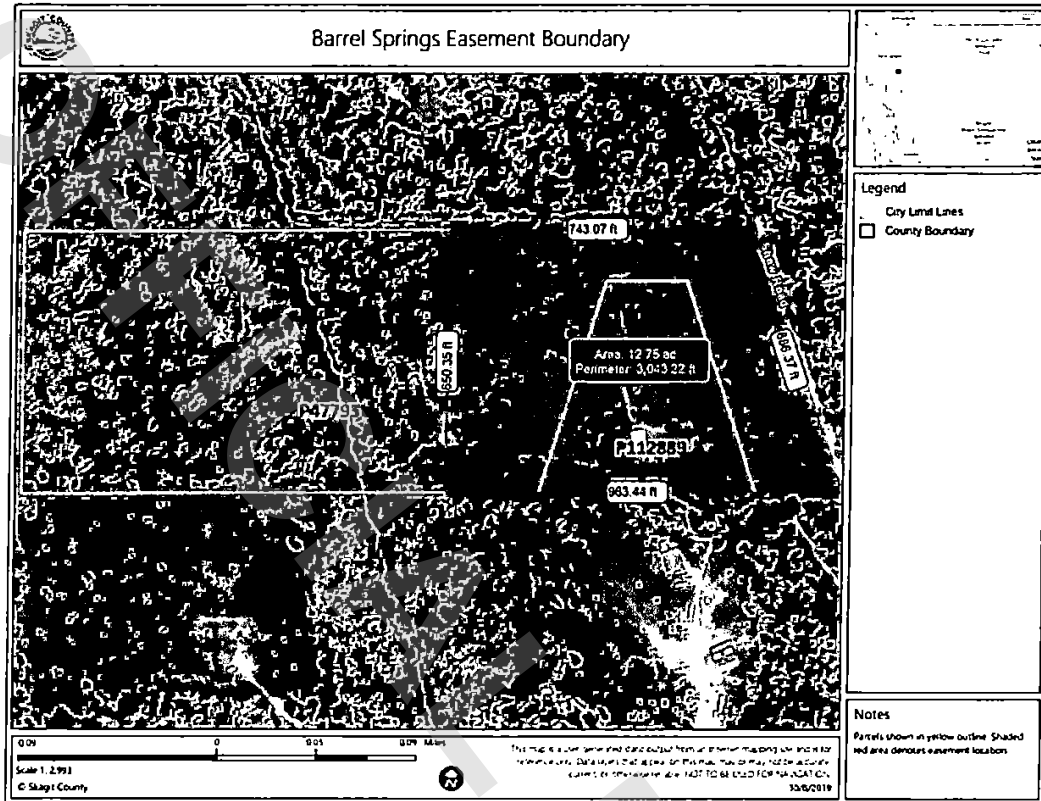
THENCE WESTERLY ± 744 FEET ALONG THE NORTHERN PROPERTY LINE TO A POINT $\pm 1,058$ FEET FROM THE NORTHWESTERN PROPERTY CORNER;

THENCE SOUTHERLY ± 650 FEET TO SOUTHERN PROPERTY LINE;

THENCE EASTERLY ± 963 FEET, RETURNING TO THE TRUE POINT OF BEGINNING.

SITUATE IN SKAGIT COUNTY, STATE OF WASHINGTON.

EXHIBIT "B"
GRAPHIC DESCRIPTION OF TEMPORARY EASEMENT AREA



This temporary easement includes the above shaded area required for restoration of fish passage and staging to complete the Project.

Parcel Number: P47795 and P112889

Grantor's Address: 1120 Shaw Road

Bellingham WA 98229

Situate in the County of Skagit, State of Washington

EXHIBIT "C" SCOPE OF WORK

Grantee (Skagit County) is actively working towards removal of the Barrel Springs Creek dam and the fish passage improvement of the Barrel Springs Creek culvert and the Dry Creek culvert (Figure 1). The Grantee is working to complete design on the Project. Designs are at the pre-final stage and have been submitted for permitting. A complete design report will be completed and provided to the Grantor upon finalization. Comment periods have been and will continue to be provided to the Grantor at various intervals throughout the design process for informational purposes, although Grantee shall have the final decision-making authority regarding the Project design.

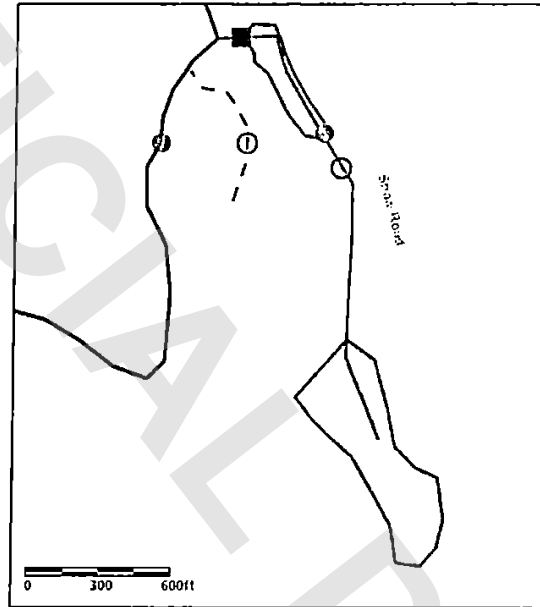


Figure 1. Project Vicinity map. Red square is the Barrel Springs dam location. Red circles are the two identified culverts. Orange hollow circles are other culverts near the project site not included in this Temporary Construction Easement.

The Project may be completed in phases pending funding. In total the Project will remove the Barrel Springs dam, remove and replace the Barrel Springs driveway crossing, remove and replace the Dry Creek driveway crossing, and restore riparian vegetation to benefit water quality and fish passage within the year-round spring and Dry Creek (see Exhibit "E"). Project design work will be finalized by a consultant hired by the Grantee. Project construction work will be completed by a Contractor hired by the Grantee. The Project will require the removal of mature trees to ensure they don't become undermined and damage the driveway in the future (and Grantor shall not be compensated by Grantee for the removal of said trees). Trees along the access route for Crossing 1 shall be limbed to prevent damage to the trees or equipment. The first row of trees along the access route for the dam from the intersection of the two driveway sections shall be removed. Trees shall be incorporated into the Project where practical. The Grantee will work with the Grantor to flag trees for removal prior to the pre-bid meeting during the Grantee's construction contracting process. In total, at least 24 conifers and one

Rhododendron (and possibly other trees and/or vegetation) will be removed for the Project, without compensation to Grantor.

Dam removal:

The Project will remove the Barrel Springs dam entirely and restore the associated stream bed up and downstream for the benefit of fish passage. Dam removal includes the concrete dam structure, associated culverts, vaults, and any related infrastructure. Channel work will extend up to the Barrel Springs driveway crossing to ensure fish passable grade is reached. It will extend downstream to the confluence with Dry Creek. The outlet of Barrel Springs will be reoriented to the south to elongate the channel for the benefit of grade upstream and for a larger area of confluence. The existing confluence will have large wood installed to prevent avulsion but to provide backwater habitat. More information can be found in Exhibit "E" (attached and incorporated herein).

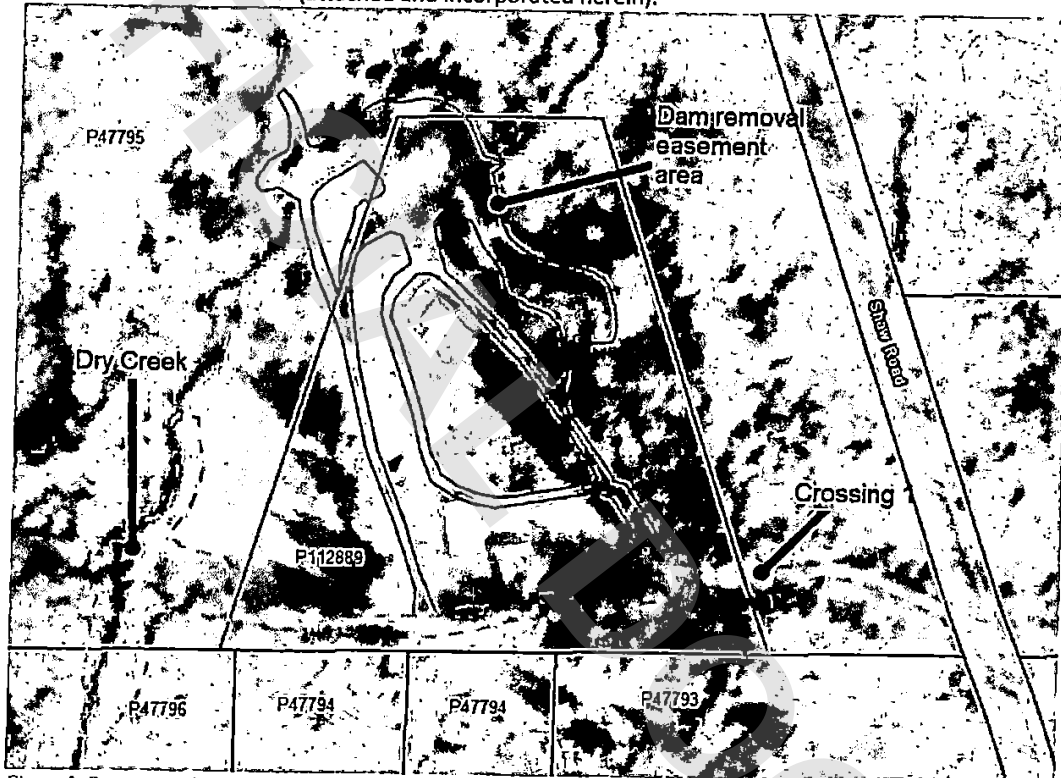


Figure 2. Dam removal project area shown in red solid line. Crossing 1 and Dry Creek project areas shown in red dotted line. Access to dam removal area from Crossing 1 TCE.

Barrel Springs Culvert:

The Barrel Springs culvert is currently a 2-foot concrete culvert that has been identified as a fish passage barrier by WDFW. The culvert will be removed and replaced with a new crossing that meets current fish passage criteria. The new culvert will be a 10' span by 5' tall pipe-arch culvert (Figure 3). Installation will include relocation of the driveway to better align with the topography of the site and to avoid two mature trees. Trees along the driveway will be limbed prior to mobilizing equipment to attempt to prevent damage to trees.

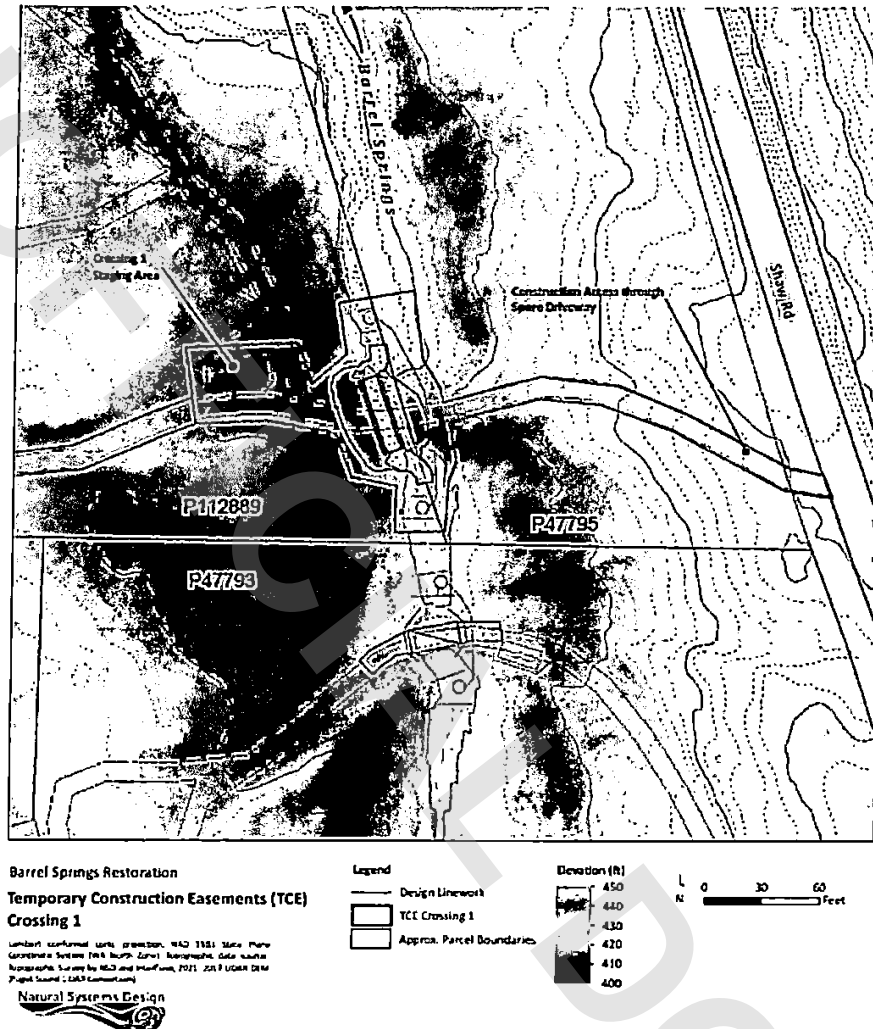


Figure 3. Barrel Springs Crossing Access and staging area. Dry Creek access begins to the west of Barrel Springs and can be seen in the blue outline. Purple denotes new culvert alignment.

Dry Creek Culvert:

The Dry Creek crossing is a total barrier to fish passage. The Dry Creek crossing is perched above the creek by approximately 5 feet preventing fish passage and starving the downstream system of gravels while accumulating them upstream. The culvert is overhanging almost 7 feet, risking failure. As part of implementation of a fish-passable crossing structure at Dry Creek, approximately 270 linear feet of channel will be regraded at an approximate 3% slope and will tie into the existing stream grade upstream and downstream of the crossing. The regrade of the channel is necessary to address the 5-foot vertical drop at the outlet of the existing culvert structure. The log riffle structures, along with the proposed stable streambed aggregate, are necessary to reduce the risk of a headcut propagation traveling upstream through the newly graded streambed and crossing structure and potentially developing a barrier to fish passage. The log riffle structures will be constructed of both larger logs and a

mixture of smaller racking logs and loose slash blended with the streambed aggregate to create continuous 35-foot-long riffle structure that is capable of remaining stable and arresting a headcut should one develop. The log riffle structure will be held in place with a combination of embedment into the channel banks and battered vertical timber piles and will not require any mechanical connections (e.g., cables or threaded rods). More detail can be found in Exhibit "E".

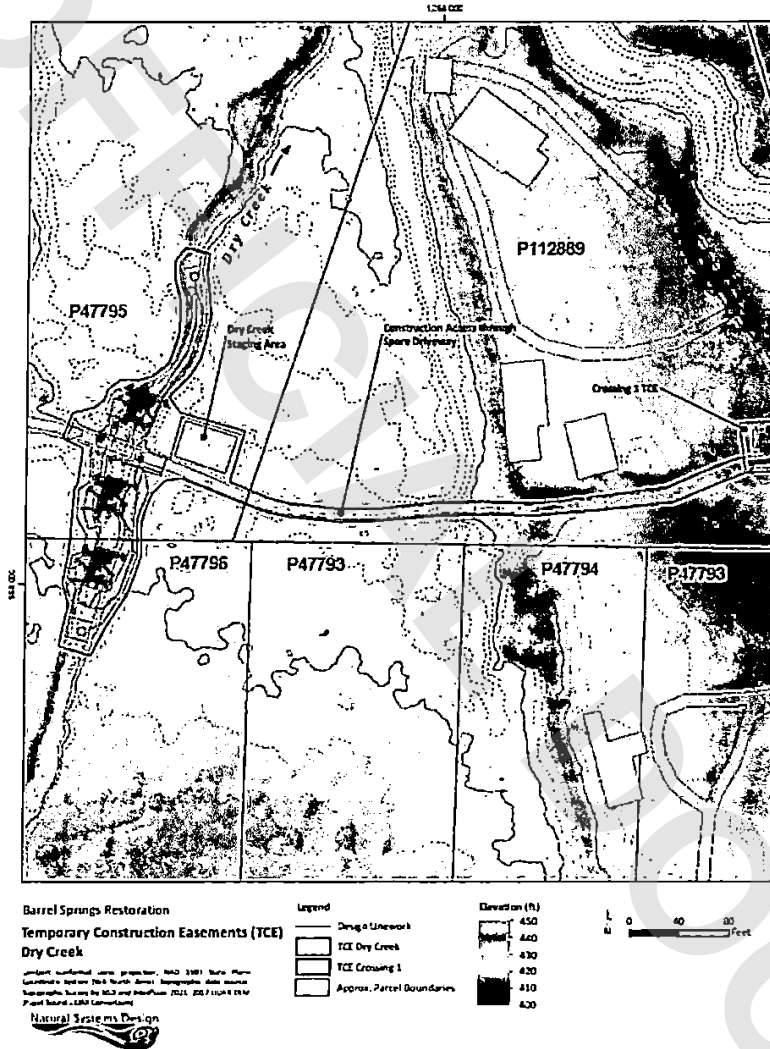


Figure 4. Dry Creek crossing access and staging area. New culvert is shown in green with large wood structures in red.

The drive surface will be restored to existing or better condition following completion of the Project. The Project site will be reasonably replanted following completion of the channel restoration. This will include access roads, the remnant impoundment pool, and areas of disturbance associated with the culverts and dam infrastructure.

The Project is not intended to provide any flood control and/or erosion control protection, purpose, or benefit to Grantor's Property. After completion of Project construction (as determined by Grantee), the Grantee shall not be responsible or liable for the use, maintenance, and/or operation of any private roads, driveways, bridges, culverts, and/or crossings at Grantor's Property (and/or for any associated drainage conveyances and/or infrastructure), and/or for otherwise ensuring access to all or any portion(s) of Grantor's Property.

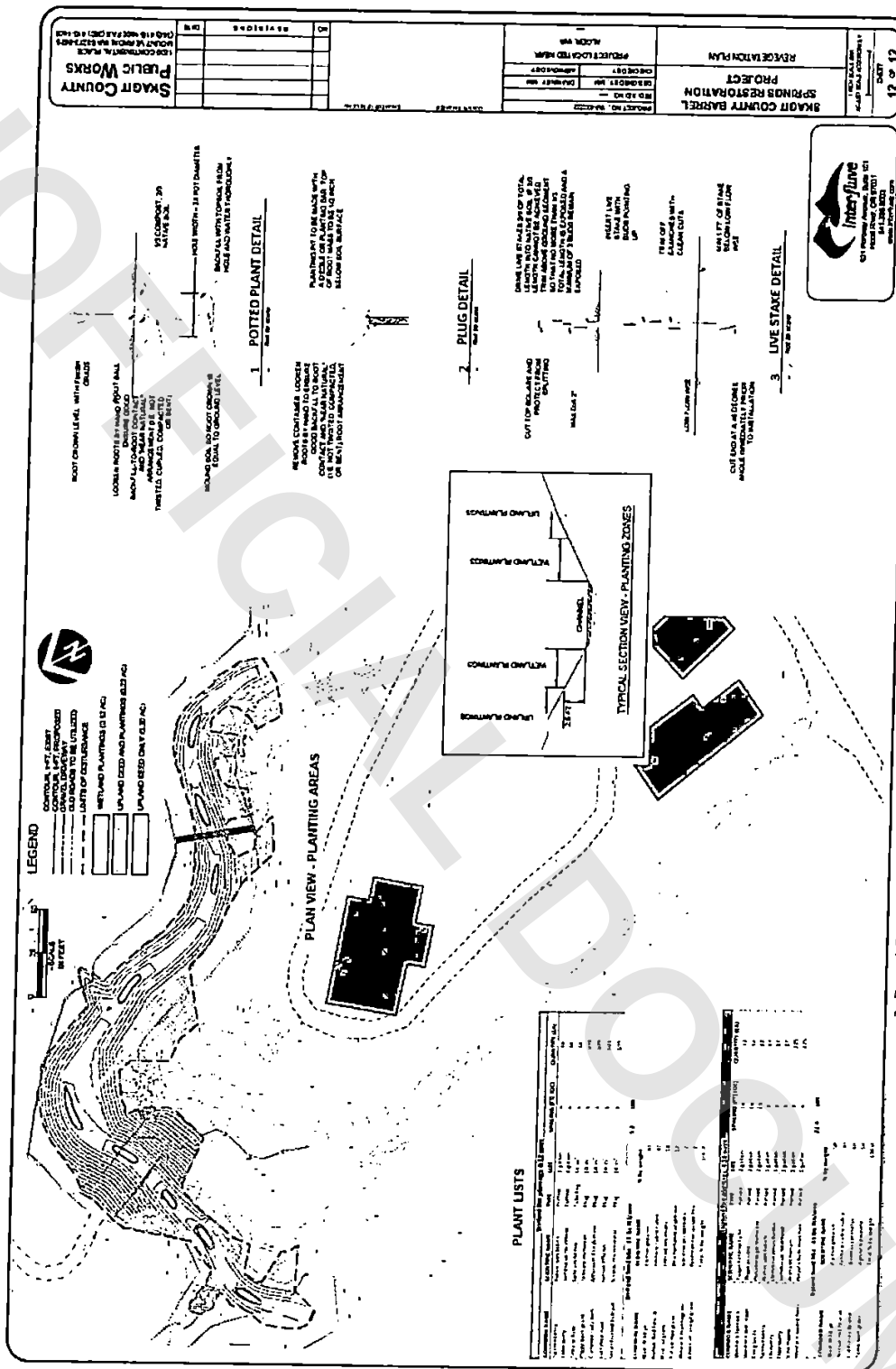
EXHIBIT "D"
GRANTOR'S PROPERTY LEGAL DESCRIPTION

The North half of the North half of the Northwest quarter of Section 12, Township 36 North,
Range 3 East of W.M., lying West of Road. Situate in Skagit County, Washington.

SITUATE IN SKAGIT COUNTY, STATE OF WASHINGTON.

[illegible]

13



2. Barrel Springs replanting area associated with dam removal and restoration.

