

When recorded return to:

Skagit Land Trust
P. O. Box 1017
Mt. Vernon, WA 98273



200304180119
Skagit County Auditor

4/18/2003 Page 1 of 14 1:42PM

Grantor: Robert H. Keller Jr. and Patricia. E. Karlberg
Grantee: Skagit Land Trust

Brief Legal Description:

Lot 1 Southerly of Cascade Hwy less the Portion Southerly of Cascade River; located in Section 9, T35N, R11E; Skagit County, WA.
(Full Legal Description attached in 'Exhibit 1')

Assessor's Tax Parcel Numbers / Account Numbers: P45998 / 351109-0-002-0005

**AMENDMENT TO
GRANT DEED OF CONSERVATION EASEMENT**

THIS AMENDMENT TO GRANT DEED OF CONSERVATION EASEMENT is made this 11th day of April, 2003, by Robert H. Keller Jr. and Patricia. E. Karlberg, husband and wife, having an address at 500 Wilson, Bellingham, Washington 98225 (hereinafter referred to as "Grantors"), in favor of the Skagit Land Trust, a Washington nonprofit corporation qualified to do business in Washington, having an address at P. O. Box 1017, Mt. Vernon, WA 98273 ("Grantee").

I. RECITALS

A. Grantors granted a Conservation Easement on a portion of their property ("Original Protected Property"), in 1997 and 1998 by deeds recorded on December 31, 1998, under Skagit County Auditor's File No. ~~98123102~~, and April 12, 2001, under Skagit County Auditor's File No. 200104020123 (the "Easement"), and it is their intention to extend the protection of the Easement to the Additional Property owned by Grantors.

9812310225 *sc*

B. Grantors are the owners in fee simple of that real property, inclusive of all standing and down timber (the "Additional Protected Property") situated on the south side of the Cascade River Road and extending to the north bank of the Cascade River, approximately one and one-half miles east of Marblemount, in Skagit County, Washington, described in Exhibit "1" (legal description) and shown on Exhibit "2" (site map), which are attached and incorporated by this reference.

C. Grantors wishes to make a new, additional gift by subjecting the Additional Protected Property to the terms and conditions of the Easement.

D. The Additional Protected Property possesses natural, forested, riparian, scenic, open space, educational, and recreational values (collectively, "Conservation Values") of great importance to Grantors, the people of Skagit County and the people of the State of Washington. The Additional Protected Property enhances the forested, open space and rural character of Skagit County and provides a natural wooded riparian habitat that can be enjoyed from nearby Cascade River Road and the Cascade River. The Additional Protected Property also provides important nesting and feeding habitat for many species of birds, and spawning habitat for salmon and other fish.

E. The Additional Protected Property consists of approximately 5.3 acres of low elevation mesic deciduous forest. The forest is composed of western red cedar, black cottonwood, big leaf maple, red alder, hemlock and some Douglas fir. Most trees are approximately 50-60 years old. The surrounding forested area is relatively intact, except for a recent clearcut to the north, and the majority of it remains undeveloped.

F. The Additional Protected Property includes approximately 1600 feet of shoreline along the Cascade River. This portion of the river includes the transition zone of the westward flowing Cascade River from a mountain stream to a broad floodplain.

G. The Additional Protected Property is near the designated boundary of, and is in the travel corridor of the Cascade River portion of the Skagit National Wild and Scenic River. Congress had declared that these rivers, together with their immediate environments "...possess outstanding remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations." 16 U.S.C. 1271 et seq. Restrictions on uses of the Additional Protected Property would benefit the river because of decreased erosion and siltation due to the exclusion of logging and road building.

H. The Additional Protected Property provides habitat for the bald eagle, a threatened species protected under the Endangered Species Act and the Federal Bald Eagle Management Act. Congress has found that encouraging conservation programs "...is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's heritage of fish, wildlife, and plants." The United States Forest Service is active in the upper Skagit River watershed in protecting Bald Eagle habitat



I. The Additional Protected Property is in the watershed of the Skagit River, the largest river draining into Puget Sound, and the third largest river on the Pacific Coast. The Washington State legislature in RCW 90.70.001 has recognized "that Puget Sound and related inland marine waterways of Washington State represent a unique and unparalleled resource. A rich and varied range of marine organisms, composing an interdependent, sensitive communal ecosystem reside in these sheltered waters." The legislature has further recognized that residents of this region enjoy a way of life centered around the waters of Puget Sound which depends upon a clean and healthy marine resource. Restrictions on the uses of the Additional Protected Property would benefit the Skagit River and Puget Sound because of decreased erosion and siltation due to the exclusion of logging and construction near the Cascade River.

J. The legislatively declared policies of the State of Washington in the Washington State Open Space Tax Act, Chapter 84.34 RCW, provide "...that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crop, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well being of the state and its citizens." Under the Open Space Act, lands eligible for preferential real property tax treatment include lands such as the subject Additional Protected Property, presently classified by Skagit County as Open Space Land, where the preservation in its present use would conserve and enhance natural and scenic resources, preserve visual quality along a public highway, and promote conservation of wildlife, including the federally listed, threatened and endangered, bald eagle and Puget Sound Chinook salmon.

K. Portions of the Additional Protected Property are visible from Cascade River Road and the Cascade River providing scenic values to the people of Washington that use these public areas.

L. The Additional Protected Property would also be desirable property for timber harvesting. In the absence of a Grant Deed of Conservation Easement, portions of the Additional Protected Property could be logged in a manner which would destroy the open-space, riparian, and scenic character of the Additional Protected Property and impair its ecological value.

M. The specific Conservation Values of the Additional Protected Property (Section I. B.) are supported by an inventory of relevant features (Baseline Documentation) of the Protected Property, dated January 5, 1998, and supplemented on December 29, 1998, on file at the offices of Grantee. The Baseline Documentation consists of reports, maps, photographs, and other documentation that provide, collectively, an accurate representation of the Additional Protected Property at the time of this grant. It is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant. When signed by both Grantors and Grantee, the Baseline Documentation is incorporated herein by reference. Within twelve (12) months, of signing this agreement a collection of



additional Baseline Documentation may be compiled by Grantee, with the approval of Grantors. This additional Baseline Documentation is also incorporated herein by reference when signed by both Grantors and Grantee. Failure to timely compile the additional Baseline Documentation shall not affect the enforceability or validity of any other provision.

N. Grantors intend that the Conservation Values of the Additional Protected Property be preserved and maintained. All current uses and all Permitted Uses under Section VI. are consistent with this Easement and do not significantly impair or interfere with the Conservation Values of the Additional Protected Property (Section I. B.)

O. Under this Easement, Grantors, owner in fee of the Additional Protected Property, has the right to identify and accepts the responsibility to protect and preserve in perpetuity the Conservation Values of the Additional Protected Property, and desires to transfer to Grantee the right to monitor and enforce compliance with that responsibility.

P. Grantee is a publicly supported, tax-exempt nonprofit organization, qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code of 1986, as amended, and also qualified as a nonprofit nature conservancy corporation under RCW 64.04.130 and 84.34.250, whose primary purpose is to preserve open space, wildlife habitat, wetlands, forestland, farmland, shoreline and scenic views.

Q. Grantee agrees to honor the intentions of Grantors stated herein and to preserve and protect in perpetuity the Conservation Values of the Additional Protected Property for the benefit of this generation and the generations to come.

THEREFORE, Grantors and Grantee agree that the Easement is amended as follows:

1. As a new, gift, Grantors' Additional Protected Property shall be subjected to the Easement. The legal description of the Additional Property (Exhibit No. 1), shall be added to the legal description attached in the Easement as Exhibit A. The Site Map of Additional Protected Property (Exhibit No. 2), shall be added to Exhibit B in the Easement.

2. The Additional Protected Property shall hereafter be included in the term "Protected Property".

3. The amended legal description of the Protected Property is attached hereto as Exhibit 3, and the amended Site Map of the Protected Property is attached hereto as Exhibit 4.

In all other provisions of the Easement shall remain in full force and effect.

II. SCHEDULE OF EXHIBITS

1. Legal Description of "Additional Protected Property"
2. Site Map of "Additional Protected Property"
3. Amended Legal Description of Protected Property
4. Amended Site Map of Protected Property

SKAGIT COUNTY WASHINGTON
Real Estate Excise Tax
PAID

APR 18 2003

Amount Paid \$
By: *[Signature]*
Skagit County Treasurer
Deputy



200304180119

Skagit County Auditor

Accepted this 14th day of April 2003 by:

Grantors:

Robert H. Keller
ROBERT H. KELLER, JR.

Patricia E. Karlberg
PATRICIA E. KARLBERG

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day personally appeared before me Robert H. Keller and Patricia E. Karlberg to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 14th day of April 2003.



Susan K. Ragan
Notary Public in and for the state of
Washington, residing at Mount Vernon
My commission expires: 8-01-2006

Printed Name: Susan K. Ragan



Accepted this 15th day of April 2003 by:

Grantee:

SKAGIT LAND TRUST, a
Washington not for profit corporation

Attestation:

John S. Milnor
John S. Milnor, President

Marlene Moore
Marlene Moore, Secretary

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day personally appeared before me John S. Milnor and Marlene Moore, to me known to be the president and secretary, respectively of Skagit Land Trust, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument.

Given under my hand and official seal this 15th day of April 2003.



E. E. Brown Jr.
Notary Public in and for the state of
Washington, residing at Sedro Woolley
My commission expires: 4-3-2005
Printed Name: E E BROWN JR.



EXHIBIT 1
Legal Description of "Additional Protected Property"
Page 1 of 1

That portion of Government Lot 1, Section 9, Township 35 North, Range 11, East of the Willamette Meridian; lying southerly of the Cascade Highway, as located on October 9, 1963, also known as State Highway 1-A;

Except that portion lying southerly of the Cascade River.

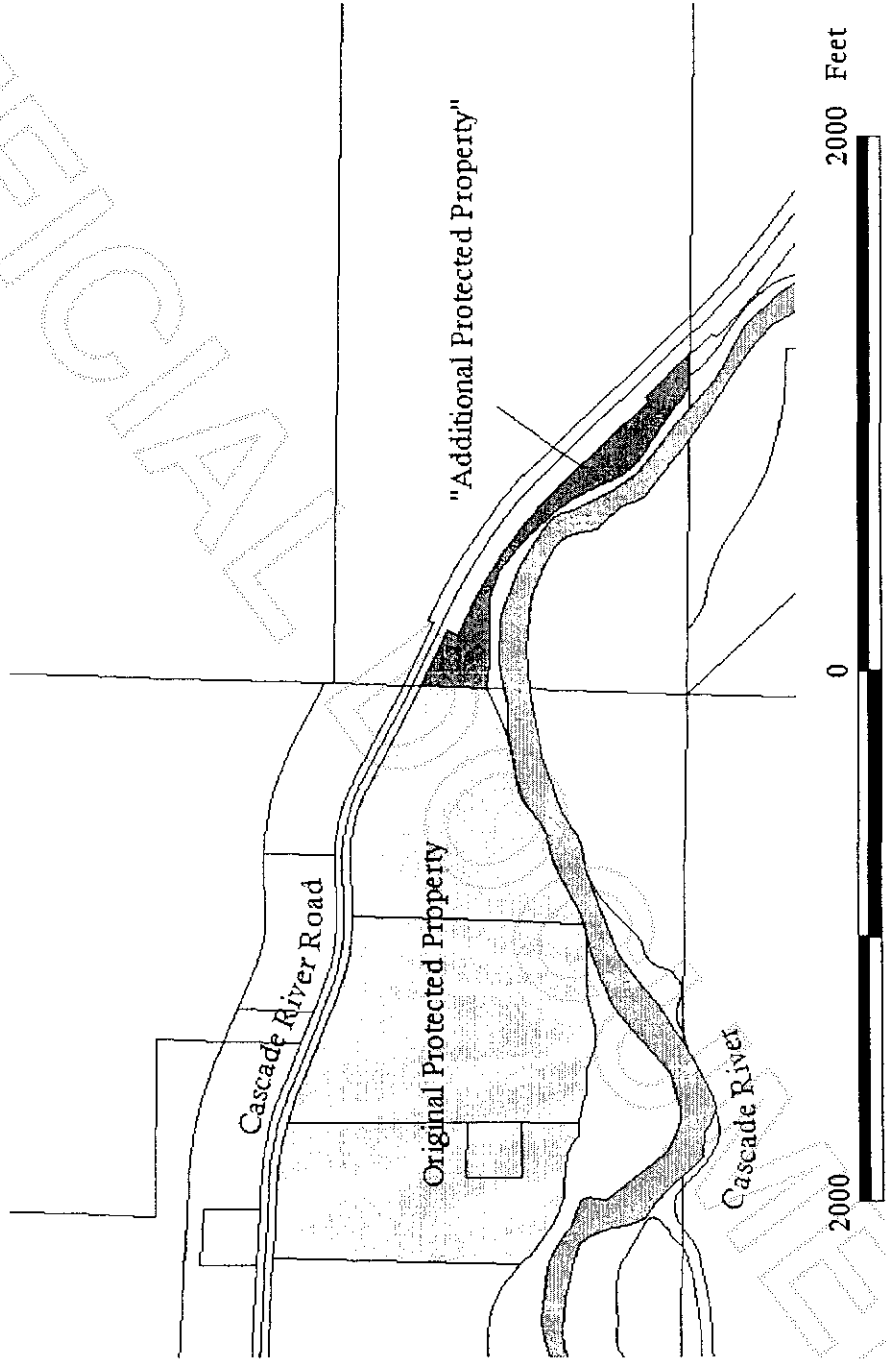
Situate in Skagit County, Washington.



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EXHIBIT 2
Keller Conservation Easement
Township 35 North, Range 11 East, Sections 8 and 9
Site Map of "Additional Protected Property"



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EXHIBIT 3
(Amended) Legal Description of Protected Property
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Assessor's Tax Identification/Parcel Number: 351108-0-014-0218 /P45977,
351108-0-014-0101 /P45975,
351108-0-012-0004 /P45966,
351108-0-016-0100 /P102779,
351109-0-002-0005 /P45998

The Easterly ½ of the following . described property:

That-portion of the Southeast 1/4 of Section 8, Township 35 North, Range 11, East W. M. lying South of the Cascade Highway and North of the Cascade River, EXCEPT the following described tract:

Beginning at the Southeast corner of Government Lot 1 in said Section 8; thence North along the East line thereof to the South line of the Cascade Highway; thence Westerly along the South line of said highway to the North line of said Government Lot 1; thence West along said North line to a point 200 feet West of the North and South center-line of said Government Lot 1; thence North to the South line of the Cascade Highway; thence Westerly along the Cascade Highway 820 feet; thence South to the South line of Government Lot 2 in said Section 8; thence East along the South line of Government Lot 2 and Government Lot 1 to the point of beginning.

ALSO, EXCEPT that portion, if any, of the remainder of said property lying East of an existing fence line located 960 feet, more or less, East of the North and South centerline of said Section 8.

Together with



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EXHIBIT 3
(Amended) Legal Description of Protected Property
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That portion of Section 8, Township 35 North, Range 11 East., W.M., being in the Northeast 1/4 of the Southeast 1/4 and in the Northwest 1/4 of the Southeast 1/4, and in Government Lots 1 and 2, lying within the following boundaries.

Beginning at a point 200 feet West of the intersection of the North and South center line of Lot I with the present North bank of the Cascade River, thence North 600 feet, more or less, to the center line of the Cascade Highway as now located; thence West along center line of Cascade Highway, 820 feet, more or less, thence South to the North bank of the Cascade River, which is in Lot 2; thence Easterly along bank of Cascade River to point of beginning.

EXCEPT from all of the above, that portion thereof, if any, lying with the East 860 feet of that portion of Government Lot 1, said Section 8, lying South of the Cascade Highway.

ALSO EXCEPT that portion thereof lying within the right of way of the Cascade Highway as conveyed to the State of Washington by deed recorded August 2, 1926 under Auditor's File No. 196233 in Volume 141 of Deeds, page 204, records of Skagit County, Washington.

SUBJECT TO that certain thirty foot wide easement in favor of Bruce Miller as established by that certain Real Estate Contract recorded December 21, 1988 as Auditor's File Number 8812210049.



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EXHIBIT 3
(Amended) Legal Description of Protected Property
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THE EAST 860 FEET OF THAT PORTION OF GOVERNMENT LOT 1, SECTION 8, TOWNSHIP 35 NORTH, RANGE 11 EAST, W.M. LYING SOUTH OF THE CASCADE HIGHWAY AS CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED AUGUST 2, 1928, UNDER AUDITOR'S FILE NO. 198233, RECORDS OF SKAGIT COUNTY, WASHINGTON AND LYING NORTHERLY OF THE CASCADE RIVER AS IT EXISTED ON DECEMBER 28, 1992.

TOGETHER WITH AN EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES, OVER, ACROSS AND UNDER A 30.00 FOOT WIDE STRIP OF LAND, 15.00 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 35 NORTH, RANGE 11 EAST, W.M.; THENCE SOUTH 88°50'35" WEST ALONG THE SOUTH LINE OF SAID SUBDIVISION FOR 1,036.88 FEET; THENCE NORTH 0°09'25" WEST FOR 1,341.53 FEET TO THE TRUE POINT OF BEGINNING OF SAID EASEMENT CENTERLINE, SAID POINT LYING ON THE "AS BUILT" CENTERLINE OF THE CASCADE RIVER ROAD; THENCE SOUTH 24°39'44" EAST ALONG SAID EASEMENT CENTERLINE FOR 59.87 FEET; THENCE SOUTH 44°52'45" EAST FOR 62.14 FEET TO A POINT ON SAID CENTERLINE HEREIN AFTER REFERRED TO AS "POINT A"; THENCE SOUTH 80°56'34" EAST FOR 110.94 FEET; THENCE SOUTH 70°49'35" EAST FOR 227.00 FEET TO THE TERMINATION POINT OF SAID EASEMENT CENTERLINE.

TOGETHER WITH: BEGINNING AT THE ABOVE NOTED "POINT A"; THENCE SOUTH 20°48'46" EAST ALONG SAID EASEMENT CENTERLINE FOR 104.38 FEET; THENCE SOUTH 51°28'37" EAST FOR 250.00 FEET TO THE TERMINATION POINT OF SAID EASEMENT CENTERLINE.

EXCEPT FROM SAID EASEMENT ANY PORTION THEREOF LYING WITHIN THE RIGHT OF WAY OF THE CASCADE RIVER ROAD.

AND ALSO EXCEPT FROM SAID EASEMENT ANY PORTION THEREOF LYING EASTERLY OF A LINE LYING 200.00 FEET WESTERLY OF AND PARALLEL WITH THE NORTH-SOUTH CENTERLINE OF GOVERNMENT LOT 1, IN SAID SECTION 8, TOWNSHIP 35 NORTH, RANGE 11 EAST, W.M.



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EXHIBIT 3
(Amended) Legal Description of Protected Property
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That portion of Government Lot 1, Section 9, Township 35 North, Range 11, East of the Willamette Meridian; lying southerly of the Cascade Highway, as located on October 9, 1963, also known as State Highway 1-A;

Except that portion lying southerly of the Cascade River.

Situate in Skagit County, Washington.



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EXHIBIT 4
Keller Conservation Easement
Township 35 North, Range 11 East, Sections 8 and 9
Amended Site Map of Protected Property

