



200912300022

Skagit County Auditor

12/30/2009 Page

1 of

35 10:29AM

Document Title: Deed of Natural Resource  
Land Easement

Reference Number:

Grantor(s):  additional grantor names on page \_\_\_

1. Norman L Ouenell & <sup>Eleanor</sup> ~~Eleanor~~ A Ouenell

2.

Grantee(s):  additional grantee names on page \_\_\_

1. Skagit County

2.

Abbreviated legal description:  full legal on page(s) \_\_\_

Portion of the SE 1/4 of the SE 1/4 & the SW 1/4 of  
the SW 1/4 & the NW 1/4 of the SE 1/4 of section 14, Township 35N  
Range 8E., W.M

Assessor Parcel / Tax ID Number:  additional tax parcel number(s) on page \_\_\_

P 43908, P 43907, P 43894, & P 43893

**When recorded return to:**

Skagit County  
Planning and Development Services  
1800 Continental Place  
Mount Vernon, WA 98273

SKAGIT COUNTY  
Contract # C20090711  
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**DEED OF NATURAL RESOURCE LAND EASEMENT**

THIS DEED OF NATURAL RESOURCE LAND EASEMENT (Easement) is granted this 22nd day of December 2009, by Norman & Eleanor Ovenell (Grantor) to Skagit County, a political subdivision of the State of Washington.

**I. RECITALS**

**A. Owner.** Grantor is the sole owner in fee simple, subject to certain outstanding rights as described in Exhibit C (Existing Title Exceptions) attached to and made a part of this Easement by this reference, of that certain real property (the Land) in Skagit County, Washington legally described in Exhibit A (Legal Description) attached to and made a part of this Easement by this reference.

**B. Conservation and Reserve Development—Natural Resource Land Easement.** On November 28, 2008, Grantor applied to Skagit County to subdivide the Land pursuant to Skagit County's Conservation and Reserve Development (CaRD) program, SCC 14.18.300-330. The CaRD program is an alternative method for land divisions that promotes clustering of development rights and conservation of open space. Through submittal of a CaRD application, residential lots up to one acre in size may be created on the original parcel, subject to the density restriction of the particular zoning district, and the balance of the acreage not included shall be reserved in one or more of the following open space designations: Open Space Preservation Area (Os-PA), Open Space Natural Resource Land (Os-NRL), Open Space Urban Reserve (Os-UR), Open Space Rural Open (Os-RO), Open Space Recreational/Amenities (OS-RA), Open Space Reserve (Os-RSV). The resulting open space designations are determined under the CaRD provisions of the Skagit County Code. SCC 14.18.310. If all or a portion of Grantor's Land is designated natural resources land (RRc-NRL, Ag-NRL, IF-NRL, or SF-NRL), the open space resulting on the natural resource land pursuant to the CaRD provisions shall be designated either Os-NRL or Os-PA. All land designated Os-NRL shall be placed in a natural resource land easement (NRLE) and dedicated to Skagit County. Dedication of the Os-NRL must occur at the time Skagit County approves the NRLE application and the NRLE must be completed prior to the finalization of the CaRD.

**C. Size/Density.** The Land consists of approximately 40.00 acres designated Rural Resource (RRc), permitting a total density of four (4) lots. See SCC 14.18.310(2) and the accompanying



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lot size table. The requested and approved density is four (4) lots. The approved residential lot areas and open space areas are described and shown in Exhibit B, which is attached to and made a part of this Easement by this reference.

**D. Land Subject to Natural Resource Land Easement.** Twenty Six and one tenth (26.1) acres are designated Os-NRL. See Exhibit B. This Os-NRL land is subject to the terms of this Easement and shall be referred to as Open Space Area for purposes of this Easement.

**E. Staff Review.** Skagit County staff reviewed the application and after approval of variance PL09-0103 recorded under Auditor File No. 20090717 determined that Grantor's application met the criteria and other requirements under the Skagit County Comprehensive Plan policies and development regulations applicable to the CaRD and NRLE programs.

**F. Open Space Functions.** For the purposes of this Easement, "Open Space Functions" refers to uses allowed either outright or by special use permit in the zoning district(s) (see Chapter 14.16 SCC, as now adopted, or hereafter amended and codified) pertaining to the subject property; provided, however, that residences, accessory dwelling units, and temporary manufactured homes shall only be within the areas designated as the residential lot area in Exhibit B and on the approved plat. If a use requires a special use permit, the special use permit shall first be obtained from Skagit County (see attached permit Exhibit D). Grantor and Skagit County intend that the Open Space Functions of the Open Space Area will be preserved and maintained by the continuation of land use activities existing at the time of the signing of this NRLE that do not significantly impair or interfere with the Open Space Functions and that are or have been allowed under the Skagit County Code.

**G. Conveyance.** Grantor further intends, as owner of the Land, to convey to Skagit County the right to enforce preservation and protection of the Open Space Functions of the Open Space Area unless and until such time as this Easement is terminated as provided for herein.

**H. Acceptance.** Skagit County agrees, by accepting this grant to honor the intentions of Grantor and to preserve and protect the Open Space Functions of the Open Space Area for current and future generations to appreciate and enjoy.

## **II. CONVEYANCE AND CONSIDERATION**

**A. Terms and Conditions.** For the reasons stated above, and in consideration of obtaining land division approval and the mutual covenants, terms, conditions, and restrictions contained in this Easement, Grantor hereby voluntarily grants and quit claims to Skagit County, and Skagit County accepts, an exclusive Natural Resource Lands Easement over the Open Space Area of the Land as defined in this Easement (Exhibit B). This Natural Resource Lands Easement is granted on the terms and conditions herein described and is subject to the reservation of rights contained herein, all of which rights, restrictions, reservations and obligations shall operate as covenants running with the Land. This grant is also subject to those items described in Exhibit C (Permitted Title Exceptions).

**B. Conveyance of Real Property.** This Deed of Natural Resource Land Easement is a



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conveyance of an interest in real property under the provisions of RCW 64.04.130.

**C. Recitals.** The foregoing recitals are incorporated into this Easement by reference.

### **III. PURPOSE**

The purpose of this Easement is to assure that the Open Space Area will be retained as provided for in Section I.F. above until such time as this Easement is terminated and to prevent any use of, or activity in, the Open Space Area that will significantly impair or interfere with the Open Space Functions of the Open Space Area. Grantor and Skagit County intend that this Easement will confine the use of, or activity in, the Open Space Area to those uses and activities consistent with this purpose.

No general public access to any portion of the Open Space Area is conveyed by this Easement.

### **IV. RIGHTS CONVEYED TO SKAGIT COUNTY**

To accomplish the purposes of this Easement, Grantor conveys the following rights to Skagit County:

**A. Identification and Protection.** To identify preserve and protect the Open Space Functions of the Open Space Area during the term of this Easement.

**B. Access.**

1. To enter the Open Space Area annually, at a mutually agreeable time and upon prior written notice to the Grantor, for the purpose of making a general inspection to assure compliance with this Easement.

2. To enter the Open Space Area at such other times as are necessary, if there is reason to believe that a violation of the terms of this Easement is occurring, for the purpose of enforcing the provisions of this Easement.

**C. Injunction and Restoration.** To enjoin any use of, or activity in, the Open Space Area that is inconsistent with the purposes of this Easement, and to undertake or cause to be undertaken the restoration of such portions or features of the Open Space Area as may be damaged by uses or activities contrary to the provisions of this Easement, consistent with Section IX.

**D. Enforcement.** To enforce the terms of this Easement, consistent with Section IX.

### **V. PROHIBITED USES AND ACTIVITIES**

Any use of, or activity in, the Open Space Area inconsistent with the purposes of this Easement is prohibited, and Grantor acknowledges and agrees that it will not conduct, engage in or permit any such use or activity. Without limiting the generality of this section, the following uses of, or activities in, the Open Space Area, though not an exhaustive list, are inconsistent with the purposes of this Easement and shall be prohibited:



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**A. Subdivision and Development Rights.** The legal subdivision of the Open Space Area for the purposes of development of the Open Space Area; the exercise of Grantor's development rights in the Open Space Area; the transfer of such development rights to any other portion of the Land as it now or hereafter may be bounded or described; and the use of such development rights for the purpose of calculating permissible lot yield of the Open Space Area or any other property; provided, however, that this Easement shall not be construed to preclude boundary line adjustments to revise lot lines on the Land and contiguous lands owned by the Grantor, with the written approval of the Director, Skagit County Planning and Development Services; and provided further that if full development rights allowed under the CaRD for that specific zoning district have not been exhausted, those rights may be allowed based on the original parcel's acreage.

**B. Title Matters.** The burdening of the Open Space Area during the term of this Easement by liens, leases, encumbrances, easements, restrictions, conditions, covenants, rights, rights-of-way and other matters affecting title to and use of the Open Space Area; except as determined to be consistent with the purposes of this Easement. Grantor must first notify the Director, Skagit County Planning and Development Services and receive his or her approval, as provided for in Section VII, before any such burdens are placed on the Open Space Area. Provided, however, the foregoing notification and consent requirement shall not apply to a lien or encumbrance associated with a refinancing or other purely financial transaction that does not modify use of the Open Space Area.

**C. Construction.** The placement or construction of any residential buildings, or other residential improvements of any kind except as expressly permitted in the applicable zoning district; and in accordance with Section I.F. of this Easement. The placement or construction of any commercial or industrial buildings, structures, or other improvements of any kind except as permitted in the applicable zoning district and consistent with the terms of this Easement.

**D. Impervious surface.** The total area covered by structures of any kind and impervious surfaces, such as asphalt, concrete or gravel, shall be limited to the lot coverage requirements for the applicable zoning district, if any, or five (5) percent of the Open Space Area, whichever is more restrictive.

**E. Recreation.** The following forms of recreation on the Open Space Area: golf courses; commercial use of motorized or mechanized recreational vehicles such as motorcycles, snowmobiles and dune buggies, and athletic fields. Recreational uses may only be permitted insofar as they are included in the special use permit recorded in AFN 9703070004 (see Exhibit D)—provided special use permit remains valid—and/or are consistent with the purposes and terms of this Easement.

**F. Erosion or Water Pollution.** Any use or activity, not permitted by applicable local, state, or federal law, that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or subsurface waters.

**G. Waste Disposal.** The disposal or storage of rubbish, garbage, debris, vehicles, abandoned



equipment, parts thereof, or other unsightly, offensive, or hazardous waste or material on the Open Space Area.

**H. Commercial Signs.** The placement of commercial signs, billboards, or other advertising material on the Open Space Area; except in connection with the on-site sale of agricultural products, sale, or lease of the Open Space Area, or to state the conditions of access to the Open Space Area.

**I. Mining.** (This provision is only applicable on properties not located in a Mineral Resource Overlay.) The exploration for, or development and extraction of, minerals and hydrocarbons on or below the surface of the Open Space Area. The extraction of rock, dirt, sand, and gravel shall be permitted only if removal of such material is necessary to carry out other permitted activities on the Open Space Area and will not interfere with the Open Space Functions of the Open Space Area.

## **VI. RESERVED RIGHTS**

Grantor reserves for itself and its personal representatives, heirs, successors and assigns, any use of, or activity in, the Open Space Area that is not inconsistent with the purposes of this Easement, and that is not prohibited by this Easement.

## **VII. NOTICE AND APPROVAL**

### **A. Notice.**

**1. Grantor.** Grantor to notify Skagit County and receive Skagit County's written approval prior to undertaking certain uses and activities within the Open Space Area (e.g., subsection V. B. (Title Matters)). This requirement includes any activities proposed for the Open Space Area which are not addressed through the preliminary plat approval process or development permits, such as alterations to existing features including utilities or roads. The purpose of requiring Grantor to notify Skagit County prior to undertaking these uses and activities is to afford Skagit County an opportunity to ensure that the use or activity in question is designed and carried out in a manner consistent with the purposes of this Easement. Whenever such notice is required, Grantor shall notify the Director of the Skagit County Planning and Development Services (or its successor agency) in writing not less than thirty (30) days prior to the date Grantor intends to undertake the use or activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed use or activity in sufficient detail to permit Skagit County to make an informed judgment as to its consistency with the purposes of this Easement.

**2. Skagit County.** The general monitoring provision, subsection IV.B.1, of this Easement requires Skagit County to give notice to the Grantor prior to undertaking certain activities within the Open Space Area. Whenever such notice is required, Skagit County shall notify the Grantor in writing not less than thirty (30) days prior to the date Skagit County intends to undertake the use or activity in question, unless otherwise provided for by this Easement.

**B. Approval.** Where approval by Skagit County is required under this Easement, such approval



shall be granted or withheld in writing within thirty (30) days of receipt of a written request for approval, and such approval shall not be unreasonably withheld.

**1. Grantor.** If Grantor must undertake emergency action to protect public health or safety in the Open Space Area or must act by and subject to compulsion of any governmental agency, Grantor may proceed with such action without Skagit County's approval only if Grantor notifies Skagit County prior to taking such action and Skagit County cannot provide its approval, with or without conditions, within such time as is reasonable under the circumstances.

**2. Skagit County.** Skagit County's approval may be withheld only upon a reasonable determination by Skagit County that the use or activity as proposed would be inconsistent with the purposes of this Easement. Skagit County's approval may include reasonable conditions that must be satisfied in undertaking the proposed use or activity.

**3. Failure to Approve or Withhold Approval Within the Required Time.** When approval is required under this Easement, and when such approval is not granted or withheld within the time period and manner set forth above in this section, approval of the permitted use or activity in question may be presumed.

**C. Addresses.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

Norman & Eleanor Ovenell  
46276 Concrete Sauk Valley Road  
Concrete, WA 98273

To Skagit County:

Skagit County  
Planning and Development Services  
1800 Continental Place  
Mount Vernon, WA 98273

Alternatively, to such other address as either party designates by written notice to the other.

## **VIII. DISPUTE RESOLUTION**

If a dispute arises between the parties concerning the consistency of any present or proposed use or activity with the purposes of this Easement, and the Grantor agrees not to proceed with the proposed use or activity pending resolution of the dispute, the parties shall meet to discuss the dispute and attempt its resolution. Thereafter, either party may refer the dispute to mediation or arbitration by request made in writing to the other. Within thirty (30) days of the receipt of such a request, the parties shall select a single mediator or arbitrator to hear the matter. The matter shall be settled in accordance with any Washington State mediation or arbitration statute then in effect, and a mediation or an arbitration award may be entered in any court having jurisdiction. If



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mediation or arbitration is pursued, the prevailing party shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for all its costs and expenses related to such mediation or arbitration, including, without limitation, the fees and expenses of the mediator or arbitrator and attorney's fees, which shall be determined by the mediator or arbitrator or any court having jurisdiction that may be called upon to enforce or review the award. The parties agree not to proceed with the use or activity pending resolution of the dispute.

## **IX. REMEDIES**

**A. Generally.** The parties hereto may seek such relief in law or equity as they may deem necessary to enforce the terms of this Easement. Except as provided otherwise in this Easement, in the event of litigation between the parties hereto, declaratory or otherwise, in connection with this Easement, the prevailing party shall recover all costs and attorneys' fees actually incurred, including on appeal.

**B. Notice of Failure.** If Skagit County determines that the Grantor is in violation of the terms of this Easement, or that a violation is threatened, Skagit County shall give written notice to the Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Open Space Area resulting from any use or activity inconsistent with the Purpose of this Easement, to restore the portion of the Open Space Area so injured.

**C. Grantor's Failure to Respond.** Skagit County may bring an action as provided in Section IX.D. or pursue the alternative remedy provided in Section IX.E. if Grantor:

1. Fails to cure the violation within thirty (30) days after receipt of a notice of violation from Skagit County; or
2. Under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing the violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.

**D. Skagit County's Action.** Skagit County may bring an action at law or in equity in a court having jurisdiction to enforce the terms of this Easement:

1. To enjoin the violation, ex parte as necessary, by temporary or permanent injunction; and
2. To recover any damages to which it may be entitled for violation of the terms of this Easement or for injury to any Open Space Functions protected by this Easement, including damages for the loss of Open Space Functions; and
3. To require the restoration of the Open Space Area to the condition that existed prior to any such injury.

Without limiting Grantor's liability in any way, Skagit County shall first apply any damages recovered to the cost of undertaking corrective or restoration action in the Open Space Area.



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**E. Immediate Action Required.** If Skagit County, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Open Space Functions of the Open Space Area, Skagit County may pursue its remedies under this section without prior notice to Grantor or without waiting for the period provided for cure to expire.

**F. Nature of Remedy.** Skagit County's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement. Skagit County shall be entitled to the injunctive relief described in this section in addition to such other relief to which Skagit County may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Skagit County's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

**G. Costs of Restoration.** In the event Skagit County must enforce the terms of this Easement, the costs of restoration necessitated by acts of Grantor, its agents, employees, contractors, family members, invitees or licensees in violation of the terms of this Easement shall be borne by Grantor or those of its personal representatives, heirs, successors, or assigns, against whom a judgment is entered. In the event that Skagit County secures redress for an Easement violation without initiating or completing a judicial proceeding, the costs of such restoration shall be borne by Grantor or those of its personal representatives, heirs, successors, or assigns who are otherwise determined to be responsible for the unauthorized use or activity. If Grantor prevails in any judicial proceeding initiated by Skagit County to enforce the terms of this Easement, Grantor's cost of suit, including attorney's fees, shall be borne by Skagit County.

**H. Skagit County's Discretion.** Skagit County acknowledges its commitment to protect the purposes of this Easement. Enforcement of the terms of this Easement shall be at the discretion of Skagit County, and any forbearance by Skagit County to exercise its rights under this Easement in the event of any breach of any terms of this Easement by Grantor shall not be deemed or construed to be a waiver by Skagit County of such term or of any right under this Easement. No delay or omission by Skagit County in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

**I. Waiver of Certain Defenses.** Grantor acknowledges that it has carefully reviewed this Easement and has consulted with and been advised by counsel of its terms and requirements. In full knowledge of the provisions of this Easement, Grantor hereby waives any claim or defense it may have against Skagit County or its successors or assigns under or pertaining to this Easement based upon waiver, laches, estoppel, or prescription.

**J. Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Skagit County to bring any action against Grantor to abate, correct, or restore any condition in the Open Space Area or to recover damages for any injury to or changes in the Open Space Area resulting from causes beyond Grantor's control, including, without limitation, natural changes, fire, flood, storm, or earth movement, or from acts of trespassers, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant



injury to the Open Space Area resulting from such causes.

**X. COSTS AND LIABILITIES**

Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to its ownership and use of the land and Open Space Area, including the payment of all taxes levied against the land by government authority as they become due. Skagit County agrees to bear all costs and liabilities of any kind related to its rights in the Open Space Area. Grantor and Skagit County agree to indemnify and hold each other harmless from all liability, including liability resulting from releases of hazardous substances or wastes under federal, state or local laws, arising out of their respective rights in and use of the Open Space Area of the Land. This indemnity shall extend to liability arising out of use by agents, contractors, subcontractors and employees of the indemnifying party. Any forbearance by Skagit County to exercise its rights under this Easement in the event of any breach of any terms of this Easement by Grantor, or any knowledge by Skagit County of such breach shall not be deemed or construed to extinguish or diminish Grantor's obligation to indemnify and hold Skagit County harmless under this paragraph.

**XI. RECORDATION**

Skagit County shall record this instrument in a timely fashion in the official records of Skagit County, Washington, and may re-record it at any time as may be required to preserve its rights in this Easement.

**XII. SUCCESSORS**

The covenants, terms and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running with the Land. Any subsequent transfer of interest in the Land shall be subject to the terms and conditions set out in this easement.

**XIII. ASSIGNMENT**

Skagit County agrees not to assign, transfer or encumber its interest in the Open Space Area granted herein nor delegate its duties under this Easement.

**XIV. MODIFICATION**

The parties may modify this Easement by mutual agreement; provided that the modification is consistent with the purposes of this Easement. Any such modification shall be in writing, signed by all parties and recorded in the official records of Skagit County, Washington.

**XV. DURATION AND TERMINATION**

Under this program, the dedication of the Open Space Area to "Open Space-Natural Resource Lands (OS-NRL)" may only be extinguished upon a declaration in a court of competent



jurisdiction finding that the land no longer has long term commercial significance for the production of food, agricultural products, timber or extraction of minerals or by a change in the Comprehensive Plan Map designation and then only after all of the required criteria are successfully applied allowing for such a change. (See Section XV, Duration and Termination).

**A. Easement Duration.** This Easement shall extend in perpetuity from the date of its grant to Skagit County unless it is terminated as provided in subsection B below.

**B. Easement Termination.** This Easement will terminate at such time that the Land no longer has long-term commercial significance for the production of food, agriculture products, timber or extraction of minerals and the land designation of the property is changed on the Comprehensive Plan Map to a non-natural resource lands (NRL) land designation. In the case of lands zoned Ag-NRL and IF-NRL, restrictions defined in this Easement the finding that it is no longer possible to commercially use the Land for the production of food, agriculture products, timber, or extraction of minerals shall be made by a court of competent jurisdiction.

Upon termination of this easement, Skagit County shall grant a release returning the Easement back to Grantor. Skagit County shall record this release in a timely fashion in the official records of Skagit County, Washington.

## **XVI. GENERAL PROVISIONS**

**A. Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the State of Washington.

**B. Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the effecting the purposes of this Easement and the policy and purposes of RCW 64.04.130, Chapter 84.34 RCW, and the Skagit County Comprehensive Plan, as may be amended from time to time. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

**C. Severability.** If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.

**D. Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in a modification that complies with Section XIV of this Easement.

**E. "Grantor" - "Skagit County".** The terms "Grantor" and "Skagit County," wherever used in this Easement, and any pronouns used in their place, shall be held to mean and include,



respectively, the above-named Grantor, and its personal representatives, heirs, successors, and assigns, and the above-named Skagit County and its successors.

**G. Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

**XVII. SCHEDULE OF EXHIBITS**

- A. Legal Description of the Land.
- B. Drawing and Aerial Photograph of NRLE
- C. Existing Title Exceptions.
- D. Hearing Examiner Decision for Special Use Permit.

TO HAVE AND TO HOLD unto Skagit County and its successors.

IN WITNESS WHEREOF, the undersigned execute this Deed of Natural Resource Land Easement this 19<sup>th</sup> day of November, 2009.

Norman L. Overnell  
(husband)

Eleanor A. Overnell  
(wife)

**ACKNOWLEDGEMENT**

State of Washington     )  
                                  ) ss.  
County of Skagit        )

I certify that I know or have satisfactory evidence that Norman L. Overnell and Eleanor A. Overnell are the persons who appeared before me, and said persons each acknowledged that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: November 19, 2009

Lynn K. McMILLAN  
(Signature)

Notary Public (Title)

Residing in Concrete

My appointment expires 7/23/2011



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Skagit County Auditor

SKAGIT COUNTY hereby accepts the above Deed of Natural Resource Lands Easement.

Dated this 22 day of December, 2009.

SKAGIT COUNTY BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON

Kenneth A. Dahlstedt  
Kenneth A. Dahlstedt, Chairman

Sharon D. Dillon  
Sharon D. Dillon, Commissioner

Ron Wesen  
Ron Wesen, Commissioner

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

DEC 30 2009

State of Washington )  
                                  ) ss.  
County of Skagit )

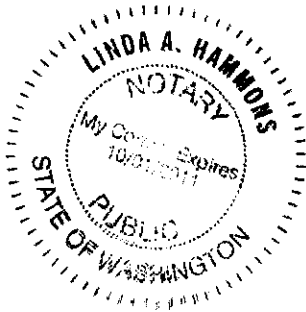
Amount Paid \$ 0  
Skagit Co. Treasurer  
By lp Deputy

I certify that I know or have satisfactory evidence that Kenneth A. Dahlstedt and Sharon D. Dillon and Ron Wesen is/are the person(s) who appeared before me, and said person(s) acknowledged that he and/or she signed this instrument, on oath stated that he and/or she was authorized to execute the instrument, and acknowledged it as a member of the Board of Commissioners of Skagit County to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: December 22, 2009

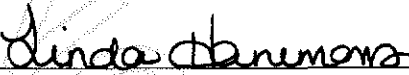
Linda Hammond  
\_\_\_\_\_  
(Signature)

Clerk of the Board (Title)  
Residing in Skagit County, WA  
My appointment expires 10/01/2011

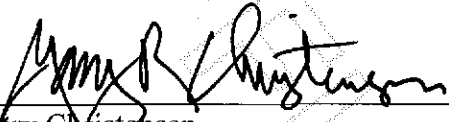


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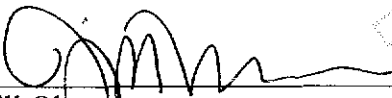
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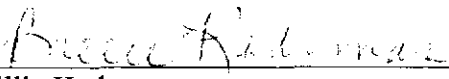
  
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Linda Hammonds  
Clerk of the Board

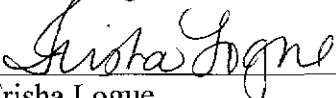
Approved as to content:

  
\_\_\_\_\_  
Gary Christensen,  
Director, Planning and Development Services

Approved as to Form:

  
\_\_\_\_\_  
Jill Olson  
Civil Deputy Prosecuting Attorney

  
\_\_\_\_\_  
Billie Kadrmas,  
Risk Manager

  
\_\_\_\_\_  
Trisha Logue,  
Budget Director



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**EXHIBIT A  
LEGAL DESCRIPTION**

That portion of the Southeast ¼ of Section 14, Township 35 North, Range 8 East, W.M., lying Southerly of Concrete-Sauk Valley Road, except that portion of said Southeast ¼, described as follows: Beginning at the point where the West line of the East 657.75 feet of the West ½ of the Southeast ¼ of said Section 14 intersects the South line of the Concrete-Sauk Valley Road; thence S 00°31'28"W (equals S 01°46'45"W in the above description) along the West line of said East 657.75 feet, a distance of 494.18 feet; thence S 82°21'52"W, a distance of 8.98 feet to the point of curvature of a curve to the left having a radius of 100.00 feet; thence Southwesterly along said curve through a central angle of 59°11'15" and an arc distance of 103.30 feet; thence S 23°10'37"W, a distance of 114.77 feet; thence N 19°33'51"W, a distance of 203.63 feet to a point on the southerly extension of the West line of the East 858.88 feet of the Northwest ¼ of the Southeast ¼ of said Section 14; thence N 00°31'28"E along the West line of said East 858.88 feet, a distance of 437.77 feet to the South line of the Concrete-Sauk Valley Road; thence N 81°15'14"E along said south line, a distance of 203.79 feet to the point of beginning of this description, and except that portion of the West ½ of the Southeast ¼ of Section 14, Township 35 North, Range 8 East, W.M., described as follows: Beginning at the point where the West line of the East 657.75 feet of the West ½ of the Southeast ¼ of said Section 14 intersects the South line of the Concrete-Sauk Valley Road; thence S 00°31'28"W along the West line of said East 657.75 feet, a distance of 494.18 feet; thence N 82°21'52"E, a distance of 52.14 feet; thence N 00°48'08"W, a distance of 209.13 feet; thence N 85°30'53"E, a distance of 173.00 feet to a point on a curve to the right, from which the radius point bears N 47°25'10"E, a distance of 140.74 feet; thence Northerly along said curve through a central angle of 38°37'25" and an arc distance of 94.87 feet; thence N 03°57'26"E, a distance of 205.08 feet to the South line of the Concrete-Sauk Valley Road; thence S 81°15'14"W along said South line, a distance of 167.73 feet to the point of beginning of this description, and also except that portion of the Southwest ¼ of the Southeast ¼ of Section 14, Township 35 North, Range 8 East, W.M., lying Westerly of the following described line: Beginning at the Southwest corner of the Southeast ¼ of said Section 14; thence N 00°46'11"E along the West line of said Southeast ¼, a distance of 809.19 feet to the point of beginning of this line description; thence S 88°37'56"E, a distance of 35.69 feet; thence N 00°59'45"E, a distance of 281.18 feet; thence N 45°02'39"W, a distance of 51.32 feet to the West line of said Southeast ¼ and the terminus of this line description, and also except that portion of the South ½ of the Southeast ¼ of Section 14, Township 35 North, Range 8 East, W.M., lying Westerly of the Concrete-Sauk Valley Road and Southerly of the following described line: Beginning at the Southwest corner of the Southeast ¼ of said Section 14; thence N 00°46'11"E along the West line of said Southeast ¼, a distance of 253.76 feet to the point of beginning of this line description; thence N 86°53'03"E, a distance of 489.69 feet; thence N 60°53'50"E, a distance of 1,730.00 feet to the West line of said Concrete-Sauk Valley Road and the terminus of this line description, and also except that portion of the Southwest ¼ of the Southeast ¼ of Section 14, Township 35 North, Range 8 East, W.M., described as follows: beginning at the Northeast corner of the Southwest ¼ of the Southeast ¼ of said Section 14; thence S 87°37'44"W along the North line of said Southwest ¼ of the southeast ¼, a distance of 250.00 feet to the Northwest corner of Tract 2 described in quit claim deed to Cynthia A. Ovenell Kleinhuizen recorded under Auditor's File No. 200410280146 and the point of beginning of this description; thence S 87°37'44"W, a distance of 84.87 feet; thence



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S 00°31'28"W parallel with the East line of said Southwest ¼ of the Southeast ¼, a distance of 200.00 feet; thence N 87°37'44"E, a distance of 84.87 feet to the Southwest corner of said Ovenell Kleinhuizen parcel; thence N 00°31'28"E along the West line of said Ovenell Kleinhuizen parcel, a distance of 200 feet to the point of beginning of this description, and also except all that portion of the Northeast ¼ of the Southeast ¼ of Section 14, Township 35 North, Range 8 East, W.M., lying Southeasterly of the Concrete Sauk Valley County Road, and also except the East 84.76 feet of the Northwest ¼ of the Southeast ¼ of said Section 14 (as measured at right angles to the east line of said subdivision) lying southerly of the Concrete Sauk Valley County Road, and also except that portion of the Southeast ¼ of Section 14, Township 35 North, Range 8 East, W.M., more particularly described as follows: the West 100 feet of the East 184.6 feet (as measured at right angles to the East line) of that portion of the Northwest ¼ of the Southeast ¼ lying Southerly of the Concrete Sauk Valley County Road, and also except that portion of the Southeast ¼ of Section 14, Township 35 North, Range 8 East, W.M., more particularly described as follows: beginning at the Southwest corner of the Northeast ¼ of the Southeast ¼; thence West along the South line of the Northwest ¼ of the Southeast ¼, a distance of 250.00 feet; thence South, parallel to the East line of said Northwest ¼ of the Southeast ¼, a distance of 200.00 feet; thence East, parallel to the South line of said Northwest ¼ of the Southeast ¼ to the West line of the Concrete Sauk Valley County Road; thence Northwesterly, along said Westerly line, to an intersection with the South line of the Northeast ¼ of the Southeast ¼ of said Section 14; thence West, along said South line, to the point of beginning, and also except County Roads. Situate in the County of Skagit, State of Washington.





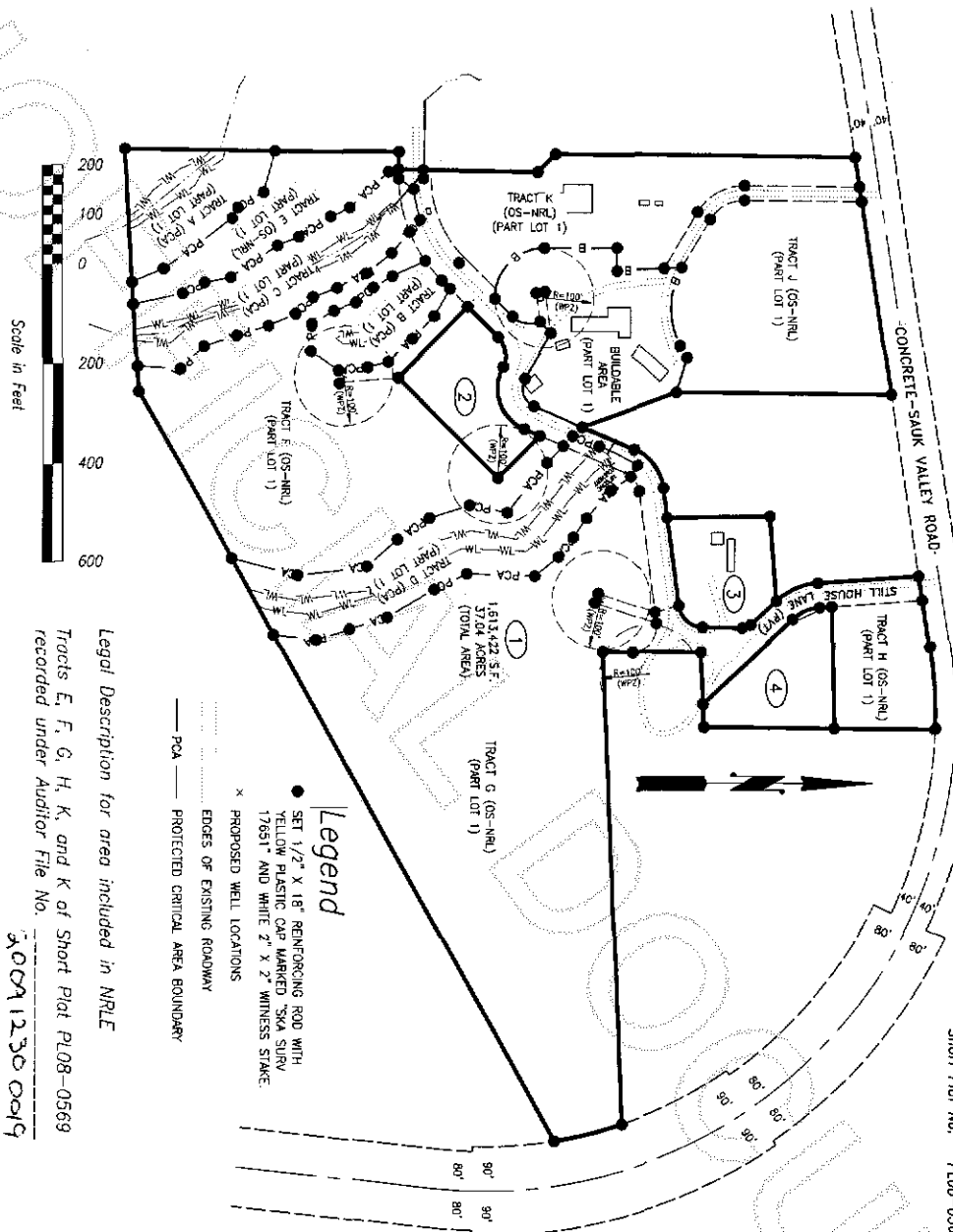
**EXHIBIT B**  
**DRAWING AND AERIAL PHOTOGRAPH OF NRLE**

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Survey in the SE1/4 of the SE1/4, the SW1/4 of the SE1/4, and the NW1/4 of the SE1/4 of Section 14, Twp. 35 N., Rng. 8 E., W.M.

Short Plat No. P108-0569

Legal Description for area included in NRLE  
 Tracts E, F, G, H, K, and K of Short Plat P108-0569  
 recorded under Auditor File No. 300912300019

- Legend**
- SET 1/2" X 1/8" REINFORCING ROD WITH YELLOW PLASTIC CAP MARKED SKA SURV 1785T AND WHITE 2" X 2" WILNESS STAKE
  - x PROPOSED WELL LOCATIONS
  - EDGES OF EXISTING ROADWAY
  - PROJECTED CRITICAL AREA BOUNDARY

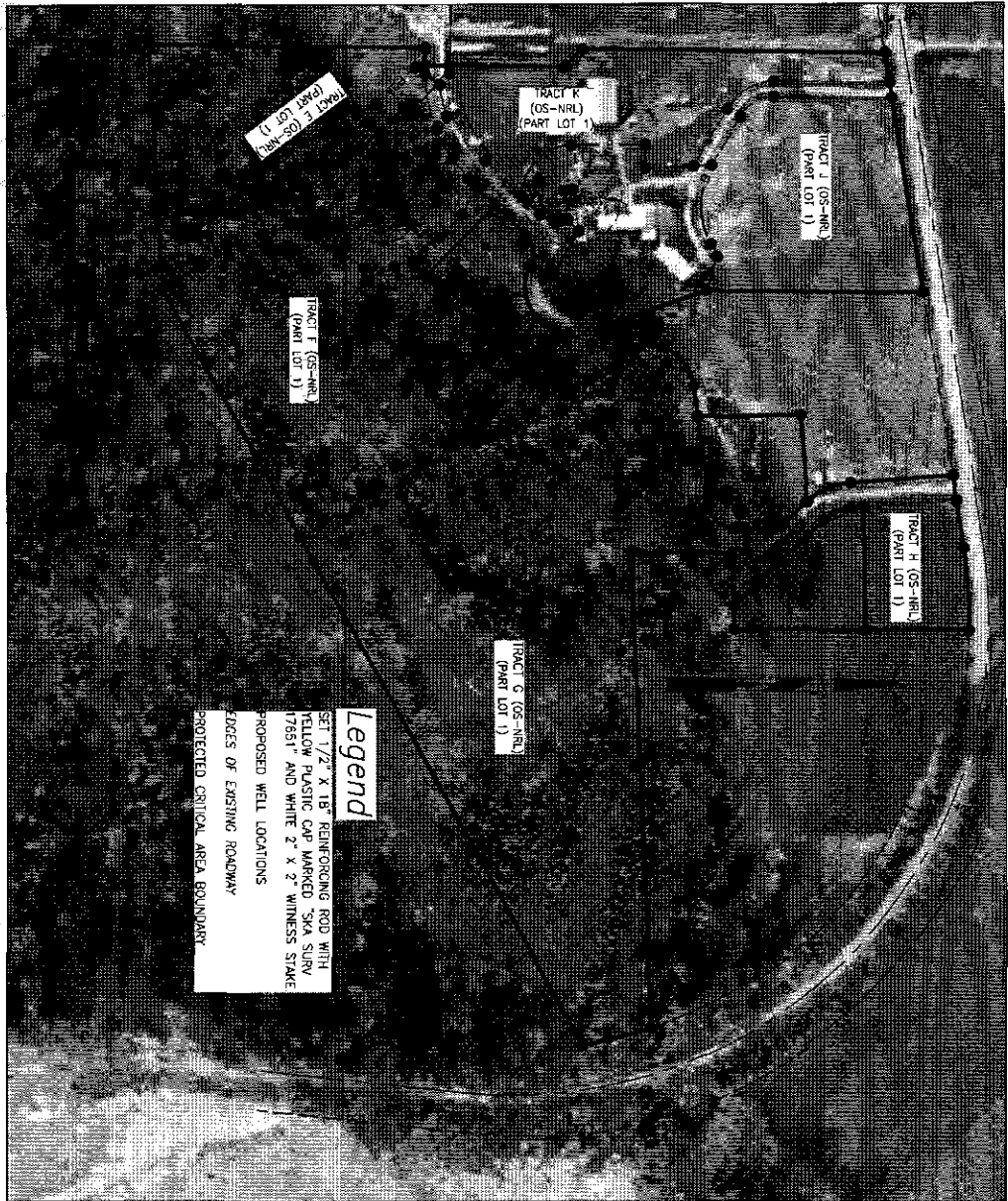
Exhibit B  
 NRLE Site Plan  
 Norman & Eleanor  
 Overnell Short Card  
 November 18, 2009



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**Legend**  
 SET 1/2" X 18" REINFORCING ROD WITH  
 YELLOW PLASTIC CAP MARKED "S&A SURV  
 17881" AND WHITE 2" X 2" WILMEX STAKE  
 PROPOSED WELL LOCATIONS  
 EDGES OF EXISTING ROADWAY  
 PROTECTED CRITICAL AREA BOUNDARY

Exhibit B  
 NRLE Aerial  
 Norman & Eleanor  
 Overnell Short Card  
 November 18, 2009



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**EXHIBIT C  
EXISTING TITLE EXCEPTIONS**

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## EXCEPTIONS:

A. Terms and conditions of Notice of On-Site Sewage System Status, recorded July 16, 1987, under Auditor's File No. 8707160019.

## B. TITLE NOTIFICATION, AND THE TERMS AND CONDITIONS THEREOF

Between: Skagit County  
And: Norman & Eleanor Ovenell  
Recorded: February 25, 1997  
Auditor's File No.: 9702250062  
Regarding:

This parcel lies in or within 300 feet of land designated as resource lands by Skagit County. A variety of natural resource land activities occur in the area that may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals including herbicides, pesticides, and fertilizers, or from spraying, pruning, harvesting or extraction which occasionally generates dust, smoke, noise, and odor. Skagit County has established resource uses as priority uses on designated natural resource lands. Residents of such property should be prepared to accept such inconveniences or discomfort from normal, necessary natural resource lands operations when performed in compliance with best management practices and local, state and federal law. Resource lands include Rural Resource - NRL, Agriculture - NRL, Industrial Forest - NRL and Secondary Forest - NRL and Mineral Resource Overlay.  
(Affects Parcel "C")

## C. TERMS AND CONDITIONS OF SPECIAL USE PERMIT FOR DESTINATION RECREATION RESORT:

Recorded: March 7, 1997  
Auditor's No.: 9703070004  
Affects: Parcels "B" and "C"

## D. TERMS AND CONDITIONS OF NOTICE FOR MAINTAINING WATER SYSTEM:

Recorded: May 5, 2000  
Auditor's No.: 200005050062

## E. DECLARATION OF COVENANT AND THE TERMS AND CONDITIONS THEREOF:

Executed By: Norman and Eleanor Ovenell  
Recorded: May 5, 2000  
Auditor's No.: 200005050063  
As follows:

"NOW, THEREFORE, the grantor(s) agree(s) and covenant(s) that said grantor(s), his (her) (their) heirs, successors and assigns will not construct, maintain, or allow to be constructed or maintained upon the said land of the grantor(s), any potential source of contamination, such as septic tanks and drainfields, sewerlines, underground storage tanks, roads, railroad tracts, vehicles, structures, barns, feed stations, grazing animals, enclosures for maintaining fowl or animal manure, liquid or dry chemical storage, herbicides, insecticides, hazardous waste, or garbage of any kind or description, within 100 (One Hundred) feet of the well herein described, so long as the same is operated to furnish water for public construction."



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EXCEPTIONS CONTINUED:

F. COVENANTS, CONDITIONS, AND RESTRICTIONS CONTAINED IN INSTRUMENT:

Recorded: October 28, 2004, September 9, 2008  
Auditor's Nos.: 200410280146, 200809090119, 200809090120, 200809090121  
and 200809090122

As follows:

"The above described property will be combined or aggregated with contiguous property owned by the purchaser. This boundary adjustment is not for the purposes of creating an additional building lot."

G. Easements for ingress, egress and utilities as granted and disclosed by that instrument recorded under Skagit County Auditor's File No. 200410280146 (see instrument for full particulars).

H. TITLE NOTIFICATION, AND THE TERMS AND CONDITIONS THEREOF:

Between: Skagit County  
And: Norman Ovenell, et al  
Recorded: April 1, 2005  
Auditor's File No.: 200504010133  
Regarding:

This parcel lies within an area or within 500 feet of land designated as natural resource land (agricultural, forest or mineral resource land of long-term commercial significance) by Skagit County. A variety of natural resource land commercial activities occur or may occur in the area that may not be compatible with non-resource uses and may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying, pruning, harvesting or extraction with associated activities, which occasionally generates traffic, dust, smoke, noise, and odor. Skagit County has established natural resource management operations as a priority use on designated natural resource lands, and area residents should be prepared to accept such incompatibilities, inconveniences or discomfort from normal, necessary natural resource lands operation when performed in compliance with best management practices and local, state and federal law. In the case of mineral lands, application might be made for mining-related activities including extraction, washing, crushing, stockpiling, blasting, transporting and recycling of minerals. If you are adjacent to designated natural resource lands, you will have setback requirements from designated natural resource lands consistent with SCC 14.16.810.



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## EXCEPTIONS CONTINUED:

## I. TITLE NOTIFICATION, AND THE TERMS AND CONDITIONS THEREOF:

Between: Skagit County  
And: Cynthia A. Ovenell  
Recorded: February 7, 2005  
Auditor's File No.: 200502070105  
Regarding:

This parcel lies within an area or within 500 feet of land designated as natural resource land (agricultural, forest or mineral resource land of long-term commercial significance) by Skagit County. A variety of natural resource land commercial activities occur or may occur in the area that may not be compatible with non-resource uses and may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying, pruning, harvesting or extraction with associated activities, which occasionally generates traffic, dust, smoke, noise, and odor. Skagit County has established natural resource management operations as a priority use on designated natural resource lands, and area residents should be prepared to accept such incompatibilities, inconveniences or discomfort from normal, necessary natural resource lands operation when performed in compliance with best management practices and local, state and federal law. In the case of mineral lands, application might be made for mining-related activities including extraction, washing, crushing, stockpiling, blasting, transporting and recycling of minerals. If you are adjacent to designated natural resource lands, you will have setback requirements from designated natural resource lands consistent with SCC 14.16.810.



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**EXHIBIT D  
HEARING EXAMINER DECISION  
SPECIAL USE PERMIT**

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AFTER RECORDING RETURN TO:  
SKAGIT COUNTY HEARING EXAMINER  
700 SOUTH SECOND  
MOUNT VERNON, WA 98273

DOCUMENT TITLE: Special Use Application SP 96 0368

GRANTOR(S): SKAGIT COUNTY HEARING EXAMINER

GRANTEE: NORMAN and ELEANOR OVENELL

ABBREVIATED LEGAL DESCRIPTION: located at 4442 Sauk Valley Road, Concrete, WA; within portions of the East 3/4 and Government Lots 9, 10 and 11 of Section 11; and portions of the East 1/2 of Section 14 and a portion of the Northeast 1/4 of Section 23; all within Township 35 North, Range 8 East, W.M., Skagit County, Washington.

ASSESSOR ACCOUNT NO/PARCEL NO: 350823-1-001-0001; 350814-2-001-0000, -1-001-0004, -1-003-0000, -3-001-0107, -4-004-0001, -4-004-0200, -4-001-0105, -4-001-0204, -0-007-0008; 350811-0-008-0000, -0-005-0003

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**SKAGIT COUNTY HEARING EXAMINER  
STATE OF WASHINGTON**

In the matter of:  
Application No. SP 96 0368  
of NORMAN and ELEANOR OVENELL  
for a Special Use Permit for:  
To allow development and operation of  
a destination recreation resort.

Findings of Fact  
Entry of Order  
No. SP 96 0368

THIS MATTER having come regularly before the Skagit County Hearing Examiner for a Public Hearing under an application filed with the Skagit County Planning and Permit Center on behalf of the Applicant requesting a Special Use Permit as described in the attached Report and Findings of that Department and located at 4442 Sauk Valley Road, Concrete, WA; within portion of the East 3/4 and Government Lots 9, 10 and 11 of Section 11; and portions of the East 1/2 of Section 14; and a portion of the NE 1/4 of Section 23; all within Township 35 North, Range 8 East, W.M., Skagit County, Washington;

Assessor Account No: 350823-1-001-0001; 350814-2-001-0000, -1-001-0004, -1-003-0000, -3-001-0107, -4-004-0001, -4-004-0200, -4-001-0105, -4-001-0204, -0-007-0008; 350811-0-008-0000, -0-005-0003

And, notice having been given to all property owners within 300 feet of said property and all matters in the file having been considered together with the testimony, evidence, and exhibits in open hearing and made a part of the record in this matter; the Hearing Examiner makes the following findings of fact.

**FINDINGS OF FACT**

1. February 19, 1997 was fixed as the date of the public hearing and the Hearing Examiner held a public hearing on that date.
2. All persons present at the Public Hearing were given an opportunity to present evidence and testimony, and all correspondence received was made a part of the record.
3. The Planning and Permit Center issued a Staff Report and Findings. The Hearing Examiner adopts Findings no. one (1) through ten (10) as presented in that report (a copy of which is attached to this document) with the following changes:

Finding No. 5, second sentence should read: However, phases C and E sit on a plateau much higher than the river plain and phases A, B and D sit on a hill south of the Concrete-Sauk Valley Road. Thus, all five phases are out of any designated flood hazard areas.

Finding No. 7, sub-section d, fourth paragraph, second sentence should read: Any campfire shall be maintained in a concrete fire pit which does not exceed five (5) feet in diameter. The firepits shall be surrounded by a 10 foot wide ring of gravel. Any brush should be cut down an additional five feet back from the gravel. There shall be reasonably available to each campfire a means of fire control, i.e., fire extinguishers and/or water hoses.

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Finding No. 7, add the following: Phase F: Camping Adirondacks. 8-10 Adirondacks may be placed on the river plain under the following conditions:

1. Each be built on skids so that they can be removed from the river plain whenever flood warnings are issued.
2. Each one shall be no larger than 8 feet by 10 feet with three walls, a floor and a roof.
3. Each one shall contain no fixtures or utilities other than a couple of bunkbeds and shelves.
4. Each one shall be built of natural colored materials.
5. Each one shall be placed at least 40 feet from the river.
6. Restroom facilities will be maintained on the plateau above the river plain.

4. The Hearing Examiner has reviewed this application with respect to the following criteria as required by Section 14.04.150(3)(d) of the Skagit County Code:

1. Conformity to (or compatibility with) the Comprehensive Plan in respect to the compatibility with existing and future land use and circulation;
2. The zoning of subject property and surrounding properties and the conformance of the application with the zoning ordinance.
3. Automobile or truck traffic and parking and its effect on surrounding community;
4. Noise, odors, heat, vibration, air and water pollution potential of the proposed use;
5. Intrusion of privacy;
6. Design of the site and structures as to possible effects on the neighborhood;
7. In addition to possible effects on the neighborhood in which the use is to located, the potential effects on the region shall be considered.
8. Potential effects regarding the general public health, safety, and general welfare.

5. The Hearing Examiner makes the following findings of fact as required by Section 14.04.150 (3)(e) of the Skagit County Code:

- a. The project, with the appropriate conditions and/or modifications and/or restrictions (if applicable and necessary are listed as conditions of approval below) would be compatible with the environment and would carry out the objectives of the comprehensive plan, the zoning ordinance, and other plans, codes, and ordinances of Skagit County.

**DECISION**

The Hearing Examiner **APPROVES** the application for a Special Use Permit, subject to the following conditions:

1. The project must be started within two years of the date of this order or the Special Use Permit becomes void.

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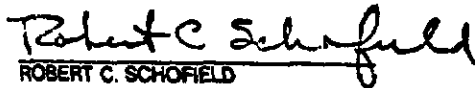
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2. The Planning and Permit Center shall be notified of any change of ownership or operator and the acceptance of the conditions of the permit by the new owner or operator. Lack of notification or acceptance shall be cause for the immediate cancellation of this permit.
3. All applicable local, state and federal land use permits shall be obtained prior to start of operation (i.e. building permits, on-site sewage disposal system installation permit, all Health Department permits).
4. All construction shall comply with the Skagit County Fire Marshal in regard to fire flow. All construction shall comply with the Uniform Building Code in regard to public entry.
5. The applicant shall adhere as closely as possible to the proposal as outlined in the Narrative Statement.
6. There shall be no campfires outside of a designated fire pit. Any campfire shall be maintained in a concrete fire pit not to exceed five (5) feet in diameter. Each firepit shall be surrounded by a 10-foot wide ring of gravel. Brush shall be cleared a minimum of five feet from the edge of the gravel barrier. Fire extinguishers and/or water hoses shall be provided within a reasonable distance. Outdoor burning shall comply with any burn bans as designated by Skagit County.
7. All buildings with on-site restroom and/or shower and/or laundry facilities shall be connected to an on-site sewage disposal system. All on-site sewage disposal systems shall comply with the appropriate on-site sewage disposal code.
8. All future construction shall comply with Skagit County Critical Areas ordinance in effect at the time.
9. The applicant shall comply with SCC§14.04.180, Performance Standards.

This decision shall become final fifteen (15) calendar days from the date of this decision unless Reconsideration is requested in accordance with SCC§ 14.01.057 or Appeal is made to the Skagit County Board of Commissioners in accordance with SCC§ 14.01.061.

SKAGIT COUNTY HEARING EXAMINER

  
ROBERT C. SCHOFIELD

Date of Action: March 6, 1997

Copies Transmitted to Applicant: March 6, 1997

Attachment: Staff Report and Findings

C: Applicant, Applicant File, Board of County Commissioners, Hearing Examiner

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SKAGIT COUNTY PLANNING AND PERMIT DEPARTMENT  
FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER  
HEARING DATE: FEBRUARY 19, 1997 HEARING EXAMINER  
APPLICANT: NORMAN & ELEANOR OVENELL EXHIBIT #5  
APPLICATION NUMBER: SPECIAL USE REQUEST # PL-96-0368  
ADDRESS: 4442 SAUK VALLEY ROAD  
CONCRETE, WA 98237

PROJECT LOCATION: Located at 4442 Sauk Valley Road, Concrete, WA; within portions of the East ¼ and Government Lots 9, 10, and 11 all within Section 11; portion of the East ½ of Section 14, all portions within Township 35 North, Range 8 East, W.M., Skagit County, Washington.

PROJECT DESCRIPTION: Special Use Request to allow the development and operation of a destination recreation resort.

ASSESSOR'S ACCOUNT NUMBER: All Account Numbers on file

STAFF FINDINGS:

1. The following items are submitted as exhibits:
  1. Application, site plan, and narrative statements dated September 3, 1996
  2. Environmental Checklist, dated September 3, 1996  
Determination of Nonsignificance dated January 9, 1997
  3. P.U.D. letter to John Milnor, dated September 17, 1996
2. The subject property is currently designated as Rural Resource and Agricultural by the Natural Resource Lands Ordinance and map, as adopted September 11 and amended September 17, 1996. However, it should be noted that at the time the application was submitted, the subject property was designated Residential Reserve and Agricultural Reserve and the Eastern District Comprehensive Plan designated the area Agricultural and Rural Residential. Thus, the application will be reviewed in accordance with Chapter 14.04.095 and 14.04.115 Residential Reserve and Agricultural Reserve, respectively, of the Skagit County Code.
3. The public hearing has been advertised in accordance with the requirements of Chapter 14.04 of the Skagit County Code.

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4. The application has been reviewed in accordance with the State Environmental Act Guidelines (WAC 197-11 AND RCW 43.12). A Determination of Non-significance was issued by the Skagit County Department of Planning and Community Development on January 9, 1997. The DNS became effective on January 24, 1997 after a fifteen day comment period.
5. There is a portion of the subject property that is located in a designated flood hazard area. However the majority of the subject property is located south of the Sauk Valley Road and thus, out of any designated flood hazard areas.

The application has also been reviewed in accordance with Chapter 14.06 of the Skagit County Code, Critical Areas Ordinance. It has been determined that, although there are portions of the property located along the Skagit River, beaver ponds located on the property, as well as many wetland areas also on the property, the applicant has provided for these areas by proposing all development be more than 100 ft. from the stream.

6. The applicants own approximately 450 acres. The applicants have their residence and many accessory buildings associated with a working cattle ranch located on the property. Also located on the property are two permanently placed mobile home that provide additional housing for hired help and older family members.

The applicants are requesting a Special Use Permit to be allowed to develop and operate a destination recreation resort. The following is an excerpt from the Narrative Statement provided by the applicant (the entire Narrative is submitted as an exhibit):

The following are the five proposed phases and the activities concurrent to all phases of the Double O Ranch Developments. Each phase will be developed as family members and their resources become available to undertake the development proposed for each phase. Each phase will be expected to meet the county health and building standards in existence at the time each phase is undertaken. Though the phases are labeled in alphabetical order they will not necessarily be undertaken in the order listed. The timeline of phased development included on the Narrative Details herewith is a rough approximation:

Phase A: Develop the ranch house into a four bedroom bed and breakfast operation. In addition, utilize an existing two bedroom mobile home for larger groups and/or families.

The bed and breakfast portion will include full meal service, potential of utilizing a portion of the ranch house for conferences, as well a gift shop of local wares for guests.

Phase B: As warranted: it may become desirable to provide on-site housing for family members, working on the ranch. Thus, Phase B would be the development of four new homesites. These homesites would be developed on the wooded hillside to the south of the Concrete-Sauk Valley Road.

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Phase C: As warranted, the large wooded area on the north side of Concrete-Sauk Valley Road would be used for the construction of 10- 20 tourist cabins (A complete description of this Phase is contained in the Narrative Statement, submitted as an exhibit).

Phase D: Remodel and expand the Heritage Inn into an inn of 9-11 bedrooms serving three hot meals a day. If the conference room has not yet been built, it would be built at this time.

Phase E: Down on the plateau above the riverplain and beaver ponds, develop a 20 unit lodge with restaurant and gift/craft shop.

Timelines: Phase A to begin as soon as all required permits are acquired. Phase B: 1998-1999 with the four homes built between 1999 and 2006. Phase C: designed in 1998 with construction beginning in 1999 and continuing through 2004. Phase D: designed in 1998 or 1999 and constructed a year later. Phase E designed in 2001 and construction in 2002.

The timelines are approximate and the applicants are requesting the ability to modify the timelines as necessary.

If the application is approved, the applicants have indicated that Phase A will utilize the existing well; Phase B will utilize new wells as the PUD has "little interest in pumping water up to that area". Phase C will utilize a new tie-in with the existing well or an upgrade of it. Phase E will also utilize the new tie-in with PUD's Cedargrove water system.

7. Section 14.04.150 Unclassified Special Uses of the Skagit County Code indicates that certain items will be reviewed when approving or denying a Special Use Permit. Those items and staff comments are as follows:

a. Conformity to the Comprehensive Plan in respect to the compatibility with existing and future land use and circulation.

The Eastern District Comprehensive Plan designates the area as Forestry.

The Eastern District Comprehensive Plan does not provide any policies that support or oppose the project.

The Skagit County Regional Planning Policies adopted by the Board of Commissioners on July 1, 1992 do not provide any policies that support or oppose the project.

b. The zoning of the subject property and surrounding properties and the conformance of the application with the zoning ordinance.

The zoning of the subject property at time of application was Residential Reserve and Agricultural Reserve.

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Neither Section 14.04.095 Residential Reserve or 14.04.115 Agricultural Reserve do not allow the proposed project as an outright permitted use. Nor, does Section 14.04.150(2)g & i, respectively, Unclassified Special Uses, Residential Reserve and Agricultural Reserve, of the Skagit County Code, specifically indicate that an application for a Bed and Breakfast operation may be submitted. In addition, the proposed activities are similar and related to the proposed Bed and Breakfast operation. The Planning Department recognizes that the Special Use Permit process will allow for adequate review and public participation.

Section 14.04.150(2)j Unclassified Special Uses, Forestry, of the Skagit County Code, identifies several similar types of activities that allow review through the Special Use process. Those similar items include "Campgrounds, hunting and fishing camps, game preserves, gun clubs and travel trailer parks and resorts".

Thus the application is in compliance with the Skagit County Zoning Ordinance.

- c. Automobile traffic and parking and its effect on the surrounding community.

The subject property fronts on Concrete-Sauk Valley Road, south and east of Concrete. The access from the Concrete-Sauk Valley Road is well maintained and wide enough for any vehicle. The site plan as submitted, indicates a minimum of 11 parking spaces; 5 for the family and 6 for guests. If four additional family homes are constructed, each residence will require 2-3 parking spaces. If the application is approved, it will be necessary for each additional Phase to comply with the parking regulations in effect at the time, through the Skagit County Code. There is more than adequate area to comply with any parking requirements that may be necessary.

Although, all vehicle traffic will be individual, the Concrete-Sauk Valley Road is a well maintained, two lane major connecting road between this portion of the Upper Valley and Concrete and the western portions of the County.

If the application is approved, and Phases progress as proposed, at such time as cabins and/or a lodge are proposed for the area south of the Concrete-Sauk Valley Road, it will be necessary for the applicant to construct an access road that will comply with all Skagit County Fire Marshal regulations in effect at the time of construction.

- d. Noise, odors, heat, vibration, air and water pollution of the proposed use.

There should not be any pollution potential from the proposed project in regard to heat, noise, vibration or vibration.

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If the application is approved, during Phase C, it was indicated that cabins and possibly gazebos would be constructed. It is also proposed that there be a central fire pits to provide for sing-alongs, and fireside gatherings. These would be instead of fireplaces in each cabin.

In regard to air and odor pollution potential, that potential would come from outdoor fires.

It would be difficult, if not impossible for the Planning Department to condition and administer outdoor campfires. If the application is approved, every effort should be made to be considerate of adjacent property owners in regard to outdoor fires.

If the application is approved, the applicant should provide specific fire pits for any campfires and fires should be maintained properly and extinguished at night. Maintenance would include, but not necessarily be limited to, removal of all brush within 200 ft. of each fire pit and reasonably available means of fire control, i.e., fire extinguishers and/or water hoses.

If the application is approved, future proposed phases may include cabins, a lodge, a large addition to the main farmhouse. At such time, as those items are proposed, it will be necessary for all on-site sewage disposal systems to comply with all Skagit County regulations in effect at the time. Providing the on-site sewage disposal systems are installed and maintained properly, there should be minimal water pollution potential from the proposed project.

e. Intrusion on privacy.

If the application is approved, the Phase A will not impact the adjacent property owners, due to only the main house being utilized at this time. If the application is approved, at such time as the cabins and/or lodge are constructed, some intrusion of privacy will occur as a result of the construction of buildings. During construction it would be difficult to estimate the number of people on-site or the number and different types of equipment based on whether it is building or on-site sewage disposal system construction occurring.

If the application is approved, construction completed, the level of intrusion of privacy will be substantially reduced. The level will reduce to the applicants' own traffic, and guest traffic.

f. Design of the site and structures as to possible effects on the neighborhood.

All of the existing buildings are constructed on the south side of the Concrete-Sauk Valley Road. This area is actually above the road and looks down on the river and the area that would contain the lodge and/or cabins

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If the application is approved, the applicants have indicated that the proposed cabins would be small and located within the trees. In addition, there is a line of trees between the area proposed for the cabins and the pasture area for the cattle and the road. Providing this line of trees is maintained, there will be minimal impact from the cabins on the area, as they will not be seen.

9. In addition to possible effects on the neighborhood in which the use is to be located, the potential effects on the region shall be considered.

Again, an excerpt from the applicant's Narrative Statement indicates the potential positive impacts on the region and the neighborhood:

On ranch there will be bird and game watching, hiking, communing with nature, fishing, photography and other peaceful self-starting activities. Over time we will consider developing activities such as horseback riding, wagon rides, guided fishing trips, informal ranch and barn tours and other low key guided activities.

Off ranch we will inform guests of dining and shopping opportunities in Concrete, of Howard Miller Steelhead Park, the hiking, fishing and snow play activities available near Baker Lake, the trail up Sauk Mountain, scenic drives to the dams, Ross Lake and other Upper Valley towns and attractions.

- h. Potential effects regarding the general public health, safety, and general welfare.

The potential effects regarding the general public health, safety and general welfare are minimal as a result of the proposal.

8. The applicant has maintained continuous contact with the Skagit County Health Department during the application process. Prior to start of operation, it will be necessary for the Planning & Permit Department to receive a letter from the Health Department indicating that all necessary permits from that Department have been issued.
9. The applicant is proposing that, if the application is approved, as Phases are proposed and implemented, the majority of the phases will be managed by the applicants' five daughters. In addition, if all phases are implemented, the applicants are anticipating approximately a combination of a dozen full and/or part time employees.
10. If the application is approved, it will be necessary for the applicant to comply with Fire Marshal requirements for fire flow in regard to building construction.

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**RECOMMENDATIONS:**

Based on the above findings, the Skagit County Planning Department would recommend approval of the request with the following conditions:

1. All applicable local, state and federal land use permits shall be obtained prior to start of operation (i.e., building permits, on-site sewage disposal system installation permit, all Health Department permits).
2. All construction shall comply with the Skagit County Fire Marshal in regard to fire flow. All construction shall comply with the Uniform Building Code in regard to public entry.
3. The applicants shall adhere as closely as possible to the proposal as outlined in the Narrative Statement.
4. There shall be no campfires outside of a designated fire pit. Brush shall be cleared a minimum of 200 ft. from each specific fire pit. Fire extinguishers and/or water hoses shall be provided within a reasonable distance. Outdoor burning shall comply with any burn bans as designated by Skagit County.
5. All buildings serving anyone with on-site restroom and/or shower and/or laundry facilities shall be connected to an on-site sewage disposal system. All on-site sewage disposal systems shall comply with the appropriate On-site Sewage Disposal Code.
6. All future construction shall comply with Skagit County Critical Area ordinance in effect at the time.
7. The applicant shall comply with Section 14.04.180 Performance Standards of the Skagit County Code.

Prepared by: G.R  
Approved by:

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