



201106070022

Skagit County Auditor

LAND TITLE OF SKAGIT COUNTY

Document Title: 139376-0

Harbor Arrease + 22-002724

Reference Number:

Grantor(s):

1. State of Washington

additional grantor names on page

Grantee(s):

1. Moor-Clark Co.

additional grantee names on page

Abbreviated legal description:

Tide lands in front of tracts 14-16 LaConner Tide lands, plate 18

full legal on page(s)

Assessor Parcel / Tax ID Number:

additional tax parcel number(s) on page

I, Bob Weymuth, am hereby requesting an emergency non-standard recording for an additional fee provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document. Recording fee is \$62.00 for the first page, \$1.00 per page thereafter per document. In addition to the standard fee, an emergency recording fee of \$50.00 is assessed. This statement is to become part of the recorded document.

Signed: Bob Weymuth

Dated

6-7-11

BY THIS LEASE, by and between the STATE OF WASHINGTON, acting by and through the Department of Natural Resources, hereinafter called the Lessor, and MOORE-CLARK CO., INC., hereinafter called the Lessee, the Lessor leases to the Lessee on the terms and conditions as hereinafter set forth, the following described Harbor Area situate in Skagit County, Washington, to wit:

The Harbor Area of the Swinomish Channel fronting Tracts 15 and 16 and southwesterly 26.50 feet of Tract 14 within Government Lots 3 and 4 of Section 36; Township 34 North, Range 2 East, W.M., La Conner Tidelands Plates, bounded by the inner and outer harbor lines, the northeast line of the southwesterly 26.50 feet of Tract 14 produced northwesterly across the Harbor Area and the southwesterly line of said Tract 16 produced northwesterly across the Harbor Area, as shown in red on the attached Exhibit A, containing approximately .56 acres, more or less.

### SECTION 1 OCCUPANCY

1.1 Term. This lease shall commence on the 7th day of January 1989 and continue to the 1st day of January 2001.

### SECTION 2 USE OF PREMISES

2.1 Permitted Use. The Lessee shall have use of the leased premises for the purposes of maintaining and operating a loading and unloading facility for the processing of fish as shown on the attached exhibit and approved by the Lessor: Exhibit A - plat.

### SECTION 3 PAYMENT

#### 3.1 Rent.

(1) Annual Rent. Initial rent in the amount of \$3,154.77, for the period January 7, 1989 to January 1, 1990, based on an annual rent of \$3,207.51, and subsequent annual rent, as determined by the Lessor in accordance with Chapter 221, Laws of 1984 (RCW 79.90.450 - .902), or as amended by subsequent legislation, is due and payable in advance by the Lessee to the Lessor and is the essence of this lease, and is a condition precedent to the continuance of this lease or any rights thereunder. Payment is to be to the Department of Natural Resources, Olympia, Washington 98504.

(2) Inflation Adjustment. After payment of the initial rent, annual rent shall be adjusted each year thereafter according to the change in the Producer Price Index, as provided by regulations of the Department of Natural Resources.

(3) Interest Penalty for Past Due Rent Balances. A one percent charge, per month, shall be due to Lessor, from the Lessee, on any rent balance which is more than thirty days past due.

3.2 Leasehold Tax. The Lessee shall pay to the Lessor at Olympia, Washington 98504, the leasehold tax, if applicable, as set forth in Chapter 61, Laws of 1976, 2nd Ex. Sess., or as may be amended. The tax shall be due and payable at the same time the rental charged herein is due and payable. Failure to pay said tax when due and payable shall be considered a breach of the provisions of this lease and the Lessor shall be entitled to all remedies they are entitled to by law, and the remedies provided herein for a breach of a provision of this lease. Any delinquent taxes shall be a debt to the Lessor and in the event the Lessor is subject to any penalties or interest because of the failure of the Lessee to pay such taxes, such penalties and interest shall be payable by the Lessee to the Lessor and shall be considered a debt to the Lessor. In the event the Lessor suffers any costs of whatsoever nature, including attorney fees, or other costs of litigation in collecting said tax, such costs shall be payable by the Lessee and shall be considered a debt due and owing to the Lessor by the Lessee.

3.3 Revaluation of Rent. The Lessor shall at the end of the first four year period of the lease term and at the end of each subsequent four year period of the lease term, determine the annual rental in accordance with RCW 79.90.480 or as amended by subsequent legislation.



SECTION 4 RESERVATIONS AND CONDITIONS OF USE

4.1 Discrimination. The Lessee covenants and agrees that in the performance of this lease agreement, the Lessee shall conduct its activities in a manner that will assure fair, equal and non-discriminatory treatment of all persons regardless of race, creed, sex, marital status or ethnic origin. Notwithstanding any exemption contained in state or federal law, the Lessee shall comply with all federal and state laws, rules or regulations concerning hiring and employment and assuring the service of all patrons, customers, members or invitees without discrimination as to any person's race, creed, sex, marital status or ethnic origin.

Non-compliance with this clause by the Lessee shall constitute a breach of this lease and the Lessor may initiate appropriate formal or informal action to assure compliance or may, at its discretion, terminate this lease upon thirty day's notice to the Lessee setting forth the claimed violation or violations and giving the Lessee a right to appeal to the Commissioner of Public Lands for a contested case hearing in accordance with the State Administrative Procedures Act (RCW 34.04).

4.2 Improvements. No improvement in addition to those authorized by the Permitted Use clause herein, shall be placed upon the Harbor Area without the prior written authorization of the Lessor. Authorized improvements constructed or placed on the leased premises during the term of this lease by the Lessee, unless otherwise specified, are the property of the Lessee. Upon the cancellation or expiration of this lease, the Lessee agrees to sever, remove and dispose of those improvements on the premises designated by the Lessor within six months from date of termination or expiration. In those cases where the Lessor requires removal of improvements and such action is not taken by the Lessee, the Lessee agrees that the Lessor may remove such improvements and charge the Lessee for cost of removal and disposal. All improvements allowed to remain on the area herein described, upon termination or expiration of this lease, shall be the property of the Lessor.

4.3 Unauthorized Improvements. All improvements made on or to the premises without the written consent of the Lessor shall immediately become the property of the Lessor. The Lessor may, at its option, require the Lessee to remove and dispose of any or all improvements, and in those instances where such action is not taken by the Lessee, the Lessor may remove such improvements, charging the Lessee for the cost of the removal and disposal, and cancel the lease.

4.4 Entry. (a) The State shall have access to the Property at all reasonable times for the purpose of inspecting the Property and securing compliance with the terms and conditions of this lease.

(b) The right reserved in Subsection 4.4(a) above includes the right to perform or have performed such environmental tests, audits, surveys or investigations as the State, in its sole discretion, deems appropriate. Such tests, audits, surveys, or investigations may include, but shall not be limited to, the determination of whether the Lessee is improperly storing, handling or disposing of Hazardous Substances, as defined in Subsection 4.6(d) below, or of refuse, as defined in Subsection 4.6(b) below.

4.5 Access. The Lessor reserves the right of access to and across the leasehold premises for all purposes and further reserves the right to grant easements and other land uses on the premises to others when the easement or other land uses applied for will not unduly interfere with the use to which the Lessee is putting the premises or interfere unduly with the approved plan of development for the premises. No easement or other land uses shall be granted to third parties until payment for damages to the leasehold have been paid to the Lessee or a waiver of damages is signed by the Lessee.

4.6 Restrictions on Use. (a) Conformance with Laws. The Lessee shall, at its own expense, conform to all applicable laws, regulations, permits, orders or requirements of any public authority affecting the property and the use thereof. Copies of such permits or orders shall be supplied to the State upon request. The Lessee shall correct at the Lessee's own expense any failure of compliance created through the Lessee's fault or by reason of the Lessee's use.

(b) Refuse. The Lessee shall not make, or suffer to be made, any filling in of the Property or any deposit of rock, earth, ballast, refuse, garbage, waste matter (including chemical, biological or toxic wastes), hydrocarbons, any other pollutants, or other matter within or upon the Property, except as approved in writing by the State. If the Lessee shall fail to remove all nonapproved fill material, refuse, garbage, wastes or other of the above materials from the Property and restore the Property to its condition immediately prior to the deposition of the unauthorized material, the Lessee agrees that the State may remove such materials and charge the Lessee for the cost of removal and disposal together with interest thereon from the date of expenditure at the rate of one percent per month.





5.1 Assignment and Sublease. This lease, or any portion thereof, may not be assigned, mortgaged, sublet or otherwise transferred without the prior written consent of the Lessor. In granting such consent the Lessor reserves the right to change the terms and conditions of this lease as it may affect the assignee. Further, if the Lessee is a corporation or partnership and if at any time during the term of this lease any part or all of the corporate shares or partnership interests of the Lessee shall be transferred by

SECTION 5 REQUIREMENTS

sediment quality.  
issued by any federal, state or local regulatory agency related to water quality or (b) Provide copies to the State of all monitoring reports required by permits Property during the preceding calendar year.

(a) Submit a written report to the State prior to January 31 of each calendar year in which the Lessee shall summarize and describe all uses which have occurred upon the

4.9 Reports. Lessee shall, at the State's request:  
from the date of expenditure at the rate of one percent per month.  
receive full reimbursement from the Lessee upon demand, together with interest thereon conduct such tests, audits, surveys, or investigations to the State. If the Lessee fails to of such tests, audits, surveys, or investigations to the State. If the Lessee fails to Substances on the Property or associated natural resources resulting from or associated surveys, or investigations requested by the State during the term of the lease as are necessary to ascertain the existence, scope, effects, or potential effects, of hazardous Testing. The Lessee agrees to conduct, at its own expense, all tests, audits,

4.8 Testing. The Lessee agrees to conduct, at its own expense, all tests, audits, surveys, or investigations requested by the State during the term of the lease as are necessary to ascertain the existence, scope, effects, or potential effects, of hazardous by it, maintenance and design requirements of all improvements, rates of wharfage, dockage and other tolls to be imposed by the Lessee upon commerce for any of the purposes for which leased Harbor Areas may be used, and to change such regulations and rates from time-

4.7 Regulations. The Lessor shall have the right to regulate, under rules established to-time.  
at the rate of one percent per month.  
from the Lessee upon demand, together with interest thereon from the date of expenditure corrective action and the State shall be entitled to receive full reimbursement therefore State. If the Lessee fails to do so, the Lessee agrees that the State may take such direction to do so by the State, take corrective action measures satisfactory to the own expense, upon any failure to comply with the above subsections 4.6(a)-(e) and upon remedies available to the State. The parties expressly agree that the Lessee will, at its considered grounds for cancellation of the lease, in addition to the exercise of any other (f) Any failure to comply with the above subsections 4.6(a)-(e) shall be

facilities, and provide for waste handling and disposition.  
waste reception facilities, permit Coast Guard inspection of the adequacy of these December 31, 1988. Under that Act, Lessee may be required among other things to provide and Control Act (MPPRCA) of 1987 (Public Law 100-220), which will become effective other applicable laws and regulations, comply with the Marine Plastic Pollution Research (e) Marine Plastics Act. The Lessee shall, in addition to compliance with all employees, agents, assigns, sublessees, contractors, subcontractors, licensees, permittees, or invitees, and for any breach of this subsection 4.6(d).  
transportation, generation and/or sale of Hazardous Substances or that of Lessee's cleanup costs assessed against or imposed as a result of Lessee's use, disposal, (including attorneys' fees and costs), penalties (civil and criminal), and response or claims, costs (including testing, auditing and investigation costs), fees and, aquatic life and other natural resources), expenses, causes of action, suits, directors and agents with respect to any and all liability, damages (including damages to indemnity, defend, and save harmless the State and its agencies, employees, officers, and shall 3. The Lessee shall be fully and completely liable to the State, and shall taken by any government entity or private party on the Property.

orders or fines, and all response or interim cleanup actions taken by or proposed to be inspections of the Property by any regulatory entity concerning the same, all regulatory regulation or ordinance, as now enacted, or as subsequently enacted or amended, all of any Hazardous Substance, all failures to comply with any federal, state, or local law, 2. The Lessee shall immediately notify the State of all spills or releases statutes, and ordinances, now in existence or as subsequently enacted or amended.

1. The Lessee shall not keep on or about the Property, any substances now hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance (hereinafter collectively referred to as "Hazardous Substances"), unless the Lessee fully complies with all federal, state and local laws, regulations, states, and ordinances, now in existence or as subsequently enacted or amended.

(d) Hazardous, Toxic, or Harmful Substances.  
(c) Waste. At all times during the term, the Lessee shall neither commit nor suffer waste to be committed to the Property.

safe, assignment, bequest, inheritance, operation of law, or other disposition so as to result in a change in the present control of the corporation or partnership by the person or persons now owning a majority of the shares, or change in the holding of the corporate or partnership interest, the same shall constitute an assignment of this lease and as such shall require prior written consent of the Lessor. Failure to obtain written approval of any assignment defined in this lease shall be grounds for cancellation.

5.2 Maintenance.

(1) The Lessee, at its sole cost and expense, shall at all times keep, or cause all improvements regardless of ownership to be kept, in as good condition and repair as originally constructed or as hereafter put, except for reasonable use.  
(2) The Lessee shall not allow debris or refuse to accumulate on the leased premises, caused either by itself or any person on the premises. Failure to comply with this provision shall be cause to permit the Lessor to remove the debris and refuse and collect the cost of such removal from the Lessee and/or cancel this lease.  
(3) The Lessee may, following thirty days' notice to the Lessor, and after obtaining any required federal, state, or local permits, dredge the leased area as needed to maintain the water depths normal to the property. Specific written approval by the Lessor and payment for material is required for improvement dredging. In the event materials from improvement dredging are sold or deposited on privately owned property for improvement purposes, such material shall be paid for at the Lessor's appraisal.

5.3 Condition of Premises and Liability.

(1) The premises have been inspected by the Lessee and are accepted in their present condition. The Lessee agrees to defend and hold Lessor harmless from any and all claims suffered, or alleged to be suffered on the premises, or arising out of operations on the premises. The Lessor reserves the right to require the Lessee to conduct such sediment sampling and testing as the Lessor may direct. The Lessee agrees to remove any contaminated sediment, as may now or hereafter be defined by the federal and/or state regulatory agencies, as directed by the Lessor. The Lessee agrees to remove such sediments at its own expense and whether or not such sediments have been contaminated by the herein named Lessee.

(2) The Lessee shall carry with a responsible company or companies satisfactory to the Lessor, a sufficient amount of fire and casualty insurance to recover the value of any or all improvements located on the leased premises. A copy of such insurance policy or policies is to be endorsed and delivered to the Lessor with provision of ten days' notice of change, expiration and/or cancellation to the Lessor. In the event of fire or casualty damage to any improvement owned by the Lessor, or required to be left on the leased premises at the expiration of this lease, the paid insurance benefits shall be used to immediately replace said improvements in a manner acceptable to the Lessor or, if directed by the Lessor, rehabilitate the area in a manner suitable to the Lessor. Any portion of the insurance proceeds not so utilized shall be returned to the Lessor or if so permitted, to be used to satisfy any outstanding obligations incurred by reason of this lease being utilized for loan security. In the event of fire or casualty damage to any improvement owned by the Lessee, the paid insurance benefits shall be used to either replace the improvement, or in lieu thereof, rehabilitate the area in a manner suitable to the Lessor. The Lessee shall guarantee that all sublessees shall have provisions to either replace their own damaged improvements or to rehabilitate the area, as defined above.

5.4 Assessments.

The Lessee shall pay all the annual payments on all assessments that may be legally charged, whether or not such assessments have been levied against the leasehold or the Lessor by the assessing agency.

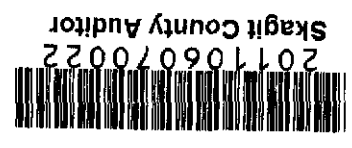
5.5 Insolvency of the Lessee. If the Lessee becomes insolvent, bankrupt, a receiver appointed, or his interest is transferred by operation of law, the Lessor may cancel this lease at its option. Insolvency as used herein, will mean the inability of the Lessee to meet obligations as they come due.

SECTION 6 MISCELLANEOUS

6.1 No Partnership. The Lessor is not a partner nor a joint venturer with the Lessee in connection with the business carried on under this lease and shall have no obligation with respect to the Lessee's debts or other liabilities.

6.2 Non-Waiver. Waiver by either party of strict performance of any provisions of this lease shall not be a waiver of, nor prejudice the party's right to require strict performance of the same provision or of any other provision in the future.

6.3 Attorneys' Fees. If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover, in addition to costs, such sum as the court may adjudge reasonable as attorneys' fees.



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Skagit County Auditor

201106070022



Amount Paid \$  
Skagit Co. Treasurer  
By *DM*  
Deputy

JUN 07 2011

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

6.4 Succession. Subject to the limitations as stated in paragraph 5.1 on transfer of the lessee's interest, this lease shall be binding upon, and inure to the benefit of the parties, their respective successors and assigns.

6.5 Notices. Any notice required or permitted under this lease shall be given when actually delivered or when deposited in the United States mail addressed as follows: To the Lessor: Department of Natural Resources, Mail Stop QW-21, Olympia, Washington 98504. To the Lessee: At the address given by the Lessee in the signature block, or as shown on later official documents of record with this lease.

6.6 Liens. (1) No person shall have the right to file or place any lien of any kind or character upon the land or improvements within the leasehold premises without the prior written consent of the Lessor.

(2) In the event unauthorized liens or other charges are placed on the leasehold premises, including land or improvements, arising out of the Lessee's actions directly or indirectly, the Lessee shall immediately cause such liens or charges to be discharged. The Lessor may forthwith cancel this lease if the Lessee fails to discharge such liens or charges after ten days' notice to do so by the Lessor. The Lessee shall pay and indemnify the Lessor for all costs, damages or charges of whatsoever nature, including attorneys' fees necessary to discharge such liens or charges, whether such costs, damages or charges are incurred prior or subsequent to any cancellation of this lease.

6.7 Default. If the Lessee shall violate or default any of the covenants and agreements contained herein, including the obligation to pay rent, then the Lessor may cancel this lease provided that the Lessee has been notified of the violation or default thirty days prior to such cancellation and such violation or default has not been corrected within such time. In the event the Lessor elects to cancel this lease, all improvements located thereon shall become the property of the state of Washington.

6.8 The Lessor's Right to Cure Defaults. (1) If the Lessee fails to perform any requirements or obligations under this lease, the Lessor shall have the option to correct any default of this lease by the Lessee after thirty days' written notice to the Lessee. All of the Lessor's expenditures to correct the default shall be reimbursed by the Lessee on demand, with interest at the rate of one percent per month accrued from the date of expenditure by the Lessor.

(2) In the event any violation or breach of the provisions of this lease is causing damage to the leasehold premises or the Lessee is utilizing the leasehold premises in a manner not permitted by the provisions of this lease, or in any case damages are occurring to the leasehold premises, the Lessor may immediately enter upon the leasehold premises and take such action as necessary to cease such damages or use. In the event the damage to the leasehold is occurring the Lessee shall be liable for all costs incurred by the Lessor if the Lessor acts to cure such damages. The Lessor, at its option may send notice to the Lessee of such violations and the Lessee shall immediately cease such use or violation and correct and remedy such violations.

6.9 Security. The Lessee shall furnish a surety bond in such amount as may be determined by the Lessor from time-to-time in accordance with Title 79 RCW, as amended, as a guarantee of the faithful performance of the conditions and terms prescribed in this lease. Security other than a surety bond may be substituted if first approved in writing by the Lessor. The amount of the surety bond as of the date of this lease shall be \$6,500.00.

6.10 Litigation. In the event this lease, its terms, its use, its occupation or it in any way becomes a matter of litigation, the Lessor shall be notified of such litigation

within fifteen days after such litigation is begun. Failure to notify the lessor of such action shall be cause for cancellation or termination of this lease.

The Lessee expressly agrees to all covenants herein, and binds himself for the payment hereinafter specified.

Executed this 26 day of May, 1989.

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

James A. Stearns  
JAMES A. STEARNS, Supervisor

Signed this 5th day of May, 19 89.

MOORE-CLARK CO., INC.

Larry J. Lee  
PO Box M  
813 S Second  
La Conner, WA 98257

CERTIFICATE OF ACKNOWLEDGMENT  
JAMES A. STEARNS

STATE OF WASHINGTON)  
ss. Shawton  
County of Shawton

I certify that I know or have satisfactory evidence that

James A. Stearns signed this instrument, and oath stated that he was

authorized to execute the instrument and acknowledge it as the Supervisor of the

Department of Natural Resources, to be the free and voluntary act of such party for the

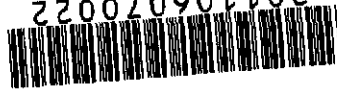
uses and purposes mentioned in the instrument.

Dated: 5-26-89

James M. Rute  
Notary Public in and for the  
State of Washington

My appointment expires 2-1-93

(Seal or stamp)



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Skagit County Auditor  
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CERTIFICATE OF ACKNOWLEDGMENT

STATE OF WASHINGTON )  
 )  
 ) ss. )  
 ) County of Skagit )

I certify that I know or have satisfactory evidence that Larry J. Lee Name of Person

signed this instrument, and oath stated that (he/she/they) (was/were) authorized to

execute the instrument and acknowledged it as the President

(type of authority, e.g., officer,

of Moore-Clark Co., Inc. (name of party(ies) on behalf of

to be the free and voluntary act of such party(ies) for the

whom instrument was executed)

uses and purposes mentioned in the instrument.

Dated: 05/05/89

*Donna D. Eschbach*

Donna D. Eschbach

Notary Public in and for the state of

Washington

(seal or stamp) My appointment expires

03/04/91



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Skagit County Auditor

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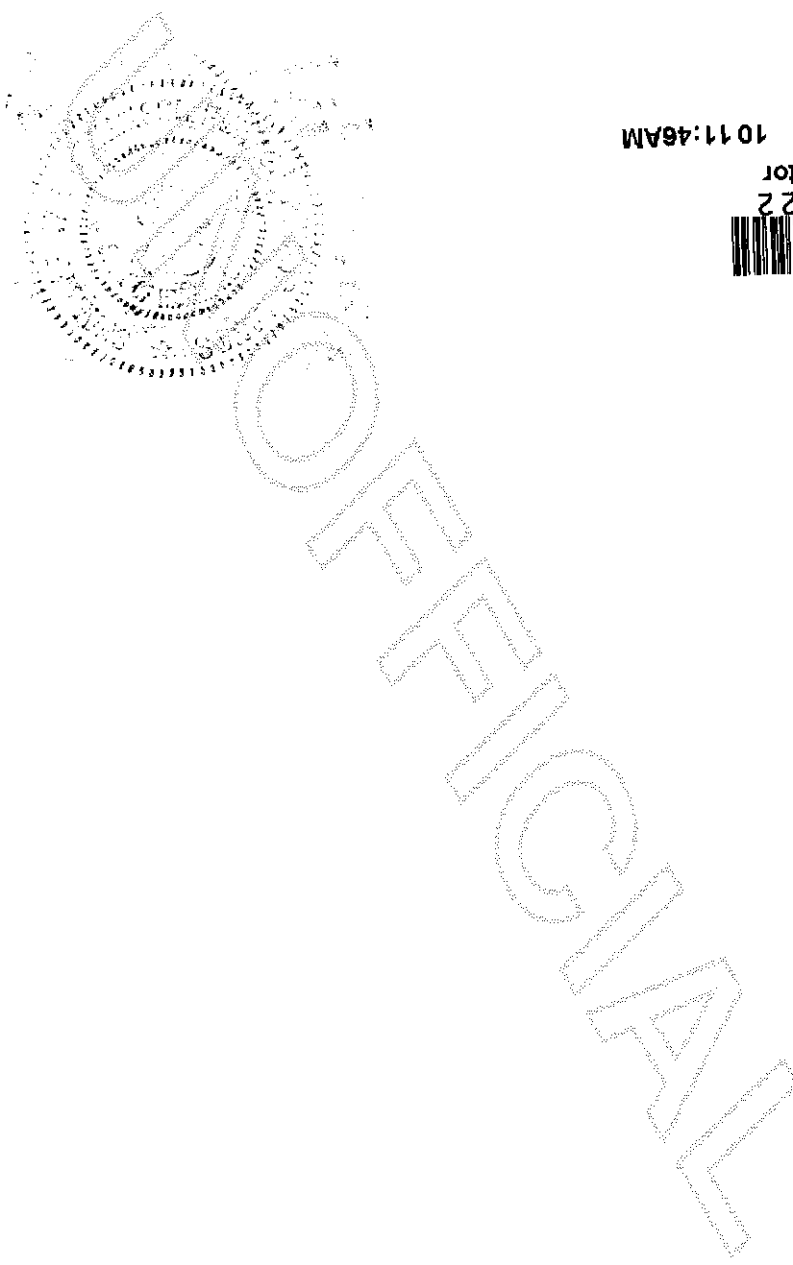
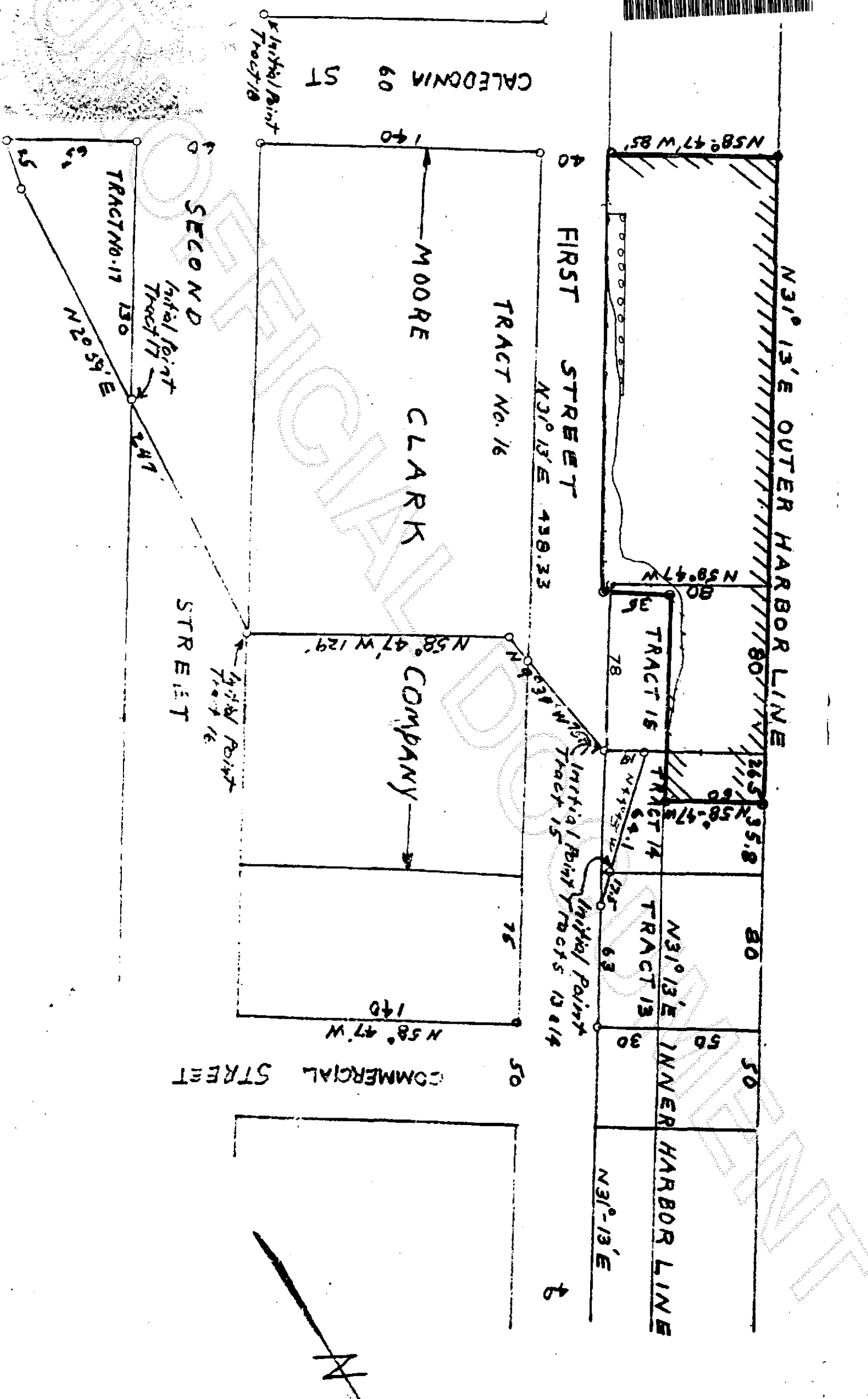






EXHIBIT A

TR. 16



STATE LEASE/CONTRACT  
BOND NO. 2S100302630-388

KNOW ALL MEN BY THESE PRESENTS: THAT WE, Moore-Clark Company, Inc. a corporation organized under the laws of the State of Connecticut, and The Aetna Casualty and Surety Company are held and firmly bound unto the STATE OF WASHINGTON, the full and just sum of six thousand five hundred and no/100----- DOLLARS (\$6,500.00), for which sum, well and truly to be paid, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents.

SEALED WITH OUR SEALS AND DATED THIS 25th DAY OF April, 19 89.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT: WHEREAS, the Principal has entered into an agreement with the State of Washington, acting by and through the Department of Natural Resources, dated January 7, 19 89, under the Lease/Contract No. 22-002724 for rights described in same for the following described land situated in the County of \_\_\_\_\_ State of Washington to wit:

WHEREAS, the Principal has been required to file a bond in the sum of six thousand five hundred and no/100----- DOLLARS (\$6,500.00), to guarantee compliance with all terms and conditions of Lease/Contract, issued under Application No. \_\_\_\_\_ including the payment of all sums due the State and all damages accrued to the State by reason of operations under this agreement.

NOW, THEREFORE, if the said Principal shall comply with all terms and conditions of said Lease/Contract as set forth in the preceding paragraph, then this obligation is to be void, otherwise to remain in full force and effect.

MOORE-CLARK COMPANY, INC.

BY \_\_\_\_\_

Signature: Principal E. Whitehead

Title Treasurer

P.O. Box M, 813 S. Second

Lagomer, Washington 98257

Mailing Address

THE AETNA CASUALTY AND SURETY COMPANY

Surety

1900 East 9th St., Suite 2600

Cleveland, Ohio 44114

Mailing Address

Signature: Attorney-in-fact

Monica H. Peres

Not required

Signature: Washington Resident Agent

-Agency

Mailing Address

Seal)



Skagit County Auditor

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LEASE ADMINISTRATOR  
Division of Aquatic Lands

Signature: \_\_\_\_\_

Date May 19, 1989

Bond Approval: