

Recording Requested By And
When Recorded Mail To:

Skagit County
Public Works Department
Attn: Emily Derenne
1890 Continental Place
Mount Vernon, Washington 98273



201506030037

Skagit County Auditor \$84.00
6/3/2015 Page 1 of 13 9:21AM

DOCUMENT TITLE: **TEMPORARY EASEMENT**

REFERENCE NUMBER OF RELATED DOCUMENT: *Not Applicable*

GRANTOR(S): **James Neff**, as Trustee of the Testamentary Trust of Lorraine Neff.

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

ABBREVIATED LEGAL DESCRIPTION: A temporary easement located within OPEN SPACE #185A #751176 1973 LT-3 S & E OF SAMISH RIV & E OF RLY TRNSF #808337 DT25 DK25

ASSESSOR'S TAX / PARCEL NUMBER(S): **P36839** (Xref ID: 350418-0-005-0000)

TEMPORARY EASEMENT

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

The undersigned, **James Neff**, as Trustee of the Testamentary Trust of Lorraine Neff (herein "Grantor" or "Landowner"), for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, hereby grants to **Skagit County**, a political subdivision of the State of Washington (herein "Grantee" or "County"), a temporary, non-exclusive easement ("Temporary Easement"), as provided herein. Landowner and County may be individually referred to herein as a "party", and may be collectively referred to herein as the "parties." The terms of this Temporary Easement are further provided as follows:

1. Nature and Location of Easement. The Temporary Easement hereby granted by Landowner herein shall be a temporary easement to allow the County, the County's agents, employees, and contractors over, upon, across, through, a portion of real property located within and upon Landowner's Property, such Temporary Easement as legally described on *Exhibit "A"* and as further described and depicted on *Exhibit "B"*, attached hereto and incorporated herein by this reference, for the purpose of providing a temporary easement (and any related appurtenances thereto), including the right of ingress and egress with all necessary equipment for construction of the riparian restoration work, including the installation of woody debris, under the Skagit County Natural Resource Stewardship Program (NRSP) as described in *Exhibit "C"*, attached hereto and incorporated by reference (herein referred to as the "Project"). A legal description for the Landowner's Property is attached hereto as *Exhibit "D"*, and is hereby incorporated by reference.

1.1 The County, through its Department of Public Works (Natural Resources Division), will perform the Project as described in *Exhibit "C"* under its Natural Resources Stewardship Program (NRSP) for the improvement and enhancement of water quality and fish habitat in Skagit County streams.

1.2 Landowner represents and warrants to the County that the Landowner is the legal owner of the property described in *Exhibit "D"* (the "Landowner's Property"), and further represents and warrants to the County that there are no outstanding rights which interfere with this Temporary Easement agreement. The Landowner also acknowledges that a change in property ownership will not change the

encumbrance of the Landowner's Property created by the terms of this Temporary Easement, and the Landowner agrees to inform any future owner of Landowner's Property of this Temporary Easement prior to sale or transfer of the Landowner's Property during the term of this Temporary Easement (as the terms of this Temporary Easement shall be binding on any subsequent owner[s] of the Landowner's Property for the duration of this Temporary Easement). The Landowner agrees to notify the County, within thirty (30) days of transfer, of changes in ownership during the term of this Temporary Easement.

1.3 Landowner agrees to inform the County (and the County's agents, employees, and contractors) of all known safety hazards on Landowner's Property prior to the commencement of the activities described in Exhibit "C".

1.4 Except as provided to the contrary by the terms of this Temporary Easement, the Landowner retains the right to control trespass on Landowner's Property, and Landowner shall retain all responsibility for taxes, assessments, and for any claims for damages to Landowner's Property.

1.5 Landowner recognizes and agrees that participation in the County's Natural Resource Stewardship Program does not eliminate or abrogate any jurisdictional authority, code requirements, or obligations required by any government entity including Skagit County.

2. Use of Easement. The County, County's employees, agents, and contractors shall have the right, with one (1) week notice, (or with such other notice as may be otherwise mutually agreed in writing by and between the parties), and during daytime hours, Monday through Saturday (unless otherwise arranged between the parties), to enter upon the Landowner's Property within the area of the Temporary Easement (as described and depicted in Exhibit "A"), for the purpose of constructing and implementing the Project (described at Exhibit "C") within the area of the Temporary Easement. Landowner shall not have the right to exclude the County, County's employees, agents, and/or contractors from the area of the Temporary Easement.

2.1 Project Components. This temporary easement includes the following components, as described in Exhibit "C": (1) initial site work, (2) monitoring and maintenance, and (3) project preservation.

2.1.1 Initial Site Work. The initial site work includes site preparation, removal of invasive vegetation, riparian planting, and installation of large woody debris, as described in Exhibit "C". Initial site work will be conducted within one (1) year of mutual execution of this agreement.

2.1.2 Monitoring and Maintenance. A Restoration and Maintenance Plan (Plan) has been developed for the Project and is included as Exhibit "C". In accordance with the Plan, Skagit County shall provide maintenance of vegetation for three (3) years after planting. The Landowner shall be responsible for plant preservation, not to include active maintenance, following this three (3) year period.

2.1.3 Project Preservation. Landowner agrees to preserve the Project in the same condition as exists at the time of Project completion and agrees to refrain from cutting, damaging, or otherwise harming any of the vegetation planted as part of the Project or in any way intentionally compromising the integrity of the Project for a period of ten (10) years from the date of mutual execution of this Temporary Easement agreement. Except as provided in Section 2.1.2, the Landowner shall be responsible for all riparian restoration preservation required as part of the Project. Landowner may be required to reimburse the County for Project costs funded by the County in the event that the Landowner does not preserve the Project in accordance with the terms of this Temporary Easement.

2.2 The Landowner acknowledges that Landowner is voluntarily participating in the County's NRSP for riparian restoration (as described in Exhibit "C") that is the subject of this Temporary Easement and is permitting the Landowner's Property to be used for such purposes pursuant to the terms of this Temporary Easement. The Landowner agrees that the Project, when completed, will not now or in the

future result in damages to the Landowner's Property, and that the County is not liable for any impacts to Landowner's Property resulting from the Project. The terms of this Section 2.2 shall survive the termination or expiration of this Temporary Easement.

2.3 The County agrees to be responsible for any damage arising from negligent acts of its employees, agents, or representatives on Landowner's Property in exercise of County's rights herein granted by this Temporary Easement. The County assumes no liability for any alleged damage to Landowner's Property resulting from this Temporary Easement, or from any source other than as may be expressly set forth herein.

3. Termination of Temporary Easement. The Project shall be considered complete following the completion of the activities described in Exhibit "C", including project maintenance activities. This Temporary Easement shall otherwise expire by its own terms ten (10) years from the date of mutual execution.

4. Governing Law; Venue. This Temporary Easement shall be construed under the laws of the State of Washington. It is agreed by the parties that the venue for any legal action brought under or relating to the terms of this Temporary Easement shall be in Skagit County, State of Washington.

5. Entire Agreement. This Temporary Easement contains the entire agreement between the parties hereto and incorporates and supersedes all prior negotiations or agreements. This Temporary Easement may not be modified or supplemented in any manner or form whatsoever, either by course of dealing or by parol or written evidence of prior agreements and negotiations, except upon the subsequent written agreement of the parties. Waiver or breach of any term or condition of this Temporary Easement shall not be considered a waiver of any prior or subsequent breach.

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

JUN 03 2015

Amount Paid \$
Skagit Co. Treasurer
By *[Signature]* Deputy

DATED this 19th day of May, 2015.

GRANTOR:

James Neff
James Neff, as Trustee of the Testamentary Trust of Lorraine Neff

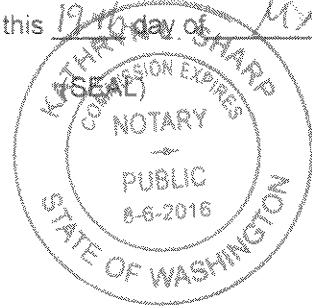
STATE OF WASHINGTON

COUNTY OF SKAGIT

} ss.

I certify that I know or have satisfactory evidence that James Neff, as Trustee of the Testamentary Trust of Lorraine Neff, is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he executed the forgoing instrument as his duly authorized free and voluntary act for the uses and purposes herein mentioned.

DATED this 19th day of May, 2015.



Kathryn L. Sharp
Notary Public
Print name: Kathryn L. Sharp
Residing at: Skagit Co.
My commission expires: 8-6-2016

GRANTEE:
DATED this 28 day of May, 2015.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Kenneth A. Dahlstedt, Chair

Lisa Janicki, Commissioner

Ron Wesen, Commissioner

Attest:

Clerk of the Board

For contracts under \$5,000:
Authorization per Resolution R20030146

Recommended:

County Administrator

Department Head

Approved as to form:

Civil Deputy Prosecuting Attorney

Approved as to indemnification:

Risk Manager

Approved as to budget:

Budget & Finance Director

STATE OF WASHINGTON

COUNTY OF SKAGIT

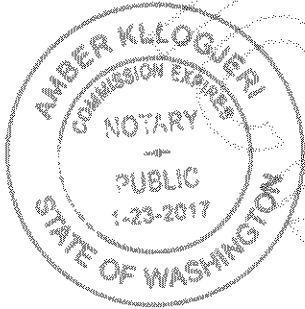
} ss.

Tim Holloran

I certify that I know or have satisfactory evidence that ~~Kenneth A. Dahstedt, Lisa Janicki, and Ron Wesen~~ *is/are* the person(s) who appeared before me, and said person(s) acknowledged that ~~she/he/they~~ signed this instrument, on oath stated that ~~she/he/they~~ was/were authorized execute the instrument and acknowledged it as Commissioner(s) of Skagit County, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 28 day of May, 2015.

(SEAL)



Amber Klogjeri
Notary Public
Print name: *Amber Klogjeri*
Residing at: *Mount Vernon*
My commission expires: *1-23-2017*

EXHIBIT "A"

TEMPORARY EASEMENT LEGAL DESCRIPTION

THE TEMPORARY EASEMENT BEGINS AT NORTHWESTERN CORNER OF SKAGIT COUNTY TAX PARCEL P36839, MORE PARTICULARLY DESCRIBED AS THE NORTHEAST ¼ OF THE SOUTHWEST ¼ AND THAT PORTION OF THE NORTHWEST ¼ OF THE SOUTHWEST ¼, IN SECTION 18, TOWNSHIP 35 NORTH, RANGE 4 EAST, W.M., LYING SOUTH AND EAST OF THE CENTER LINE OF THE SAMISH RIVER AND EAST OF THE RIGHT OF WAY OF THE GREAT NORTHERN RAILWAY; THENCE 137 FEET WESTERLY ALONG THE ORDINARY HIGH WATER MARK (OHWM) OF THE SOUTHERN BANK OF THE SAMISH RIVER TO THE **TRUE POINT OF BEGINNING**; THENCE WESTERLY 81 FEET ALONG THE OHWM OF THE SOUTHERN BANK OF THE SAMISH RIVER; THENCE SOUTHEASTERLY 35 FEET; THENCE SOUTHWESTERLY 158 FEET, MAINTAINING AN APPROXIMATE DISTANCE OF 35 FEET FROM THE OHWM OF THE SOUTHERN BANK OF THE SAMISH RIVER; THENCE NORTHERLY **RETURNING** TO THE TRUE POINT OF BEGINNING.

Situate in Skagit County, State of Washington.

EXHIBIT "B"

GRAPHIC DEPICTION OF TEMPORARY EASEMENT AREA



This temporary easement includes the above-depicted shaded area required for removal of non-native plants and installation of riparian vegetation and large woody debris.

Parcel Number: P36839

Address: 10901 Peter Anderson Road
Burlington, WA 98233

Situate in the County of Skagit, State of Washington

EXHIBIT "C"

RIPARIAN RESTORATION AND MAINTENANCE PLAN SCOPE OF WORK

Overview

This project is designed to control invasive plant species and stabilize an area along the Samish River using bank stabilization techniques and replanting of native vegetation. The river is eroding part of the proposed restoration area. The project area is about 0.25 acres.

Invasive Species

The restoration area along the Samish River is currently dominated by invasive plant species including reed canary grass, blackberries and Japanese knotweed. Strategies for controlling these plant species are as follows:

- For the reed canary grass, site preparation will consist of mowing the reed canary grass down prior to planting.
- The blackberries will be mowed down at the same time as the grass. For the first year, they will then be allowed to grow back for approximately 6-8 weeks until the canes are about two feet high and then sprayed with herbicide.
- Japanese knotweed will be bent during the summer months to stunt the plant and make it more manageable for herbicide treatment. After at least two weeks the folded stalks will be foliar treated with the herbicide Imazapyr.

Planting

The planting area will consist of approximately 0.25 acres. Plants will be installed in the winter of 2015 after herbicide treatment is completed. About 150 native trees and shrubs will be planted, at least 30% of which will be conifers. In addition, 200 willow whips will be installed. Plants and willow whips will be planted with 8 foot spacing and 4 foot spacing, respectively. Trees will be protected with tubes, and willow will be protected with spiral wraps. Due to the amount of beaver activity, trees and shrubs that will be installed will be species not preferred by beavers, with the exception of the willows. Willows should be 6-foot tall whips, with 3-foot high spiral wraps in order to reduce beavers ability to gnaw above the top of the wrap. All plants, whips and protectors will be provided by Skagit County.

Large Woody Debris Installation

The County will install approximately five structures in the summer of 2015, pending the receipt of required permits (Figures 2 and 3). LWD will be installed in attempt to reduce bank erosion and provide bank stabilization.

Maintenance

Maintenance will be conducted for 3 seasons after planting is complete. Reed canary grass will be mowed 2 times per year; once in the spring and once in the summer months. Blackberry re-treatment will occur at least once per year for three years after project implementation if regrowth occurs. Knotweed will be treated in the late summer each year with Imazapyr.

Timeline

Invasive control to prepare the site for planting will occur in the summer of 2015, starting with weed-eating the site. Herbicide application will occur in the later summer (August/September).

In the late fall of 2015 after shrubs have achieved dormancy, the plants will be installed. Maintenance will occur annually in the summer and fall, consisting of weed-whacking around plants as needed and treating with herbicide any invasive species that remain or colonize the area. Landowner will be notified at least one week prior to any work at the site.

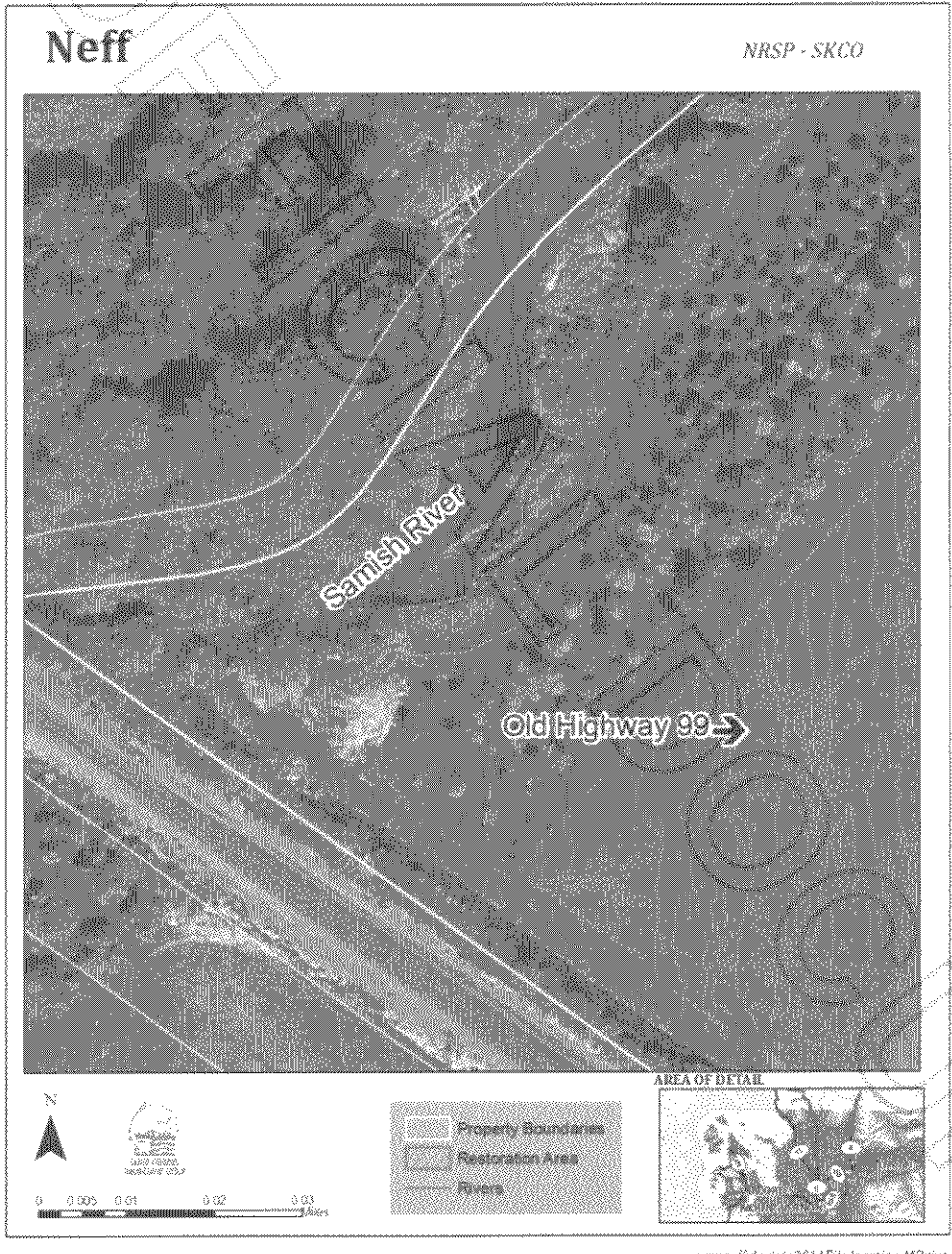


Figure 1. Restoration Area

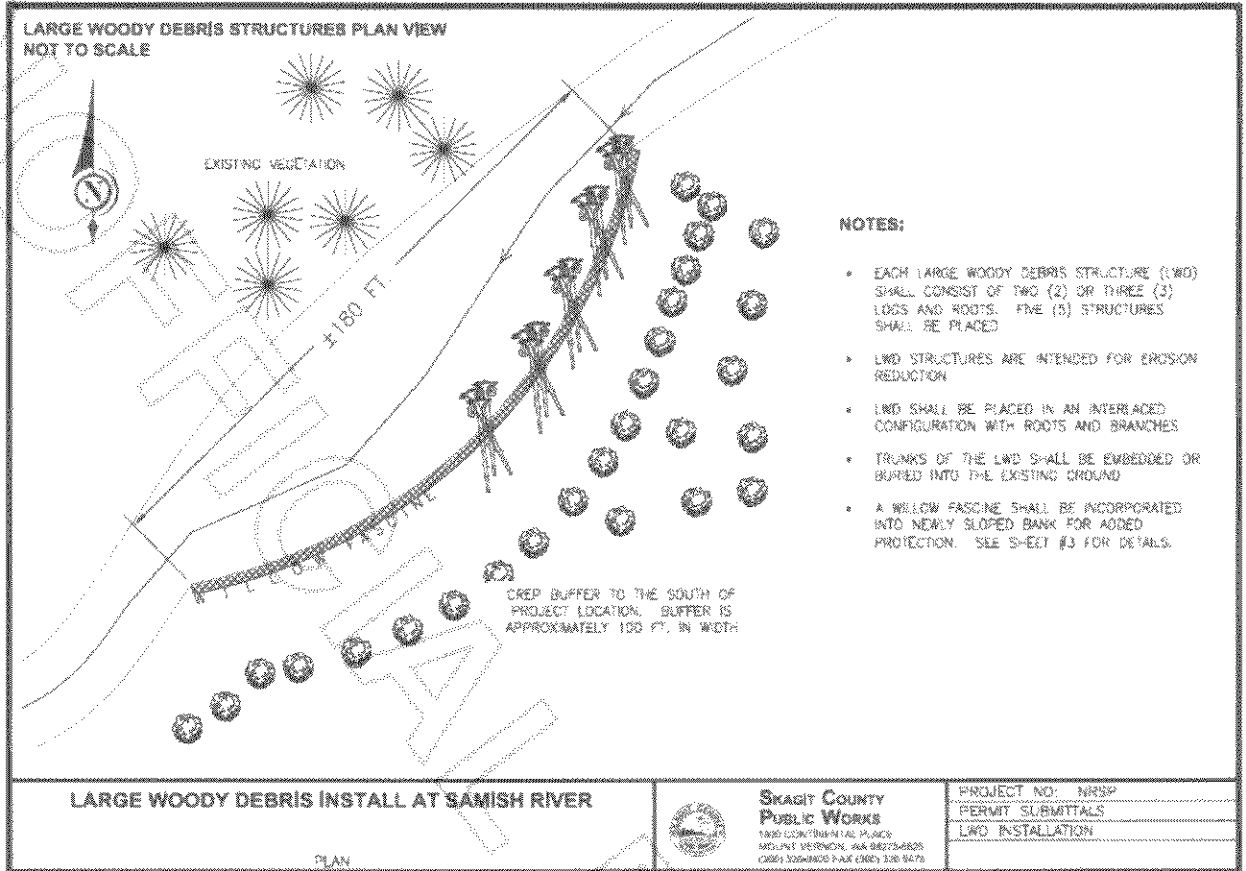


Figure 2. LWD installation overview

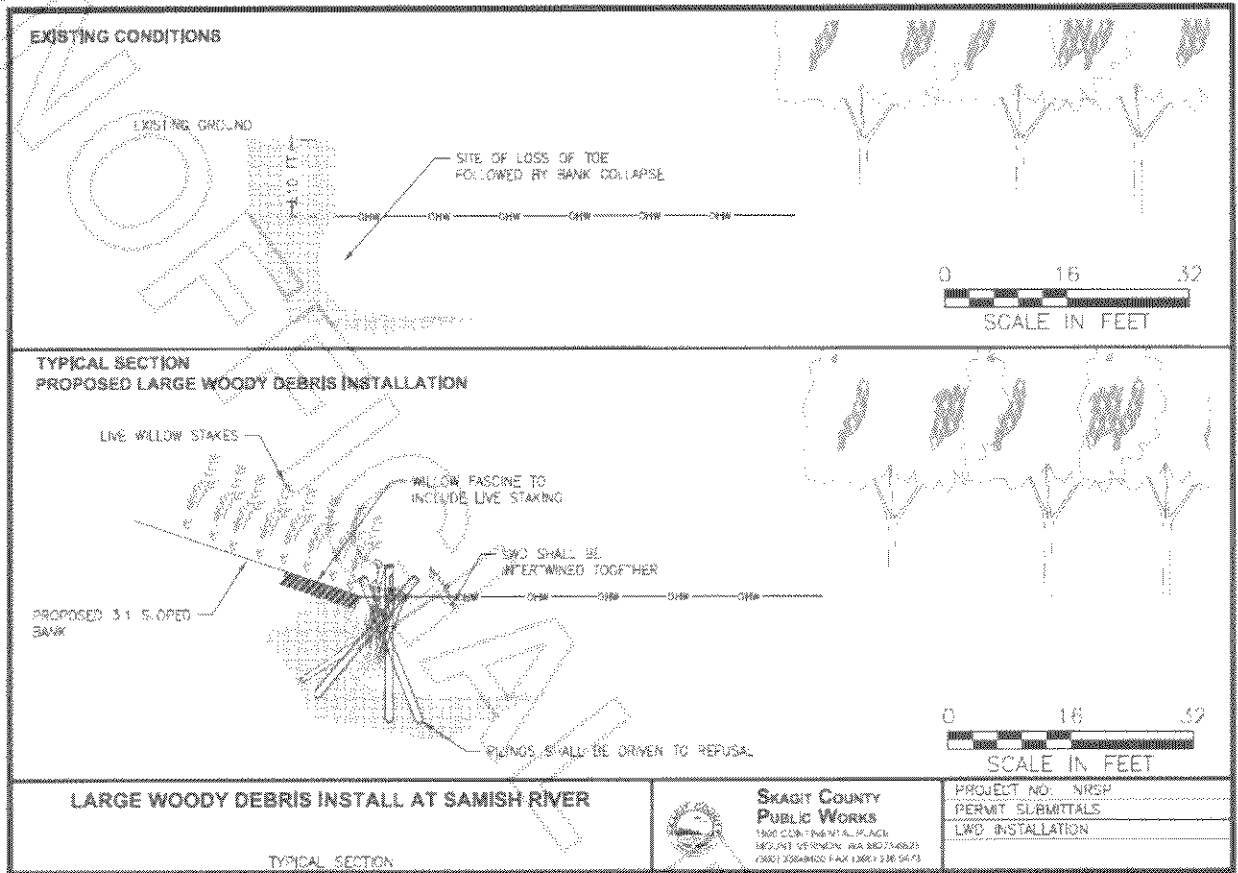


Figure 3. Typical LWD installation

EXHIBIT "D"
LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY

The Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ and that portion of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, in Section 18, Township 35 North, Range 4 East, W.M., lying South and East of the center line of the Samish River and East of the right of way of the Great Northern Railway,

ALSO the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 18, Township 35 North, Range 4 East, W.M., subject to the rights of way of the Seattle and Montana Railroad or Great Northern Railway;

EXCEPT that portion of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, Section 18, Township 35 North, Range 4 East, W.M., lying Southwesterly of the Southwesterly line of the right of way of the Great Northern Railway Company;

ALSO EXCEPT the South 25 feet thereof conveyed to Skagit County by deed recorded July 16, 1892, in Volume 23 of Deeds, page 712, records of Skagit County, Washington.