

Recording Requested By And
When Recorded Mail To:

Skagit County
Public Works Department
Attn: Emily Derenne
1800 Continental Place
Mount Vernon, Washington 98273



202106090075

06/09/2021 11:27 AM Pages: 1 of 12 Fees: \$114.50
Skagit County Auditor

REVIEWED BY	
SKAGIT COUNTY TREASURER	
DEPUTY	<u>HB</u>
DATE	<u>6.9.21</u>

DOCUMENT TITLE: TEMPORARY EASEMENT

REFERENCE NUMBER OF RELATED DOCUMENT: *Not Applicable*

GRANTOR(S): Ruth M. Thomas, a single woman

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

ABBREVIATED LEGAL DESCRIPTION: A temporary easement located within LOT 1
SHORT PLAT #95-008.

ASSESSOR'S TAX / PARCEL NUMBER(S): P126748 (Xref ID: 330517-0-001-0700)

TEMPORARY EASEMENT

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

The undersigned, **Ruth M. Thomas**, a single woman, (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 removal of invasive vegetation and installation of native plantings 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

SKAGIT COUNTY
Contract # C20210245
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Program (NRSP) for the protection, improvement, and enhancement of water quality in Skagit County streams for the benefit of downstream saltwater shellfish habitat.

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 a forty-eight (48) hour 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" and Exhibit "B"), 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, and installation native riparian planting 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 a substantially similar 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 (including for the workplace safety of the County's employees, agents, or representatives while performing Project work on the Landowner's Property).

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.

GRANTOR:

Ruth M. Thomas
Ruth M. Thomas

DATED this 20 day of May, 2021.

STATE OF WASHINGTON

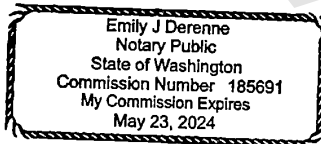
COUNTY OF SKAGIT

} ss.

I certify that I know or have satisfactory evidence that **Ruth M. Thomas**, a single woman, is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she executed the forgoing instrument as their duly authorized free and voluntary act for the uses and purposes herein mentioned.

DATED this 20 day of May, 2021.

(SEAL)



Emily J. Derenne
Notary Public

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

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

~~Ron Wesen, Commissioner~~

~~Clerk of the Board~~

County Administrator

Department Head

Civil Deputy Prosecuting Attorney

Risk Manager

Budget & Finance Director

EXHIBIT "A"
TEMPORARY EASEMENT AREA LEGAL DESCRIPTION
NUMBER P126748

A TEMPORARY EASEMENT FOR THE PURPOSE OF RESTORATION AND MAINTENANCE LYING WITHIN A PORTION OF LOT 1, SHORT PLAT NO. 95-008, UNDER AUDITOR'S FILE NO. 199707150040, RECORDS OF SKAGIT COUNTY, WASHINGTON, THE EASEMENT MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTHWEST CORNER OF SAID LOT 1;

THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 475 FEET, MORE OR LESS, TO THE WEST BANK OF THE UNNAMED TRIBUTARY EAST OF LAKE CREEK;

THENCE SOUTHEASTERLY ALONG SAID WEST BANK 275 FEET, MORE OR LESS, TO THE NORTHWESTERLY EASEMENT MARGIN OF TRIPLE CREEK LANE DEPICTED ON SAID SHORT PLAT NO. 95-008;

THENCE SOUTHWESTERLY ALONG SAID MARGIN TO INTERSECTION WITH SKAGIT COUNTY TAX PARCEL P18092;

THENCE ALONG THE NORTHERN AND WESTERN PROPERTY LINE 520 FEET, MORE OR LESS, TO THE SOUTHERN PROPERTY LINES OF SAID TAX PARCEL;

THENCE SOUTHERLY 17 FEET, MORE OR LESS, TO THE SOUTHERN MARGIN OF THE DRIVEWAY AS EXISTED ON 5/10/2021;

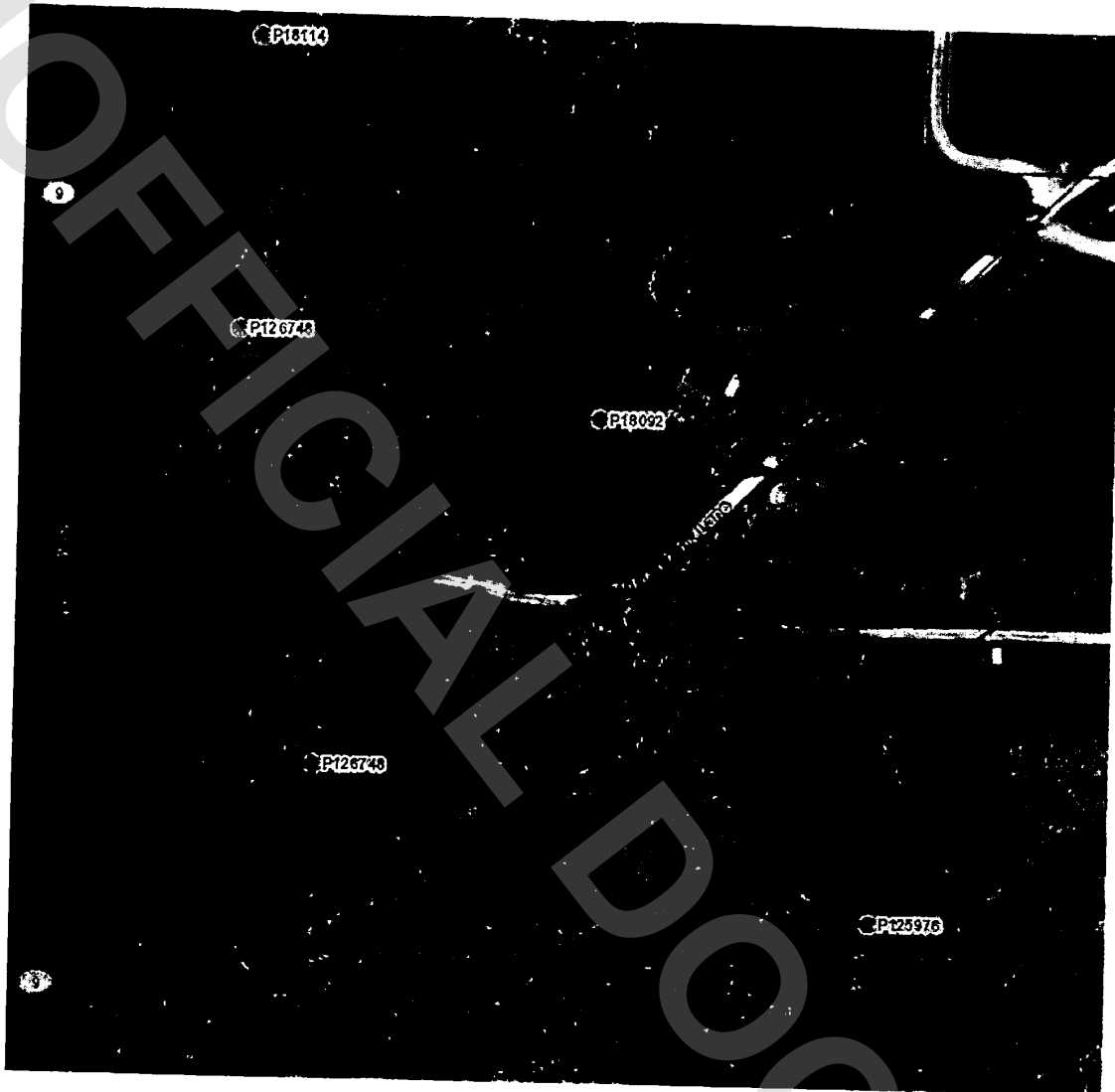
THENCE EASTERLY 215 FEET, MORE OR LESS, ALONG THE SOUTHERN MARGIN OF SAID DRIVEWAY TO THE EASTERN PROPERTY LINE OF SAID LOT 1;

THENCE ALONG THE PROPERTY LINE OF SAID LOT 1, RETURNING TO THE POINT OF BEGINNING;

EXCEPT ANY PORTION DESCRIBED IN EXHIBIT "D" AND AUDITOR'S FILE NO. 200711050196;

BEING AN AREA OF ± 9.0 ACRES
SITUATE IN SKAGIT COUNTY, STATE OF WASHINGTON.

EXHIBIT "B"
GRAPHIC DEPICTION OF TEMPORARY EASEMENT AREA



This temporary easement includes the above-depicted outlined area required for removal of invasive vegetation and planting riparian vegetation.

Parcel Number: P126748
Address: 25177 Triple Creek Lane
Mount Vernon, WA 98274
Situate in the County of Skagit, State of Washington

EXHIBIT "C"**RIPARIAN RESTORATION AND MAINTENANCE PLAN
SCOPE OF WORK****Overview**

The restoration site at the Landowner's property is located on Lake Creek, which is a tributary to Big Lake. The planting area is comprised of a roughly 1.3 acre pasture conversion and a roughly 2.5 acre understory section for a total of approximately 4.2 acres. Planting this area would improve roughly 725 linear feet of stream. Removal of invasive plants in favor of a diverse native planting will enhance the riparian buffer to improve streamside habitat and improve water quality for the benefit of downstream saltwater shellfish habitat. Lake Creek is the largest tributary to Big Lake. Skagit County intends to work with Skagit Fisheries Enhancement Group (SFEG) to complete this work.

SITE PREPARATION**Invasive Species Control**

SFEG will work in partnership with Skagit County and the Landowner to control invasive weeds on the site in preparation for planting starting in the winter of 2021-2022. The weeds of concern that have been identified at this site are Himalayan blackberry and Japanese knotweed.

Himalayan Blackberry: Blackberry grows in a dense monoculture under the canopy from the Landowner's house, across the creek, and out to the pasture which borders WA Highway-9. In the pasture, blackberry grows in isolated clumps. To ensure complete control prior to planting, Skagit County will conduct herbicide treatment of the blackberry that regrows in the summer of 2021. In the fall of 2021, SFEG will brushcut the treated blackberry, and manually remove any remaining living individuals near desirable native vegetation in final preparation for planting.

Japanese Knotweed: Knotweed grows in several large (greater than 100ft²) patches along Lake Creek and Triple Creek Lane. Treatment with herbicide will be completed in the summer of 2021. After treatment, patches will require yearly monitoring to ensure no regrowth, as a new patch can quickly re-establish from just a single surviving stem.

SFEG controls invasive weed species that can impede establishment and growth of native plants at riparian restoration sites in a manner that is cost effective and consistent with accepted ecological restoration methods. We minimize use of herbicides to the maximum extent practical. Herbicide is applied under the supervision of a licensed applicator, with a licensed operator on site at all times during work. Operators are licensed to work in and around water and in a terrestrial environment. Herbicide will be applied in accordance with guidelines designated by the Environmental Protection Agency on appropriate herbicides for fish bearing streams. No herbicide application is conducted when rain is predicted within 6-hours or winds speeds are greater than 10mph. SFEG applies for and receives an NPDES permit to treat invasive weeds in Washington State each year, and the Pesticide Applicator for SFEG reports to NPDES yearly on our herbicide applications.

SFEG proposes to use the following herbicides at this site:

Roundup Custom: <https://www.sdslibrary.monsanto.com/MSDS%20Datasheet/8121f99d-ad3b-49ac-875d-228b0ccdb7f3/RoundupCustom-AquaticTerrestrialUse.O15.pdf>

Cornerstone Plus: <http://www.cdms.net/ldat/mp9LA003.pdf>

Polaris: <http://www.cdms.net/ldat/mp8KR003.pdf>

Material Safety Data Sheets (MSDS) PDF links are attached to this planting plan. If chemicals proposed for use change SFEG will notify the landowner in writing, provide updated MSDS sheets and obtain approval prior to utilization. Landowners will be notified by phone at least 48 hours prior to any herbicide treatment.

I acknowledge that I have been informed of and agree to use of herbicide at my property.

BMT (Landowner initials)

Washington State Class A weeds are those species where control is required when these species are found. SFEG will conduct an annual training session to teach SFEG staff and contractors to recognize all state Class A invasive weeds that could be present in our work areas. If encountered in the field SFEG will report Class A weeds to the landowner in writing, and will provide information on state control requirements and recommended methods. If approved by the landowner, SFEG will control these weeds using recommended methods, and will report infestations to the appropriate Cooperative Weed Management Area (CWMA).

Washington State Class B weeds are those species where control is recommended by the state and/or recommended/required by the county noxious weed board. If encountered at a work site, SFEG staff will inform the landowner of the presences of Class B species and provide information on recommended means of control. Control of Class B weeds will not be conducted as part of this restoration project.

The following Class C weeds are considered to be a threat to successful riparian restoration if they occur within restoration sites:

- Himalayan blackberry (*Rubus armeniacus*)
- Evergreen blackberry (*Rubus laciniatus*)
- Morning glory (*Convolvulus arvensis*)
- English ivy (*Hedera spp.*)
- Old man's beard/Travelers joy (*Clematis vitalba*)
- Reed canary grass (*Phalaris arundinacea*)

The above class C weeds will be controlled as part of restoration site preparation and maintenance when they occur within the restoration area. The above weeds will be controlled within the restoration area for the duration of the contract.

RIPARIAN RESTORATION

Riparian Planting

Following site preparation, SFEG will begin planting in the winter of 2021/2022. A crew will plant 3,200 native trees and shrubs in March of 2022, when the greatest threat of frost has passed. Crew members will plant native trees and shrubs along the stream in the understory, and in the field on the northwest corner of the site. Plantings in the forested riparian understory will be a mix of conifer and shrub species, while plantings in the field will be a mix of conifers, deciduous trees and shrubs. Plants will be spaced 8 feet apart in both the field and understory plantings. Protectors will not be used in project area due to flooding concerns, where bamboo stakes/protectors may wash away. Flagging will be tied to each plant in order to make them visible during future site maintenance. Approximately 850 plants will be installed in the field conversion area and 2350 will be installed in the Understory area (Figure 1).

After planting, SFEG recommends transitioning to manual removal of blackberry where feasible. While the goal is to be able to maintain the site without using herbicide, achieving this goal is dependent on the weed load and site specific conditions. If dense re-growth occurs recommend utilizing a combination of spot spraying and manual control. The status of knotweed patches will be monitored on a yearly basis, and any regrowth may require herbicide treatment. Maintenance will continue for a minimum of one visit per year through 2024.

Revegetation success will be monitored following SFEG's standard monitoring protocol. For sites larger than two acres, SFEG elects to use vegetation monitoring plots distributed across the planting area. Planting sites are monitored for 10-years following establishment, by staff during the time when the project is active, and by volunteers in subsequent years. Plots are sampled in years 1, 2, and 3 and may be longer if the Landowner is interested.

Timeline

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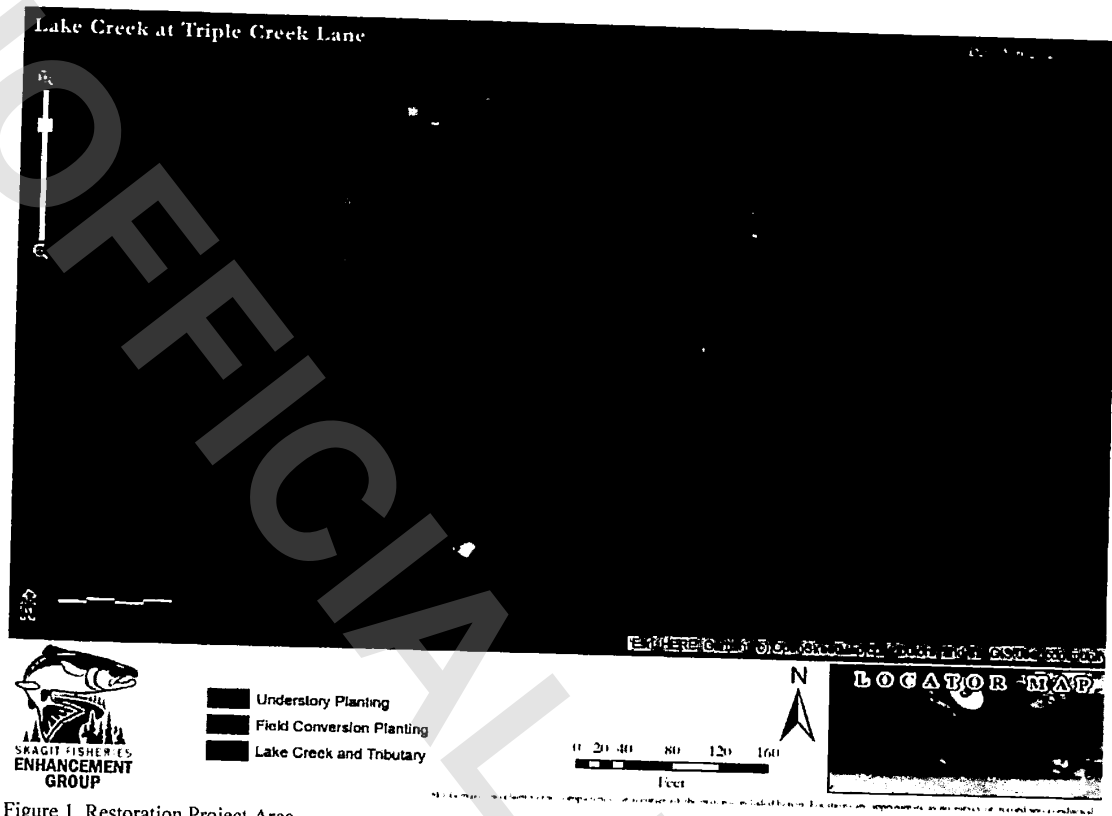


Figure 1. Restoration Project Area

EXHIBIT "D"
LEGAL DESCRIPTION OF LANDOWNER'S PROPERTY

LOT 1 SHORT PLAT #95-008 AF#9707150040 LOCATED IN PORTIONS OF THE NW 1/4 & SW 1/4 EXCEPT FOR THE FOLLOWING DESCRIBED PORTION: COMMENCING AT THE EASTERLY MOST CORNER COMMON TO LOT 1 AND 4 OF SHORT PLAT NUMBER 95-008, ALSO BEING ON THE WESTERLY MARGIN OF THE NORTHERN PACIFIC RAILROAD RIGHT OF WAY AND BEING ON THE EAST-WEST CENTERLINE OF SAID SECTION 17, TOWNSHIP 33 NORTH, RANGE 5 EAST, W.M.; THENCE SOUTH 89-23-43 WEST ALONG SAID LINE COMMON TO SAID LOTS 1 AND 4, ALSO BEING THE EAST-WEST CENTERLINE OF SAID SECTION 17 FOR A DISTANCE OF 409.98 FEET AND BEING THE TRUE OF BEGINNING; THENCE SOUTH 57-24-07 WEST FOR A DISTANCE OF 744.49 FEET, MORE OR LESS, TO THE SOUTHWESTERLY LINE OF SAID LOT 1, SHORT PLAT NO. 95-008 BEING ON THE AGREEMENT LINE BETWEEN THOMAS AND LINDQUIST PER BOUNDARY LINE ADJUSTMENT DEEDS RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE NOS. 9410050066 AND 9410050067 AND BEING THE TERMINUS OF SAID LINE DESCRIPTION.

EXCEPT FOR THE FOLLOWING DESCRIBED PORTION: PORTION OF LOT 1 SHORT PLAT#95-008 AF#9707150040 DESCRIBED AS FOLLOWS: COMMENCING AT THE EASTERLY MOST CORNER COMMON TO LOT 1 AND 4 OF SHORT PLAT NUMBER 95-008, ALSO BEING ON THE WESTERLY MARGIN OF THE NORTHERN PACIFIC RAILROAD RIGHT OF WAY AND BEING ON THE EAST-WEST CENTERLINE OF SAID SECTION 17, TOWNSHIP 33 NORTH, RANGE 5 EAST, W.M.; THENCE SOUTH 89-23-43 WEST ALONG SAID LINE COMMON TO SAID LOTS 1 AND 4, ALSO BEING THE EAST-WEST CENTERLINE OF SAID SECTION 17 FOR A DISTANCE OF 509.98 FEET AND BEING THE TRUE OF BEGINNING; THENCE NORTH 45-13-18 WEST 176.48 FEET, THENCE NORTH 44-37-51 EAST, 31.5 FEET, THENCE NORTH 45-22-49 WEST, 120.0 FEET; THENCE SOUTH 89-18-8 WEST, 113.94 FEET; THENCE SOUTH 0-41-52 EAST, 113.94 FEET; THENCE SOUTH 45-32-9 EAST, 194.47 FEET; THENCE SOUTH 89-36-18 EAST, 143.85 FEET; THENCE NORTH 44-27-15 EAST, 28.28 FEET TO THE TRUE POINT OF BEGINNING.