

**WHEN RECORDED RETURN TO:**

Whidbey Camano Land Trust  
765 Wonn Road #C201  
Greenbank, WA 98253

**COPY**

**ASSIGNMENT OF RIGHTS  
SALMON RECOVERY FUNDING BOARD**

**Assignor:** Whidbey Camano Land Trust  
**Assignee:** State of Washington

**Legal Description**

**Abbreviated form:** Ptn GL 4, Sec 16-33-2 EWM and Ptn GL 1, Sec 27-33-2 EWM, Lots 46A, 47A, and 49A, Dugualla Bay Hts Div. 7, Lots 79-82, Dugualla Bay Hts. Div. 8, Lot D, Dugualla Bay Hts Div. 8.

**Additional legal on Exhibit B.**

**Assessor's Tax Parcel Numbers:** S6515-07-00047, 00049 and 00046; S66515-08-00079, 00080, 00081, and 00082; R23317-326-4720; R23316-298-0570; and S6515-08-0000D.

This ASSIGNMENT OF RIGHTS ("Assignment") is executed as of the \_\_\_\_ day of December, 2009 by Whidbey Camano Land Trust, a non profit organization ("Assignor"), to and in favor of The State of Washington ("State"), through the Salmon Recovery Funding Board ("SRFB"), administered by the Recreation and Conservation Office ("RCO").

**RECITALS**

- A. Assignor has entered into a conservation easement ("Conservation Easement") with a certain property owner ("Owner") within the Shorecrest Lagoon area of Island County, Washington (W.R.I.A. #6 under WAC 173-500-040). The name and address of the Owner and the recording number of the Conservation Easement is set forth in Exhibit A attached hereto and incorporated herein. The legal description of the Property subject to the Conservation Easement is set forth in Exhibit B attached hereto and incorporated herein.
- B. The conservation purpose of the Conservation Easement is described in the Conservation Easement. That purpose is also described in the Project Agreement entered into between the recipient of SRFB funds ("Sponsor") and the State through

the SRFB entitled Shorecrest Lagoon Protection Project Number 07-1591 dated December 13, 2007, and the application and supporting materials which are on file with the State in connection with the Project Agreement, which Project Agreement is hereby incorporated herein by reference. That purpose includes the protection of habitat as defined in the Conservation Easement.

- C. Owner has authorized Assignor to assign to the State certain rights for access to and stewardship of the property covered by the Conservation Easement. Assignment of such rights is a necessary condition to receipt of grant funding under the Project Agreement and the policies of the Salmon Recovery Funding Board administered by the RCO. Such rights are valuable to the State in connection with ensuring protection of habitat under the terms of the Conservation Easement, and are particularly valuable because Assignor and Owner have agreed that Assignor will retain all responsibility for obligations of the Assignor under the Conservation Easement.
- D. These recitals are incorporated herein by this reference.

Now, therefore, Assignor and the State agree as follows:

#### **AGREEMENT**

1. **Assignment.** For and in consideration of monies coming in whole or in part from the State of Washington and in fulfillment of terms of the Project Agreement identified herein, Assignor does hereby assign, transfer, set over, convey and deliver to the State individually, and as representatives of the people of the State, the following rights (collectively referred to as "Rights") under the Conservation Easement the recording number of which is listed in Exhibit A attached hereto and incorporated herein by this reference:
  - a. **Access.** To enter the Property subject to the Conservation Easement at a reasonable time and upon prior arrangement with Assignor and Owner, in order to monitor and evaluate the performance, compliance, and/or quality assurance under the Project Agreement.
  - b. **Injunction and Restoration.** In the event of the failure of Assignor to undertake such injunction and restoration, to enjoin any use of, or activity on, the Property which is inconsistent with the terms of the Conservation Easement, including trespass by members of the public, and undertake or cause to be undertaken the restoration of such areas or features of the Property as may be damaged by uses or activities contrary to the provisions of the Conservation Easement.
  - c. **Enforcement.** In the event of the failure of Assignor to undertake such enforcement, to enforce the terms of the Conservation Easement, and thereby assume the Assignor's remedies under the Conservation Easement.

- d. **Amendments.** To review and approve any proposed amendments to the Conservation Easement. Review and approval by RCO's Director will be for compliance with the terms of the Project Agreement.
- e. **Stewardship and Restoration Plans.** To review any Stewardship or Restoration Plans, including habitat restoration and enhancement plans, as defined in the Conservation Easement. Review by RCO's Director will be for compliance with the terms of the Project Agreement.

These Rights shall be held in common with Assignor or Assignor's successors and assigns.

- 2. **State's Exercise of Rights.** The State hereby represents and warrants that its exercise of rights under this Assignment will be consistent with the conservation purpose defined in the Conservation Easement and the Project Agreement.
- 3. **Representations and Warranties of Assignor.** Assignor hereby represents and warrants to the State that:
  - a. Owner, identified in Exhibit A attached hereto and incorporated herein, has authorized and approved this Assignment.
  - b. Assignor shall enforce the terms of the Conservation Easement as provided in the Conservation Easement.
  - c. Assignor shall comply with, and the SRFB and RCO shall not be responsible for determining compliance with, all applicable federal, state, and local laws, regulations, and policies in its administration of the Conservation Easement or the undertaking of any of its rights under the Conservation Easement.
  - d. Neither Assignor nor Owner has any claims or causes of action, at law or in equity, with respect to any Conservation Easement as of the date provided above.
- 4. **Obligations.** It is expressly understood and agreed that, by the acceptance of this Assignment, the State has not assumed, and shall not become obligated to keep, fulfill, observe, perform or discharge, any duty or obligation of Assignor under the Conservation Easement.
- 5. **Indemnity.** Assignor shall defend, protect and hold harmless the State, the SRFB, the RCO, or any employees thereof, from and against any and all costs, claims, fees and expenses arising out of or in any way relating to Assignor's representations and warranties under this Assignment, Assignor's obligations under the Conservation Easement, or the acts by or omissions of Assignor or Owner.
- 6. **Replacement Property.** The Conservation Easement may be extinguished under certain circumstances identified in the Conservation Easement. Assignor may be entitled to compensation in such event. Assignor shall use all such proceeds for acquisition, restoration and/or enhancement of substantially equivalent property or property interests. Assignor hereby agrees to consult with, and receive the approval of,

the SRFB and the RCO in the selection of any replacement property and to assign to the State the same or substantially equivalent rights for access to and stewardship of the replacement property as provided for in this Assignment.

7. **Restriction on Assignment.** Assignor shall not assign the Conservation Easement, or the performance of any obligations to the State under the Conservation Easement without the express written consent of the RCO's Director.
8. **Assignment Term.** The term of this Assignment shall be the same as the term of the Conservation Easement.
9. **Disputes.** Any disputes between Assignor and the State under this Assignment shall be governed by the terms of the Project Agreement.
10. **Governing Law/Venue.** This Assignment shall be governed by the laws of the State of Washington. In the event of a lawsuit between Assignor and the State involving this Assignment, venue shall be property only in Thurston County. Assignor, by executing this Assignment, acknowledges the jurisdiction of the courts of the State of Washington in this matter.
11. **Severability.** If any provision of this Assignment or any provisions of any document incorporated by reference herein shall be held invalid, such invalidity shall not affect the other provisions of this Assignment which can be given effect without the invalid provision and to this end the provisions of this Assignment are declared to be severable.

**Exhibit A. OWNER AND CONSERVATION EASEMENT RECORDING NUMBER**

**Exhibit B. Legal Description of Property Subject to Easement.**

**ASSIGNOR:**

Whidbey Camano Land Trust  
through

By: Ivan D. Miller  
Ivan Miller  
December 15, 2009  
Its President

**STATE:**

THE STATE OF WASHINGTON,

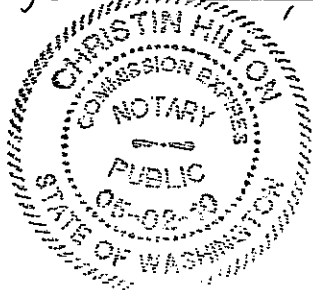
Its Salmon Recovery Funding Board,  
Administered by the RCO

By: Kaleen Cuthy  
November 16, 2010  
Its Director

STATE OF WASHINGTON       )  
  ) ss.  
COUNTY OF Island       )

I certify that I know or have satisfactory evidence that Ivan Miller is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it as the President of Whidbey Camano Land Trust to be the free and voluntary act of such party for the uses and purposed mentioned in the instrument.

Dated: December 15, 2009



Christin Hilton

Printed Name: Christin Hilton

Notary Public in and for the State of  
Washington, residing at -

Seattle WA

My Commission Expires 5/2/2010

STATE OF WASHINGTON       )  
  ) ss.  
COUNTY OF THURSTON       )

I certify that I know or have satisfactory evidence that Kalceen Cottingham is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Director of the Salmon Recovery Funding Board, administered by the RCO of the State of Washington to be the free and voluntary act of such party for the uses and purposed mentioned in the instrument.

Dated: 11/16/10



Lynn M. Kennedy

Printed Name: Lynn M. Kennedy

Notary Public in and for the State of  
Washington, residing at -

Thurston County

My Commission Expires 4/6/11

**EXHIBIT A**  
**OWNER AND CONSERVATION EASEMENT RECORDING NUMBER**

Name: Dugalla Community, Inc.  
Address: PO Box 1638  
Oak Harbor, WA 98277  
Recording No: \_\_\_\_\_, Records of Island County, WA

**EXHIBIT B**  
**LEGAL DESCRIPTION OF PROPERTY SUBJECT TO CONSERVATION**  
**EASEMENT**

**Ducken Property:**

**PARCEL 1**

ALL OF GOVERNMENT LOT 4 AND ADJACENT TIDELANDS IN SECTION 16, TOWNSHIP 33 NORTH, RANGE 2 EAST, W.M.;

EXCEPT ANY TIDELANDS OWNED BY ISLAND COUNTY;

ALSO EXCEPT ANY PORTION LYING WITHIN THE PLAT OF DUGUALLA BAY HEIGHTS, DIVISION NO. 4, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 8 OF PLATS, PAGE 48, RECORDS OF ISLAND COUNTY, WASHINGTON;

ALSO EXCEPT ANY PORTION LYING WITHIN THE PLAT OF DUGUALLA BAY HEIGHTS, DIVISION NO. 6, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 9 OF PLATS, PAGE 16, RECORDS OF ISLAND COUNTY, WASHINGTON;

ALSO EXCEPT ANY PORTION LYING WITHIN THE PLAT OF DUGUALLA BAY HEIGHTS, DIVISION NO. 7, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 9 OF PLATS, PAGE 69, RECORDS OF ISLAND COUNTY, WASHINGTON. SITUATE IN ISLAND COUNTY, WASHINGTON.

**PARCEL 2**

THAT PORTION OF GOVERNMENT LOT 1 OF SECTION 17, TOWNSHIP 33 NORTH, RANGE 2 EAST, W.M., LYING SOUTHERLY OF THE PLAT OF DUGUALLA BAY HEIGHTS DIVISION NO. 7, RECORDED IN VOLUME 9 OF PLATS, PAGE 69, RECORDS OF ISLAND COUNTY, WASHINGTON, AND SOUTHERLY AND EASTERLY OF THE PLAT OF DUGUALLA BAY HEIGHTS DIVISION NO. 8, RECORDED IN VOLUME 10 OF PLATS, PAGE 52, RECORDS OF ISLAND COUNTY, WASHINGTON, AND EASTERLY OF ELK HORN STREET, AS SHOWN ON THE ABOVE MENTIONED PLAT OF DUGUALLA BAY HEIGHTS DIVISION NO. 8;

EXCEPT THEREFROM THAT PORTION LYING WITHIN DUGUALLA ROAD AS SHOWN ON THE PLAT OF DUGUALLA BAY HEIGHTS DIVISION NO. 4, RECORDED IN VOLUME 8 OF PLATS, PAGE 48, RECORDS OF ISLAND COUNTY, WASHINGTON.

ALSO EXCEPT THE WEST 264.6 FEET OF GOVERNMENT LOT 1, SECTION 17, TOWNSHIP 33 NORTH, RANGE 2 EAST, W.M., LYING SOUTHERLY OF DUGUALLA ROAD; SITUATE IN ISLAND COUNTY, WASHINGTON.

**PARCEL 3**

LOTS 46A, 47A AND 49A PLAT OF DUGUALLA BAY HEIGHTS, DIVISION NO. 7, AS PER PLAT RECORDED IN VOLUME 9 OF PLATS, PAGE 69, RECORDS OF ISLAND COUNTY, WASHINGTON. SITUATE IN ISLAND COUNTY, WASHINGTON.

**PARCEL 4**

LOTS 79, 80, 81 AND 82 PLAT OF DUGUALLA BAY HEIGHTS, DIVISION NO. 8, AS PER PLAT RECORDED IN VOLUME 10 OF PLATS, PAGE 52, RECORDS OF ISLAND COUNTY, WASHINGTON. SITUATE IN ISLAND COUNTY, WASHINGTON.

**Dugualla Property:**

Lot D, Plat of Dugualla Bay Heights, Division No. 8, as per plat recorded in Volume 10 of Plats, page 52, records of Island County, Washington. Situate in the County of Island, State of