

2012-007851

Klamath County, Oregon



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After Recording, return to:

Klamath Lake Land Trust, Inc.

PO Box 5142

Klamath Falls, Or. 97601

DEED OF CONSERVATION EASEMENT

Greenwald

This Deed of Conservation Easement is made this 19th day of July, 2012, by, Sandia Piedra Banks (also known as Sandia Pearson Greenwald), Trustee of the Living Trust of Sandia Corning Pearson, u.a.d. 10-25-01, **Grantor**, in favor of **Klamath Lake Land Trust, Inc.**, a nonprofit Oregon corporation, having an address at PO Box 5142, Klamath Falls, Oregon 97601, **Grantee**.

RECITALS

1. The Grantor owns certain real property in Klamath County, Oregon, described in the attached Exhibit A and referred to herein as the Property; and
2. The Property consists of one legal tax lot known as tax lot 401 in Section 34, Township 36 South, Range 7 East which include 14.76 acres of lakeshore fringe forest bordering Upper Klamath Lake which includes natural, scenic, habitat and open space values (collectively, "Conservation Values") which are of great importance to Grantor, the people of Klamath County, and the people of the State of Oregon; and
3. The Grantor wishes to protect in perpetuity the natural habitats and scenic qualities of the Property; and
4. Upper Klamath lake is the largest freshwater lake in the Pacific Northwest and identified habitat for the Federally listed Endangered Lost River and Shortnosed Suckers; and
5. The property supports a mature mixed conifer forest and wetland fringe lakeshore important to a variety of fish and wildlife species. The Property lies in the middle of several much larger parcels in similar habitat condition. A conservation easement on the property will significantly contribute to the natural integrity of the larger landscape by limiting further fragmentation of habitat from increase in residential and commercial development and will ensure continuity of the wildlife habitat present; and
6. The property is in an area which has been identified by Grantee for further protection including ongoing negotiations regarding the establishment of a conservation easement or other protection with the owner of the 970 acre Ball Mountain property located immediately to the north of the Property. Additionally the property is visible from Shoalwater Bay, a widely used recreational area on upper Klamath Lake, and Eagle Ridge County Park, a 537 acre public park on Upper Klamath Lake, which is a popular destination for recreation boating, fishing and bird watching; and
7. The Property has been zoned recreational commercial and contains a one story cabin along with tennis courts and a swimming pool set within its a mixed conifer forest and wetland lake front; and
8. A conservation easement on this property will protect significant natural habitats from further development. It will limit development on a small parcel situated among several much larger parcels in similar habitat condition, thereby helping to maintain continuity of wildlife habitat through the larger landscape. A conservation easement on this property will also protect significant views of the lakeshore and forested upland from the lake and opposing lakeshore.; and
9. The Property contains an array of significant habitat features including:

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- a. lakeshore frontage with emergent wetlands and lakeshore fringe habitat including bulrush, cattails, and wocus;
- b. a mature mixed conifer forest consisting of multiple native species of trees including cedar, ponderosa pine, white fir, and juniper along with an array of native shrubs including include Klamath plum, choke cherry, wild rose, spirea, manzanita and bitterbrush which is connected to similar forests on neighboring properties;
- c. Lakeshore fringe habitat is Designated Critical Habitat for the federally listed Endangered Lost River and shortnose suckers and is identified by the state and federal governments as important habitat for a variety of birds and bats identified as Species of Concern by United States Fish and Wildlife and as Strategy Species by the Oregon Conservation Strategy;
- d. Upper Klamath Lake contains the Upper Klamath National Wildlife Refuge of the U.S. Fish and Wildlife Service and provides migratory and nesting habitat for an array of birds including the American Bald Eagle, which has a number of established nesting sites located in the immediately vicinity of the Property.

Therefore the protection of its relatively natural lakeshore fringe, mixed conifer forests and associated ecosystems will protect a significant relatively natural habitat as described in 26 USC 170(h)(4)(A)(ii) and 26 CFR Section 1.170A-14(d)(3); and

10. Natural scenic beauty is identified as an important component of the local community, impacting the natural environment, community character and quality of life, and local economies. The Property is maintained in its relatively natural and scenic condition, providing a view of forest lands from Upper Klamath Lake, specifically Shoalwater Bay and the Eagle Ridge County Park which are identified as specific sites on the Oregon Cascades Birding Trail, sponsored by the National Forest Fund, American Bird Conservancy, Leupold, and the East Cascade Bird Conservancy, and on the Klamath Basin Birding Trail, sponsored by the Klamath Wingwatchers with funding from the Klamath County Board of Commissioners. The area is widely used for public recreation focused on its scenic character, and therefore its conservation will preserve valuable open space for the scenic enjoyment of the general public and provide a significant public benefit as described in 26 USC 170(h)(4)(A)(iii) (I) and 26 CFR Section 1.170A-14(d)(4)(i)(B); and
11. The specific Conservation Values of the Property are further documented in an inventory of relevant features of the Property (the Baseline Documentation Report) which is dated July 19th, 2012 and on file at the offices of the Grantee. The Baseline Documentation Report (BDR) is incorporated into this easement by this reference and is agreed by the parties to accurately represent the Property at the time of this grant through its maps, photographs and other documentation and which is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this grant; and
12. The State of Oregon has determined that it is in the public interest to protect existing open spaces for the use and enjoyment of Oregon's scenic landscapes (ORS 390.010(3)(a)); and
13. The Grantee is a publicly supported, tax-exempt, nonprofit organization qualified under Section 501(c)(3) and 170(h) of the Internal Revenue Code whose primary purpose is the preservation, protection, and enhancement of land in its natural, scenic, historical, agricultural, forested, and/or open space condition; and
14. ORS 271.715 to 271.795 permit the creation of conservation easements for the purpose of retaining or protecting natural, scenic, and open space values of real property, assuring its availability for agriculture, forest, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property; and
15. The Grantor intends to convey to Grantee the right to preserve and protect the Conservation Values of the Property in perpetuity; and
16. Grantee agrees by accepting this grant to honor the intentions of Grantor described in this Easement and to preserve and protect in perpetuity the Conservation Values of the Property for the benefit of this and future generations.

AGREEMENT

In consideration of the above and the mutual covenants, terms, conditions and restrictions contained in this document and pursuant to the laws of the State of Oregon and in particular ORS 271.715 through 271.795, Grantor voluntarily grants and conveys to Grantee a Conservation Easement in perpetuity over the Property of the nature and character and to the extent set forth in this document (Easement).

- 1) PURPOSE. It is the purpose of this Easement to protect and preserve the Property's mature mixed conifer forest and wetland fringe lakeshore, in order to preserve its significant habitat and scenic values, while allowing for the continued residential use of the Property in such a way that prevents any use of the Property which is inconsistent with the purpose of this Easement.
- 2) RESERVED RIGHTS. Grantor reserves all rights and obligations accruing from ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited by this Easement and are not inconsistent with the purposes of this Easement. Without limiting the generality of the foregoing, these reserved uses specifically include the following regardless of any apparent conflicts with other provisions found in this Easement:
 - A) low impact recreation such as hiking and camping;
 - B) All legal single family residential use of the Residential Area around the existing residence and associated infrastructure which is identified in more detail in Exhibit B and the BDR, including the right to clear and maintain vegetation and landscaping. Except as conditioned here, this Residential Area is exempt from the terms and conditions of this easement except those found at paragraphs 4) A, B, E, I, J, and K below. This reserved right includes the right to replace, enlarge, remodel and maintain the existing structures and build additional accessory structures used in association with the one permitted single family residence. In order to protect the scenic quality of the Property and the viewshed from Klamath Lake and adjacent public areas, all such structures shall be designed and located in a manner which minimizes their visual impact including compliance with the following standards:
 - i) No Structure shall exceed 20 feet in height measured from the mean natural ground elevation at the building footprint to the top of the roof pitch.
 - ii) All materials used in construction shall be designed to limit their visual impact, therefore;
 - (1) all roofing materials shall be non-reflective and utilize natural colors, such as browns, blacks or greens, and
 - (2) siding shall be of non-reflective material utilizing colors designed to reasonably limit their visual impact.
 - iii) Any accessory structures which, due to their functional nature, cannot comply with the standards above, such as antennas, satellite dishes, solar panels, wind turbines or other alternative energy sources, must be located such that they are not visible from Klamath Lake.In the event Grantor is unsure of whether a project will satisfy the terms of this provision, Grantor may request prior approval from Grantee of any proposed building or structures under the terms and conditions of Section 5 below. Grantee shall, in their reasonable discretion, review any such proposals for compliance with the goals and standards set forth in this section and shall provide Grantor with a written response which shall be binding upon the parties. Additionally, Grantee may, in their sole discretion, waive provisions of these building standards if they determine that the structure cannot reasonably be seen from Klamath Lake or surrounding public areas and will not impact the scenic viewshed. Any such waiver must be in writing and include specific findings that such waiver will not impact the conservation values being protected.

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- C) The repair, maintenance, or replacement of all trails, roads, infrastructure, and structures described in the BDR or approved by Grantee under the terms of this easement or Exhibit C.
 - D) The maintenance of a scenic view corridor from the Residential Area to Upper Klamath Lake. This corridor shall be designed to allow a naturally filtered scenic view of Upper Klamath Lake while preserving larger trees in such a manner as to protect both habitat values and the scenic view from the Lake towards the property. Beyond the manual clearing of small diameter trees as described in Exhibit C, all work under this paragraph must be performed in accordance with the terms of a proposal for Minor Activities described in paragraph 1.a. of Exhibit C. All such plans must clearly address how the proposed activity will maintain an adequate supply of larger trees for wildlife habitat and preserve the scenic qualities of the property as seen from the Lake. Any work shall comply with the terms and conditions described in Exhibit C and be located in the view corridor area noted in the BDR. Proposals will be reviewed by Grantee, in their reasonable discretion, to determine that the activity is consistent with the goals stated in this paragraph.
 - E) The posting of signs to limit access to the Property by the public, including any required signs to restrict hunting or other related use of the Property.
 - F) The construction and maintenance of a covered storage space for canoes and kayaks or other similar manually powered water craft near the lakeshore in a location noted in the BDR and sheltered from public view by existing vegetation. This structure shall be made of all natural materials, such as wood, shall not exceed 10 feet in height at its highest point, or have a footprint greater than one hundred and twenty square feet (120 sq ft). It shall be constructed without a permanent foundation and shall be accessed by low impact foot trails. In the event Grantor wishes to develop this structure in a location other than that noted in the BDR, they shall submit a plan to Grantee under the provisions of Section 5 below which details how the new location offers equal or greater protection to both the habitat and scenic features of the Property. Grantee shall approve such new location only if they determine, in their sole discretion, that revising the location either benefits, or causes no harm to, the conservation values of the Property. All such approval shall be in writing and reflected in Grantee's files.
- 3) RIGHTS OF GRANTEE. In order to protect the Property's Conservation Values and to accomplish the purpose of this Easement, the following rights are conveyed to Grantee by this Easement:
- A) To preserve, protect, and enhance the natural, scenic, forest, open space, habitats, and other ecological features of the Property;
 - B) To establish and maintain reasonable signs, no larger than 0.25 square feet in area each, along the Property borders in locations to be mutually agreed upon by the Parties, acknowledging the presence of this Easement and the private nature of the Property;
 - C) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement. Such monitoring shall take place on an annual basis or more often if Grantee determines that proposed uses or changes in conditions warrant additional review. In all cases, except those where Grantee determines, in its sole discretion, that immediate entry is required to prevent, terminate, or mitigate a violation of this Easement, such entry shall be with reasonable prior notice to Grantor as described in Section 10 below, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property; and
 - D) To enjoin any activity on, or use of, the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth below in Section 6.
 - E) In the event of unforeseen, or unconsidered activities, Grantee may, in its sole discretion, approve other uses of the Property, even if they are prohibited by the terms of Section 4 below, but only if Grantor can show by clear and convincing evidence that such activity will enhance the protection of the Property's conservation values; that such proposed use will not create any private inurement or impermissible private benefit as such terms are

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defined by the Internal Revenue Code; and that the proposed use will not affect the qualification of this Easement or the status of Grantee under any applicable laws, including ORS 271.715 through 271.795 or Section 170(h) of the Internal Revenue Code and any successor provisions. Grantee is under no obligation to consider or approve any such proposal and may condition any such review in any manner it deems appropriate. Grantee's approval under this section must be in writing and must confirm that the conditions described above have been met.

- 4) PROHIBITED USES. It is the intention of the parties that Grantor shall retain all use of the Property which is not inconsistent with the conservation purposes of this Easement and which does not harm the conservation values being protected by this Easement. The parties understand that it is impossible to foresee all potential uses of the property and that some activities which are not listed below may be restricted if they were not considered at the time of the grant and are inconsistent with the conservation purposes described above. It is also understood by the parties that changes in climate and environment may alter the landscape over time and that the specific habitats and delineated conservation values may also change through natural processes. If such changes take place the prohibition of unconsidered uses shall be based on the broad protection of the then existing natural habitats and the furtherance of the conservation purposes described above. Without limiting the generality of the foregoing, the following activities are expressly prohibited:
- A) Industrial use.
 - B) Commercial use incompatible with the purpose of the Easement.. As used for purposes of this easement the term "commercial" includes all form of commercial use as defined in Article 52 of Chapter 50 of the Klamath County Land Development Code. Any such use, including those listed as "Recreational Commercial", shall be presumed to violate the terms of the easement, unless Grantee determines, in their sole discretion, that any proposed use will not impair the conservation values and purposes described in this easement. Any such approval shall be reviewed under the terms of Section 5 below, be in writing, and be made in response to a clearly delineated written proposal from Grantor.
 - C) The commercial or recreational use of off-road vehicles except on currently established roadways as indicated in the Grantee's files and BDR, as allowed under the provisions of either Section 2 above, this Section 4, or Exhibit C, or in emergencies.
 - D) The development of any structures, signs, or improvements, except within the Residential Area , as otherwise specifically allowed under the terms of this Easement, or as specifically permitted by Grantee to promote the purposes of this Easement.
 - E) The exploration for or extraction of minerals, hydrocarbons, oil or materials on or below the surface of the Property. This provision does not restrict the ability to drill a well for domestic water within the Residential Area if needed in relation to the permitted residential use of the Property.
 - F) Any alteration of the surface of the land or streams, including, without limitation, the excavation or removal of soil, sand, gravel, rock, peat, sod, or building of roads and other right-of-ways within the Property except de minimis disturbance related to allowed and regular use, or as permitted under the provisions of Section 2 above, Exhibit C, or this Section 4.
 - G) The harvesting or clearing of trees or other vegetation outside the Residential Area except as described in the attached Exhibit C or under the terms and conditions of an approved Conservation Management Plan (CMP) which is designed to protect the Property's natural habitat areas and scenic qualities as described in more detail in the attached Exhibit C, or as necessary to remove hazard trees which pose an imminent threat to human health and safety.
 - H) Grazing of livestock, except as permitted under the terms of an approved CMP.
 - I) The legal or de facto subdivision or partitioning of the Property including the development of more than one single family residence within the Residential Area.

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- J) Introduction or promotion of non-native, invasive species.
- K) The processing, storage, dumping, or other disposal of hazardous, toxic or other wastes, and refuse on the Property except for reasonable and lawful household storage and use of regularly available household chemicals within the Residential and Auxiliary Residential Areas or as reasonably necessary in relation to other permitted uses such as agricultural use or uses approved under the terms of Exhibit C.
- L) The active management or removal of vegetation from the Lakeshore Fringe Habitat Area as defined in the BDR except as required for the maintenance and use of existing trails and structures described in the BDR and construction, maintenance and use of the Canoe or Kayak rack described above in paragraph 2 (f) or as allowed under the provisions of an approved CMP as described in Exhibit C which is designed to protect or enhance the natural habitat values.

5) **NOTICE AND APPROVAL.**

- A) Grantor agrees to notify Grantee in writing prior to undertaking any activity which may have an adverse impact on the Conservation Values of the Property, and specifically prior to undertaking any activities such as those described in the above Sections 2, 4, or in Exhibit C. The purpose of such notice is to provide Grantee with an adequate opportunity to review and monitor the activities to ensure that they are consistent with the purpose of this Easement. All such notices, except as specified elsewhere in this Easement, shall be provided not less than thirty (30) days prior to commencement.
- B) In all cases where Grantee's approval is required, except as specified in Exhibit C, Grantee shall grant or withhold its approval within thirty (30) days of receipt of Grantor's written request for such approval. In the case of all plans submitted pursuant to Exhibit C, the timelines described in Exhibit C shall apply. Any approval required of Grantee under the terms of this Easement shall be in writing and granted or withheld solely at the discretion of Grantee.

6) **GRANTEE'S REMEDIES.** In order to provide for the protection of the Property's Conservation Values, Grantor hereby waives any defense of laches, estoppel, abandonment or prescription and expressly grants the following rights of enforcement which shall be cumulative and in addition to all remedies now or hereafter existing at law or in equity.

- A) **Notice and Corrective Action.** If Grantee determines that Grantor is in violation of this Easement or a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation, and where the violation involves injury to the Property resulting from any use or activity prohibited or inconsistent with the purposes of this Easement, to restore the portion of the Property so injured.
- B) **Injunctive Relief.** If Grantor fails to cure the violation within thirty (30) days after receipt of notice of the violation from Grantee or, under circumstances where the violation cannot reasonably be cured within the thirty (30) day period, fails to begin curing said violation within the thirty (30) day period or fails to continue diligently to cure said violation until finally cured, Grantee may bring an action at law or equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation ex parte as necessary by temporary or permanent injunction, and to require the restoration of the Property to the condition in which it existed prior to any such injury.
- C) **Damages.** Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement including damages for the loss of scenic, aesthetic, or environmental values, as well as the value of any minerals, crops, timber or other material removed from the Property in violation of this Easement. Without limiting Grantor's liability for the remediation of any harm caused to the Property's conservation values, Grantee in its sole discretion may apply any damages recovered to the

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cost of undertaking any corrective action on the Property.

- D) **Emergency Enforcement.** If Grantee in its sole discretion determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, Grantee may pursue its remedies under this Section 6 without prior notice to Grantor and without waiting for the period provided for cure to expire, provided that notice shall be given contemporaneously.
- E) **Scope of Relief.** Grantee's remedies shall be cumulative and in addition to all remedies now or hereafter existing at law, or in equity. Additionally, Grantee's rights under this Section apply equally in the event of either actual or threatened violations of the terms of this Easement and Grantor agrees that Grantee's remedies at law for any violation of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this Section, both prohibitive and mandatory, in addition to such other relief to which Grantee 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.
- F) **Enforcement Costs.** If any action or suit is instituted to enforce the terms of this agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other rights and remedies it may have, all reasonable expenses and attorney fees at trial or on appeal, and all costs (including attorney fees) associated with any restoration required as a result of Grantor's violation of the terms of this agreement.
- G) **Grantee's Discretion.** Grantor intends that the enforcement of the terms and provisions of this Conservation Easement shall be at the discretion of the Grantee and any forbearance by Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor shall not be deemed or construed to be a waiver of Grantee's rights under the Conservation Easement in the event of any subsequent breach.
- H) **Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, drought, infestation, and earth movement, and from any prudent action taken by Grantor under emergency conditions to prevent or mitigate significant injury to the Property resulting from such causes, or for the acts or omissions of third parties other than Grantor's agents, employees, contractors, or subcontractors, except to the extent that the acts or omissions of third parties are caused by the fault of Grantor or their agents, employees, contractors, or subcontractors or are otherwise performed with Grantor's knowledge and permission.

7) **COSTS, LIABILITIES AND ENVIRONMENTAL WARRANTEE.**

- A) Grantor retains all responsibilities and shall bear all costs and liabilities of any kind relating to the ownership, operation, upkeep and maintenance of the Property and does hereby indemnify and hold Grantee harmless therefrom. Grantor also remains solely responsible for obtaining any applicable governmental permits or approvals for any activities or use permitted by this Easement. Furthermore, nothing in this Easement shall be construed as giving rise to any right or ability in Grantee to exercise physical or management control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA) or any corresponding state and local statute or ordinance.
- B) Grantee shall be solely responsible and shall bear all costs and liabilities of any kind relating to the Monitoring of the Property by Grantee and shall hold Grantor harmless therefrom.
- C) Grantor warrants that they have no actual knowledge of a release or threatened release of hazardous substances or wastes on the Property, as such substances and wastes are defined by applicable law, and hereby promise to indemnify Grantee against, and hold Grantee harmless from, any and all loss, cost, claim (without regard to its merit), liability or expense (including reasonable attorney's fees) arising from or with respect to any release of hazardous waste or violation of environmental laws. Additionally, if at any time after the effective date of this Easement there occurs a release in, on, or about the Property of any substance now or

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hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take all steps that may be required under federal, state, or local law necessary to assure its containment and remediation, including any cleanup.

- 8) **TAXES.** Grantor agrees to pay before delinquency all taxes and assessment fees and charges of whatever description levied on or against the Property by any competent authority (collectively taxes) including any taxes imposed upon, or incurred as a result of, this Easement. If at any time taxes are found to be delinquent, Grantee is authorized, but in no event obligated, to make or advance any payment of taxes, upon three (3) days prior written notice to Grantor, in accordance with any bill, statement or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or accuracy of the bill, statement or estimate. Grantee shall be entitled to immediate reimbursement from Grantor for any taxes so paid and the obligation created by such a payment shall bear interest until paid by Grantor at the lesser of 5 percentage points over the prime rate of interest from time to time charged by the US Bank National Association or the maximum rate allowed by law.

9) **HOLD HARMLESS.**

- A) Grantor shall hold harmless, indemnify and defend the Grantee and its members, directors, officers, employees, agents and contractors and their heirs, personal representatives, successors and assigns (collectively indemnified parties) from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments including without limitation reasonable attorney fees arising from or in any way connected with:
- (i) Injury or death to any person or physical damage to any property resulting from any act, omission, condition or other matter related to, occurring on, or about the Property regardless of cost unless solely due to the negligence or willful misconduct of any of the indemnified parties;
 - (ii) The violation or alleged violation of, or failure to comply with, any state, federal, or local law, regulation or requirement by any person other than one of the indemnified parties which in any way affects, involves or relates to the Property;
 - (iii) The presences or release in, on, from, or about the Property, at any time, of any substance now or later defined, listed or otherwise classified as hazardous, toxic, polluting, or otherwise contaminating to the air, water or soil, or in any way harmful or threatening to human health or the environment, unless such presence or release is due solely to the acts of any of the indemnified parties;
 - (iv) The obligations specified in Sections (7) and (8) above.
- B) Grantee shall hold harmless, indemnify and defend the Grantor and her heirs, personal representatives, successors and assigns (collectively indemnified parties) from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments including without limitation reasonable attorney fees arising from, or in any way connected with, injury or death to any person or physical damage to any property resulting from any act or omission of the Grantee or its employee, agents or contractors during, or occurring in connection with, the Monitoring of the Property by Grantee.

- 10) **ACCESS.** This Easement does not affect the private nature of the property and it does not convey any right of access by the general public. However, in order to monitor compliance with the terms of this Easement it does give to Grantee or its agents or designees the right to enter upon the Property to inspect the Property under the following circumstances:

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- A) Annually, or, in the event of ongoing maintenance, management or specifically approved activities, more frequently if, in Grantee's reasonable discretion, circumstances warrant additional monitoring. Such site visits shall be at reasonable times and upon at least 15 days notice to the current owner of the Property (unless the owner agrees to shorter notice).
- B) Also, in the event that Grantee reasonably believes that the terms of this Easement have been or are about to be violated, Grantee or its designee or agent may conduct further inspections of the Property at any time upon reasonable notice under the circumstances to Grantors. This notice shall be determined by Grantee in its sole discretion and may include no prior notice if Grantee determines immediate access is necessary for the protection of the Conservation Values. Any inspection authorized by this Section 10 or Section 3 above shall be conducted solely for the purpose of determining whether the condition of the Property complies with the terms of this Easement.

Failure to conduct such inspections shall not constitute a waiver of the right to do so, nor a waiver of the right to enforce any violation of the terms of this Easement which would have been apparent on inspection.

11) **CHANGE OF CONDITIONS.**

- A) If in the opinion of Grantee circumstances arise in the future that render the purpose of the Easement impossible to accomplish, the Easement may only be extinguished or terminated by Grantee, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction brought by Grantee. The amount of proceeds, after satisfaction of prior claims, to which Grantee shall be entitled upon any sale, exchange, or involuntary conversion of all or a portion of the Property subsequent to such extinguishment or termination shall be the proportionate amount of the proceeds determined in accordance with Section 12 below. Grantee shall use any proceeds received under the circumstances described in this Section 11 in a manner consistent with its conservation purposes, which are exemplified by this Easement.
- B) In making this grant, Grantor has considered the possibility that uses prohibited by the terms of this Easement may become more economically valuable than uses permitted by the terms of this Easement; that neighboring properties may in the future be put entirely to such prohibited uses; that Grantor may be unable, or find it unprofitable, to conduct or implement any or all of the uses permitted under the terms of the Easement; and it is the intent of both Grantor and Grantee that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of the Easement pursuant to paragraph 11(A).

- 12) **VALUATION.** This Easement constitutes a real property interest immediately vested in Grantee, which the Parties stipulate to have a fair market value at least equal to the proportionate value that this Easement, as determined at the date of conveyance, bears to the fair market value of the unrestricted Property as a whole at that time. This proportionate value shall remain constant but shall exclude any increase in value attributable to improvements constructed or placed on the Property subsequent to the Date of this Easement. The values used to determine the above ratio shall be those used to calculate any deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Internal Revenue Code. The Parties shall execute a letter confirming such values prior to the date any deduction is taken by Grantor and a copy of such letter shall be kept on file at the offices of Grantee. In the event that no tax deduction is taken pursuant to Section 170(h) of the Internal Revenue Code then the value of this Easement may be determined by a qualified, licensed Appraiser chosen by Grantee at the time such valuation is required under Section 11 or 13 of this Easement.

- 13) **CONDEMNATION.** If all or part of the Property is taken by an exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this

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Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or purchase in lieu of taking and all direct and incidental damages resulting therefrom. All reasonable expenses paid by Grantor and Grantee in connection with such an action shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be the proportion determined in Section 12, above, unless otherwise provided under state law. Grantee shall use any proceeds received under the circumstances described in this Section 13 in a manner consistent with its conservation purposes, which are exemplified by this Easement.

- 14) **ASSIGNMENT.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code (or any successor provision then applicable), is authorized to acquire and hold conservation easements under then applicable Oregon law or the laws of the United States, and has adequate resources to enforce the restrictions of this Easement. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to further continue to be carried out. Grantee agrees to give written notice to Grantor of an assignment at least 20 days prior to the date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way. If the Grantee (including a successor or transferee Grantee) ever ceases to exist or no longer qualifies under IRC §170(h)(3) and ORS 271.715(3), a court with jurisdiction shall, on its own accord or upon petition by Grantor or Grantor's successors or by any entity that would so qualify, transfer this easement to another qualified organization having similar purposes that agrees to assume the responsibility imposed by this Deed.
- 15) **SEVERABILITY.** If any provision of this Conservation Easement or its application to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Easement and the application of this instrument to persons or circumstances other than those to which it is found to be invalid shall not be affected.
- 16) **LIBERAL CONSTRUCTION.** Any rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the Grantee to effect the purpose of this Easement. If any provision in this instrument is found to be ambiguous, then an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 17) **SUBSEQUENT TRANSFERS AND ENCUMBRANCES.** Grantor agrees that the terms, conditions, restrictions, and purposes of this grant will be inserted in any subsequent deed or legal instrument by which Grantor divests herself of any interest in the Property including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforcement in any way. No provisions of this Deed of Conservation Easement should be construed as impairing the ability of Grantor to use this Property as collateral for subsequent borrowing, provided that any mortgage or lien arising from such a borrowing would be subordinated to this Deed of Conservation Easement.
- 18) **RECORDATION.** This instrument shall be recorded by the Grantee in the Official Records of Klamath County, Oregon, promptly following its execution and prior to any transfer of any interest in the Property by the Grantor and may be re-recorded as necessary by either party.
- 19) **ESTOPPEL CERTIFICATE.** In the event of any pending sale of the Property, then upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor any document including an estoppel certificate which certifies Grantor's compliance with any obligations of Grantor contained in this Easement and otherwise

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evidences this Easement as may be requested by Grantor.

- 20) **ENTIRE AGREEMENT.** This instrument sets forth the entire agreement between the Parties with respect to the Easement and supersedes all prior discussions, negotiations, or agreements relating to the Easement, all of which are merged into this Easement.
- 21) **NOTICES.** Any notice, demand, request, consent, approval, or other communication required or permitted hereunder shall be in writing and either served personally or sent by first class mail, postage prepaid, or certified mail, return receipt requested, addressed to such address as either party from time to time shall designate by written notice to the other. In the event no such address is designated, or any notice sent to the designated address is returned as undelivered, either Party may use the address recorded in public records, such as those found at the Oregon Secretary of State's Corporation Division, business registry or the Klamath County Assessor's office for property tax purposes, and mailing to such address shall constitute notice. Notices shall be deemed given when received, or four days from the date of mailing, whichever occurs first. Unless otherwise required by law, written communication made through electronic means shall be considered adequate for these purposes when receipt is acknowledged by the recipient and shall be deemed received upon the date of acknowledgement.
- 22) **SUCCESSORS.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon and inure to the benefit of the Parties to this Easement and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property. Any reference in this Easement to either Grantor or Grantee shall include their respective personal representatives, heirs, successors, and assigns.
- 23) **AMENDMENT.** If circumstances arises under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee are free to jointly amend this Easement provided that no amendment shall be allowed that will affect the qualification of this Easement or the status of Grantee under any applicable laws, including ORS 271.715 through 271.795 or Section 170(h) of the Internal Revenue Code and any successor provisions. Furthermore, any amendment must be consistent with the purposes of this Easement and shall not lessen the protection afforded by this Easement, affect its perpetual duration, or result in any prohibited inurement or private benefit. Any such amendment shall be recorded in the official records of Klamath County, Oregon.
- 24) **CONTROLLING LAW.** This Easement shall be governed and construed in accordance with Oregon Law.
- 25) **EXHIBITS AND RECITALS.** The Exhibits and Recitals are incorporated into this document by this reference.
- 26) **NO FORFEITURE.** Nothing in this easement shall be construed to result in a forfeiture or reversion of Grantor's title to the property in any respect.
- 27) **MERGER.** In the event Grantee takes additional title to the Property in such a manner that the Doctrine of Merger may apply, Grantee shall maintain the Property as though it were restricted by this easement and shall re-record the easement upon any transfer of an interest to a third party. Grantee may amend the easement as described above in Section 23 prior to re-recording if Grantee, in its sole discretion, believes such amendment will enhance the Conservation Purposes of this grant.
- 28) **SURVEYS.** In the event of dispute regarding the exact location any of the Areas referred to in this easement any party may notify the other party and request a survey from an official licensed surveyor. If within 30 days of the request the parties cannot agree on a surveyor then each party shall select one licensed surveyor and the those

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surveyors together shall agree on a third licensed surveyor who shall survey the Area. The survey performed shall be based solely on the description found in this Easement, its Exhibits, and the BDR, shall be binding upon the parties, and shall be recorded in the official records of Klamath County as an amendment to the Conservation Easement. The costs of such survey and all recording fees shall be shared equally, with one half (50%) paid by Grantor and one half (50%) paid by Grantee.

[Signature Page Follows]

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TO HAVE AND TO HOLD unto Grantee, its successors and assigns, forever.
EXECUTED on the day and year first written above.

GRANTOR:

Sandia Pearson Greenwald



State of Oregon
County of Klamath

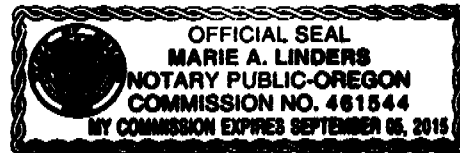
This instrument was acknowledged before me on the 19th day of July, 2012 by Sandia Pearson Greenwald
Marie A Linders - MARIE A LINDERS
Notary Public
My Commission Expires:

ACCEPTED on this 19th day of July, 2012.

GRANTEE: KLAMATH LAKE LAND TRUST, INC., an Oregon nonprofit corporation

By: Crystal McMahon

Title: Executive Director



State of Oregon
County of Klamath

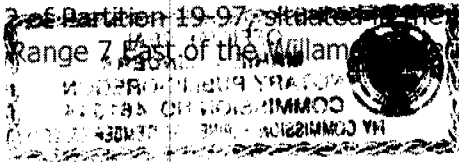
This instrument was acknowledged before me on the 19th day of July, 2012 by Crystal McMahon as
Ex Director of Klamath Lake Land Trust, Inc, an Oregon nonprofit corporation.

Marie A Linders - MARIE A LINDERS
Notary Public
My Commission Expires: 09.15.2015

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**Exhibit A
The Property**

Parcel 2 of Partition 19-97, situated in the SE 1/4 and SE 1/4 NE 1/4, Section 34, Township 36 South, Range 7 East of the Williamette Meridian, Klamath County, Oregon.



(Written duplicate of information above):

Parcel 2 of Partition 19-97, situated in the SE 1/4 and SE 1/4 NE 1/4, Section 34, Township 36 South, Range 7 East of the Williamette Meridian, Klamath County, Oregon.

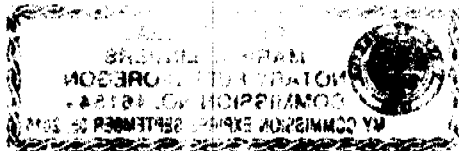


EXHIBIT B

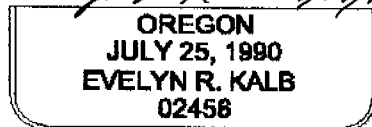
LEGAL DESCRIPTION for the DEVELOPMENT WINDOW for
PARCEL 2 of PARTITION NO. 19-97

A portion of Parcel 2 of Partition No. 19-97 located in the Southeast Quarter of the Northeast Quarter of Section 34, Township 36 South, Range 7 East, Willamette Meridian, Klamath County, Oregon. This Development Window is as shown on the Map of Survey filed July 2012 at CS 7926 in the Klamath County Surveyor's Office. The basis of bearings for this legal description is the west line of Parcel 2 of Partition No. 19-97. The Development Window is more particularly described as follows:

Beginning at a 5/8 inch x 30 inch rebar with a 2 inch aluminum cap marked "CHESEBRO & KALB DEV WIN PLS 2456 2012" (similar monuments hereinafter C & K MON), said True Point of Beginning bears South 43° 09' 12" East 621.43 feet from the northwest corner of Parcel 2 of Partition 19-97 (hereinafter Parcel 2) which is monumented with a 5/8 inch x 30 inch rebar with a plastic cap marked "ADKINS CONSLT. ENGRS. INC." (similar monuments hereinafter ADK MON); thence North 19° 46' 08" East for 363.75 feet to a C&K MON; thence continuing North 19° 46' 08" East for 112.37 feet to a point on the north boundary of Parcel 2; thence along the north boundary of Parcel 2 South 89° 28' 56" East for 274.11 feet to an ADK MON; thence continuing along the north boundary of Parcel 2 South 89° 28' 56" East for 98.14 feet; thence South 05° 50' 51" West for 59.80 feet to a C&K MON; thence continuing South 05° 50' 51" West for 179.43 feet to a C&K MON; thence continuing South 05° 50' 51" West for 21.97 feet to a point on the south boundary of Parcel 2; thence along the south boundary of Parcel 2 North 89° 28' 56" West for 86.92 feet to an ADK MON; thence continuing along the south boundary of Parcel 2 North 89° 28' 56" West for 103.15 feet to an ADK MON; thence along the southeast boundary of Parcel 2 South 18° 01' 37" West for 297.26 feet; thence North 66° 50' 11" West for 34.64 feet to a C&K MON; thence continuing North 66° 50' 11" West for 209.69 feet to a C&K MON and the True Point of Beginning, the area being 3.79 acres more or less.



Evelyn R. Kalb 7/17/12



RENEWS: 6/30/2013

Exhibit C
Conservation Management.

It is the intention of the parties to the Conservation Easement that any active management of the property outside the Residential Area, including habitat restoration, grazing of livestock, timber harvest, clearing of vegetation, or other activities creating a disturbance to the existing habitats, vegetation or scenic viewshed shall be designed to promote the long term protection or enhancement of the existing habitats and scenic features and promote the continued development of the native ecosystems found on the property. **Therefore, no management shall take place without the prior written approval of Grantee as described in this Exhibit C other than:**

1. **the manual thinning or removal of trees no greater than six inches in Diameter at Breast Height (6"DBH) using hand crews;**
2. **the collection or harvest of firewood from already dead and fallen trees for personal, on-site consumption;**
3. **the collection or harvest of non-timber forest products for personal, on-site consumption; or**
4. **the necessary removal of hazard trees which pose a threat to human health and safety.**

Even in the case of small diameter tree removal, firewood or non-timber forest products, if Grantee reasonably determines that such collection is threatening the health of the native plant community, Grantee may request a written proposal for such activity as described below. **In no case shall any plant or animal which has been identified as Threatened or Endangered by any appropriate governmental entity be harvested, removed or intentionally disturbed.**

1. Preparation and Approval of Plans

- a. **Minor Activity.** In the event of minor proposals such as small scale manual thinning of overstocked vegetation, maintenance of trails, maintenance of a view corridor within the area noted in the BDR or noxious weed control, Grantor may prepare and submit written proposals which shall include details of the proposed activity and methods as well as why the proposed activity is necessary and complies with the provisions of the Conservation Easement. Within thirty (30) days of receipt, Grantee shall review such proposals and respond to Grantor in writing with either approval or disapproval of the proposal, or with a request for a full Conservation Management Plan (CMP) described below. Grantee may require a CMP in the event that Grantee, in its sole discretion, decides that the proposed minor activity may create an impact which warrants the more detailed review presented by a CMP. Once a proposal has been approved by Grantee, the approval shall remain in effect unless Grantee notifies Grantor in writing of a change of conditions which reasonably warrants rescission of the approval.
- b. **Conservation Management Plans.** In the event of any larger proposal such as forest management, wetlands restoration, or grazing of livestock, or if Grantee in its discretion decides it is warranted even in a minor proposal, Grantor shall submit a Conservation Management Plan (CMP) prepared by a Natural Resources professional (e.g., ecologist, forester, wildlife biologist, or other individuals or organizations working professionally in the field of forest or rangeland health management or habitat restoration) which addresses the factors described in Section 2 below.
- c. **CMP Review and Approval.** All CMPs shall be reviewed by Grantee as described in Section 5 of the Conservation Easement and Grantee may either, approve, disapprove or request amendments to the proposed CMP within sixty (60) days of receipt. Once approved a CMP shall be considered valid unless a change of natural conditions would reasonably warrant its revision, in which case Grantee shall notify Grantor of such change. While any approved CMP shall be considered valid, because it is regarded as a dynamic tool it is suggested that the CMP be updated and re-approved by Grantee at least every ten years even without a change in natural conditions.

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- d. **Implementation Plan Review and Approval.** In the case of all site work performed under the terms of an approved CMP, Grantor shall provide Grantee with an implementation plan prior to any actual harvest or on-the-ground work no less than thirty (30) days prior to harvest or management. Grantee shall review such implementation plan for its compliance with the approved CMP and shall approve or disapprove of such implementation plan within thirty (30) days of its receipt based on that compliance. Implementation Plans may include all activities which can be reasonably described over the course of up to 24 months and Grantee's approval shall remain valid for the duration of the Plan. In the case of repeating or regular annual activity it may be addressed within a single Implementation Plan with Grantee's approval being treated as though renewed on an annual basis, as of January 1 of each year unless it is revoked by Grantee in writing at least thirty days prior to that date.
2. **Plan Content.** All CMPs created under this provision must describe the reason for the proposed management as well as describing the management practices and outcomes. All proposals must comply with the purposes described above and must protect the health of the natural habitats and plant communities and their scenic value. Consideration of the normal range of variability for species and habitats as well as the natural processes (e.g., disturbances such as fire, insects, disease, windthrow, etc) is needed while understanding the current climate and any broad changes in the region's climate. It is suggested any CMP include a wide range of factors which include, but are not limited to, the ways in which the management:
 - a. Supports native vegetation and plant associations at various seral stages appropriate for the site;
 - b. Fosters and supports a healthy and diverse array of native habitat areas;
 - c. Maintains, where appropriate, grasses, forbs, shrubs, forests, meadows, wetlands, and other plant habitats including snags and large fallen trees while considering the relationship of this material to fuel accumulation and/or increased potential for catastrophic fire;
 - d. Protects and restores riparian and wetland areas with adequate buffering (including appropriate vegetation) and/or other practices designed to protect water quality, quantity and hydrologic function;
 - e. Maintains productive capacity of the soil by limiting compaction, runoff and erosion;
 - f. Monitors livestock grazing to ensure protection of healthy habitats and grassland communities and protection of critical habitats in need of restoration, especially riparian areas with year-round surface water or wetlands;
 - g. Controls or restricts livestock grazing in critical habitats in need of restoration, especially riparian areas with year-round surface water or wetlands;
 - h. Protects the area's scenic quality;
 - i. Reduces fuels and includes other efforts to limit the potential for high severity or catastrophic fire;
 - j. Uses systems that replicate natural disturbances wherever possible;
 - k. Reduces the extent or introduction of invasive species;
 - l. Considers the impacts of planned activities on resources in a landscape context and considers the impacts on resources and ecosystem function in surrounding areas;
 - m. Protects and promotes habitats for regionally present federally or state listed threatened and endangered plants and animals; and
 - n. Considers changes in the region's climate, invasive species and other challenges to the currently existing plant communities.

Grantor acknowledges that these provisions are in addition to any relevant legal provisions regarding the maintenance of the Property and that the standard to be applied in reviewing any Conservation Management Plan may exceed the provisions of any applicable State or Federal law or regulation and that the heightened review is consistent with the grant of this Easement.

Exhibit "D"

Baseline Documentation Report – July 19, 2012

Property Name: Shoalwater Bay – Greenwald Property

Table of Contents

Property Description

Signatures

Appendices:

- A. Title Report (reference)
- B. Special Management Area Locations
- C. Sensitive Species
- D. Species Lists
- E. Baseline Photos

Maps: (Color copies of map available from Klamath Lake Land Trust upon request: 541-884-1053)

- 1. General Vicinity
- 2. Taxlot map
- 3. Aerial photo w/ photo point locations
- 4. Special management areas: View Corridor & Lakeshore fringe habitat area.
- 5. Trail Map and associated GPS coordinates
- 6. Boat Rack Location
- 7. Residential Area (Surveyor's preliminary map; a final, full size Surveyor's map is available from the Klamath County Surveyor's office. The Preliminary map has duplicate information as the final surveyor's map)

Prepared by Dominic DiPaolo, Andy Jansky and Crystal McMahon for the Klamath Lake Land Trust.

Property Description

Property ownership: SANDIA PEARSON GREENWALD (Formally: Trustee of the Living Trust of Sandia Corning Pearson, u.a.d. 10-25-01)

Property address: 19433 Eagle Ridge Rd., Klamath Falls, OR 97601

Phone: 541-840-3965

Mailing Address: Trust of Sandia Corning Pearson: 3680 SW FIR GROVE RD WILSONVILLE, OR 97070

Size: 14.76 acres

USGS Quad map: Shoalwater Bay US Topo.

Legal Description: Parcel 2 of Partition 19-97, situated in the SE ¼ and SE ¼ NE ½, Section 34, Township 36 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon.

Conservation Values: The property contains both significant natural habitat and scenic open space for the benefit of the general public. The habitat is found in both its upland forest and its lakeshore fringe habitat area which is a critical resource for endangered

species within Upper Klamath Lake. Because the property borders Upper Klamath Lake in an area of high recreational usage, with other nearby public lands and lands prioritized for protection, the maintenance of its scenic qualities will provide a significant benefit to the public. These features are described in more detail below.

Zoning: Recreational Commercial

Directions to Property: Hwy 140W from Klamath Falls; 10.8 mi. past Lakeshore Dr., turn right onto Eagle Ridge Rd.; continue 1-2 miles, remain straight when main rd. (Eagle Ridge Rd.) veers right. Continue through gate (combination: "3006"); 1-2 miles to property (2nd to last home on the right).

Google map: <http://g.co/maps/fkujk>

Landowners' goals: In anticipation of upcoming potential sale of the property, the landowner wishes to protect the property's conservation values from possible future commercial development. The Conservation Easement document was drafted with the intention of being executed at the point of transfer to the potential new owners, Steven and Rebecca Poet. They (Mr. & Mrs. Poet) have reviewed the Conservation Easement document and are supportive of the terms and conditions.

Environmental Description

Climate: The climate for the region is characterized by cold wet winters and warm dry summers. The average annual precipitation for nearby Rocky Point is approximately 24 inches, falling mostly in winter as rain and snow. The monthly average maximum temperature in July is 82°F. The monthly average minimum temperature in January is 37°F.

Landscape Position and Topography: The property lies east of Ball Mountain on the lakeshore of Upper Klamath Lake in Shoalwater Bay surrounded by several large forested parcels. The eastern third of the property is a moderately steep slope to the lakeshore. The remaining uplands are gently sloping to nearly flat.

Surface Water: 270 feet of lake shore of Shoalwater Bay of Upper Klamath Lake.

Geology and Soils: 81 E, Woodcock-Mound association north, well-drained and loamy

Vegetation:

Eastside/Klamath Basin mixed conifer forest. A mid seral, moderately mature mixed conifer forest containing Douglas fir, ponderosa pine, incense cedar (some older trees with fire scars), and white fir. The conifer tree diversity is notable for this area.

East of the road supports a forest/shrubland mosaic of mostly Douglas fir and Klamath plum with large volcanic boulders and outcrops. A few juniper and aspen occur near the lakeshore. Some thinning occurred here to maintain the view from the cabin.

West of the road supports a mid seral mixed conifer forest of mostly Douglas fir and ponderosa pine with scattered incense cedar and white fir. Most trees are healthy and the stand is in good condition. The stand has a more open, less shrubby understory than that east of the road, with a good cover of Idaho fescue and scattered green manzanita and bitterbrush. A few of the incense cedars are of an older age class than the dominant age class. There are also many very large old stumps and legacy snags that appear to be incense cedar, indicating this tree was once more dominant on the property. The stand also contains scattered regeneration and younger age classes of all tree species present.

Lakeshore Fringe Scirpus spp. Wetland. A narrow strip of wetland dominated by bulrush occurs along the lakeshore. Drier areas along the shore support a shrub thicket of willow, rose spirea, Klamath plum, Woods' rose, and a few quaking aspen.

Fish and Wildlife: Potential Wildlife and bird species: Black-tailed deer, Flammulated owl, mountain quail, pallid & spotted bats, Pond turtles, western grebes, black terns, foresters terns, white pelicans, olive sided flycatcher, Williamson sapsucker, whiteheaded woodpecker. (List for neighboring property "Rock Creek Ranch" supplied by David Ross, US Fish & Wildlife Service).

Potential Aquatic Species: Klamath Largescale Sucker, Tui chub, Blue chub, Pacific Lamprey Freshwater, Marbled sculpin, Klamath Lake sculpin, Slender sculpin, Lost River sucker, Shortnose sucker, Redband trout. (List source W. Tinniswood, Oregon Department of Fish & Wildlife; species found in Upper Klamath Lake).

- A surveyor collaboration visit on May 30th, 2012 by Andy Jansky;
- And a future property buyer (Steven & Rebecca Poet) collaboration visit, June 25th, 2012 by Andy Jansky.

Acknowledgement of Property Condition

This Baseline Documentation Report is prepared for Sandia "Sandy" Pearson Greenwald as part of the Conservation Easement on the "Sandy's Place"/Shoalwater Bay property held by the Klamath Lake Land Trust. In compliance with Section 1.170A-14(g)(5) of the federal tax regulations, the undersigned accept and acknowledge that this Baseline Documentation Report is an accurate representation of the property at the time the conservation easement was transferred to the grantee.

Signatures:

Landowners: Sandia Pearson Greenwald Print name: Sandia Pearson Greenwald

Date: 7-19-12

Easement Grantee:

By: Signature: Crystal McMahon Print name: Crystal McMahon
Title: Executive Director Date: 7-19-12

Appendices:

- A. Title Report Order information.
- B. Special Management Area Locations
- C. Sensitive Species
- D. Species Lists
- E. Photos

Appendix A: Title Report Information

Title report ordered and retained by Klamath Lake Land Trust from First American Title Insurance Co. of Oregon: 404 Main St., Ste 1, Klamath Falls, OR 97601 Title Report Order No.: 7029-1880642 Date: May 7, 2012.
Reviewed by Andy Jansky and Alex Lyston Dykema (Attorney at Law).

Appendix B: Special Management Area Locations

View Corridor: An area extending from the Residential Area to Upper Klamath Lake. This area encompasses the width of the property from the current location of the residential area down the slope toward the lake to the edge of the Lakeshore fringe habitat area (see map "Special Management Areas"). This corridor shall be designed to allow a naturally filtered scenic view of Klamath Lake while preserving larger trees in such a manner as to protect both habitat values and preserve the scenic view from the Lake towards the property.

Lakeshore Fringe Habitat area: This area borders the lake and is defined by its biological components which may be subject to natural movement over time. For purposes of the easement it includes all that portion of the property bordering Upper Klamath Lake which contains wetland or aquatic vegetation along with the adjacent fifteen feet (15ft) of upland land which is predominantly covered with shrubs such as willow, rose spirea, Klamath plum, and Woods' rose.

Appendix C: Sensitive Species: Species potentially present on the property that are either Endangered, Threatened, Species of Concern, or listed in the Oregon Conservation Strategy include:

Potential Wildlife and bird species: Black-tailed deer, pallid & spotted bats, Pond Turtle, white pelican, olive sided flycatcher, Williamson sapsucker, whiteheaded woodpecker. (List for neighboring property "Rock Creek Ranch" supplied by David Ross, U.S. Fish & Wildlife Svc.).
Potential Aquatic Species: Klamath Largescale Sucker, Lost River sucker
Shortnose sucker, Redband trout. (List source William Tinniswood, Oregon Department of Fish & Wildlife)

Appendix D. Species List (see spreadsheet "Shoalwater_Greenwald Baseline Waypoints").

Appendix E: Photos (see attached printed photos)

Cultural History: A steam engine boiler, previously used to heat the outdoor swimming pool on the property northwest the Residential Area. The historic presence of the Klamath Tribes has been noted around the lakeshore.

Recent Human Impacts: Limbing of trees along the road. Several large burn piles from a recent thinning are located along the southern boundary. Maintenance of cabin-lake trail and road to the cabin (driveway).

Other Evidence of Past Land Use and Natural History: An old dump truck is located near the far southern property boundary. Stumps from historic logging as well as stumps from more recent times indicate a history of forestry on the property. Old skid trails are present on the property west of the road. Fire scars on the oldest trees, stumps and legacy snags (but no charring on top of the stumps) indicate a fire occurred before the first logging event. There are several large rock piles southwest of the Residential Area of unknown, but likely human, origin.

Regional Conservation Significance: The property and surrounding area is a relatively natural landscape of high quality, with conifer forests of exceptional tree diversity sloping down from the east Cascades to the western shore of Upper Klamath and Shoalwater Bay, one of the few bays on the lake with intact lakeshore wetlands. The property lies in the middle of several much larger parcels in similar habitat condition. Although small in size, a conservation easement on the property will significantly contribute to the natural integrity of the larger landscape by limiting further fragmentation of habitat from increase residential and commercial development and ensuring continuity of the wildlife habitat present. The largest adjacent landowner has been actively pursuing a conservation easement on that property, further increasing the public benefit of a conservation easement on this property. The property is also visible from Shoalwater Bay of Upper Klamath Lake, a popular destination for recreation boating, fishing and birdwatching. Restricting development on this property will ensure the uplands visible from the lake will remain in a relatively natural condition. A conservation easement will limit development on this small parcel situated among several much larger parcels in similar habitat condition, thereby helping to maintain continuity of wildlife habitat through the larger landscape.

Open Space and Scenic Value: A conservation easement on this property will also protect significant views of the lakeshore and forested upland from the lake and opposing lakeshore.

Current Uses: Residential. Potential commercial use that will be restricted by the conservation easement.

Management of Special Features: (View Corridor and Lakeshore fringe, as outlined in the Conservation Easement documents).

Residential Area: See Conservation Easement Exhibit B for legal description.

Existing improvements:

Inside Residential Area – west of access road:

- 2 tennis courts
- Fence around tennis courts
- Swimming pool
- Fence around pool
- Pool house
- Shipping container/storage shed
- Small fenced in enclosure attached to north end of fence around tennis courts

Inside Residential Area – east of access road:

- 1 cabin: 693 sq ft.
- Drive way to cabin

Outside Residential Area:

- Boat dock \approx 8' x 8' at location of Photo Point 1
- Footpath from cabin to boat dock, maintained regularly

On-site Baseline Visits: Site visits done in completion of this baseline include: 1

- Initial site visit by Andy Jansky on July 13, 2011;
- A data collection visit on April 15, 2012 by Dominic DiPaolo, Andy Jansky and Crystal McMahon;

Botanical Species List							
Common Name	Latin Name	Origin	Category	Family	Duration	USDA Code	
Botanical Data submitted by Dominic DiPaolo, Botanist							
Vascular Plants							
Trees							
Douglas-fir	Pseudotsuga menziesii	native	Gymnosperm	Pinaceae	Perennial	PSME	
ponderosa pine	Pinus ponderosa	native	Gymnosperm	Pinaceae	Perennial	PIPO	
incense cedar	Calocedrus decurrens	native	Gymnosperm	Cupressaceae	Perennial	CADE27	
white fir	Abies concolor	native	Gymnosperm	Pinaceae	Perennial	ABCO	
western juniper	Juniperus occidentalis	native	Gymnosperm	Cupressaceae	Perennial	JUOC	
quaking aspen	Populus tremuloides	native	Dicot	Salicaceae	Perennial	POTR5	
Shrubs							
common snowberry	Symphoricarpos albus	native	Dicot	Caprifoliaceae	Perennial	SYAL	
sharpleaf snowberry	Symphoricarpos mollis	native	Dicot	Caprifoliaceae	Perennial	SYMO	
Klamath plum	Prunus subcordata	native	Dicot	Rosaceae	Perennial	PRSU2	
desert gooseberry	Ribes velutinum	native	Dicot	Grossulariaceae	Perennial	RIVE	
rubber rabbitbrush	Ericameria nauseosa	native	Dicot	Asteraceae	Perennial	ERNA10	
yellow rabbitbrush	Chrysothamnus viscidiflorus	native	Dicot	Asteraceae	Perennial	CHV18	
willow	Salix spp.	native	Dicot	Salicaceae	Perennial		
rose spirea	Spiraea douglasii	native	Dicot	Rosaceae	Perennial	SPDO	
Woods' rose	Rosa woodsii var. ultramontana	native	Dicot	Rosaceae	Perennial	ROWOU	
Oregon boxleaf	Paxistima myrsinites	native	Dicot	Celastraceae	Perennial	PAMY	
antelope bitterbrush	Purshia tridentata	native	Dicot	Rosaceae	Perennial	PUTR2	
greenleaf manzanita	Arctostaphylos patula	native	Dicot	Ericaceae	Perennial	ARPA6	
prostrate ceanothus	Ceanothus prostratus	native	Dicot	Rhamnaceae	Perennial	CEPR	
Herbs							
western brackenfern	Pteridium aquilinum	native	Fern	Dennstaedtiaceae	Perennial	PTAQ	
Idaho fescue	Festuca idahoensis	native	Monocot	Poaceae	Perennial	FEID	
bulrush	Scirpus spp.	native	Monocot	Cyperaceae	Perennial		
cheatgrass	Bromus tectorum	exotic	Monocot	Poaceae	Annual	BRT1	
squirreltail	Elymus elymoides	native	Monocot	Poaceae	Perennial	ELEL5	
blue wildrye	Elymus glaucus	native	Monocot	Poaceae	Perennial	ELGL	
common woolly sunflower	Eriophyllum lanatum	native	Dicot	Asteraceae	Annual, Perenni	ERLA6	
bluebunch wheatgrass	Pseudoroegneria spicata	native	Monocot	Poaceae	Perennial	PSSP6	
silverleaf phacelia	Phacelia hastata var. hastata	native	Dicot	Hydrophyllaceae	Perennial	PHHAH	
wooly groundsel	Senecio canus	native	Dicot	Asteraceae	Perennial	SECA2	
Ross' sedge	Carex rossii	native	Monocot	Cyperaceae	Perennial	CARO5	
clarkia	Clarkia spp.	native	Dicot	Onagraceae	Annual		
Lichens							
Emery rock tripe	Umbilicaria phaea var. phaea						
Emery rock tripe	Umbilicaria phaea var. coccinea						
wolf lichen	Letharia columbiana						
Animals							
Aquatic Animals			Aquatic Species data submitted by William Tinnisswood, Oregon Department of Fish and Wildlife				
Blue Chub	Gila corulea						
Pacific Lamprey (freshwater)	Lampetra tridentata						
Marbled sculpin	Cottus klamathensis						
Slender sculpin	Cottus tenuis						
Lost River Sucker	Deltistes luxatus						
Shortnose Sucker	Chasmistes brevirostris						
Redband Trout	Oncorhynchus mykiss newberryii						
Klamath Largescale Sucker	Catostomus snyderi						
Tui Chub	Gila bicolor						
Birds			Bird, reptile & mammal species data submitted by Dave Ross, United States Fish and Wildlife Service				
Flammulated owl							
Mountain quail							
western grebes							
black terns							
forest's terns							
white pelicans							
olive sided flycatcher							
Williamson sapsucker							
whiteheaded woodpecker							
Reptiles							
Pond Turtles							
Mammals							
Black Tailed deer							
Pallid bats							
Spotted bats							

Appendix E. Photos and associated photo points:

All photo points are in UTM Zone 10, Datum NAD 83

Original Photos are available from the Klamath Lake Land Trust upon request: 541-884-1053

Point 1: Location: X: 584448 Y: 4694392

Photo name: Greenwald_Base_2012_01

Direction: 218°



Photo name: Greenwald_Base_2012_02

Direction: 82°



Photo name: Greenwald_Base_2012_03

Direction: 339°



Photo name: Greenwald_Base_2012_04

Direction: 274°



Point 2: Location: X: 584438 Y: 4694342

Photo name: Greenwald_Base_2012_05

Direction: 18°



Photo name: Greenwald_Base_2012_06

Direction: 334°



Photo name: Greenwald_Base_2012_07

Direction: 275°



Point 3: Location: X: 584449 Y: 4694411

Photo name: Greenwald_Base_2012_08

Direction: 108°

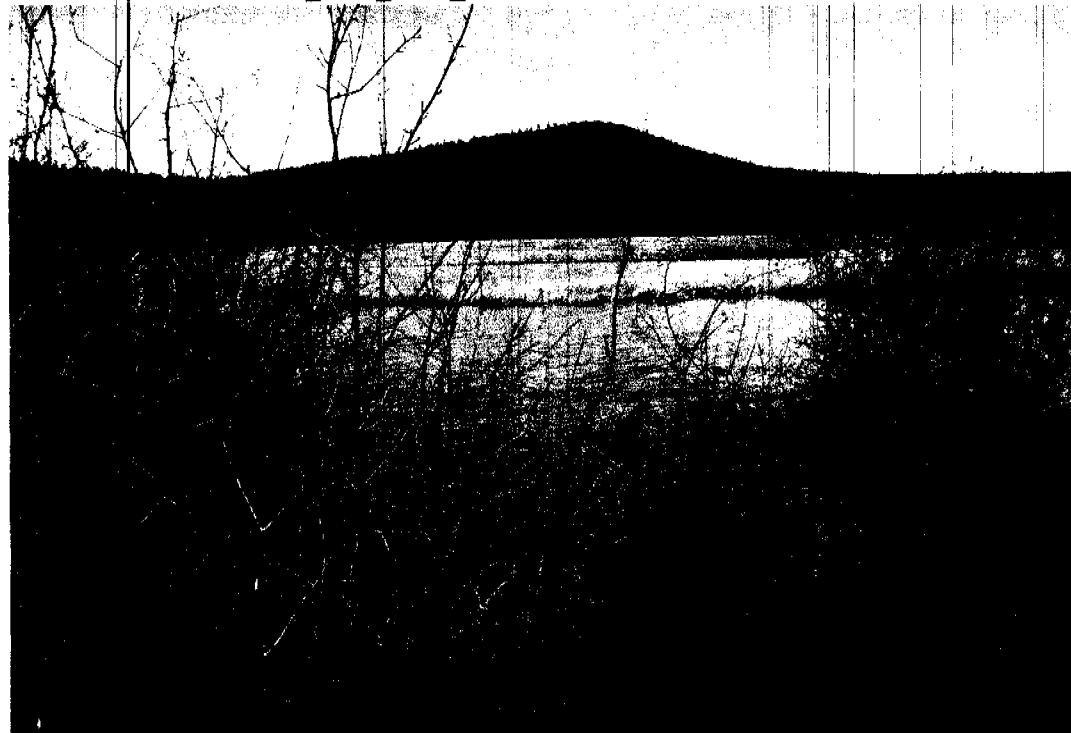


Photo name: Greenwald_Base_2012_09

Direction: 214°



Photo name: Greenwald_Base_2012_10

Direction: 285°

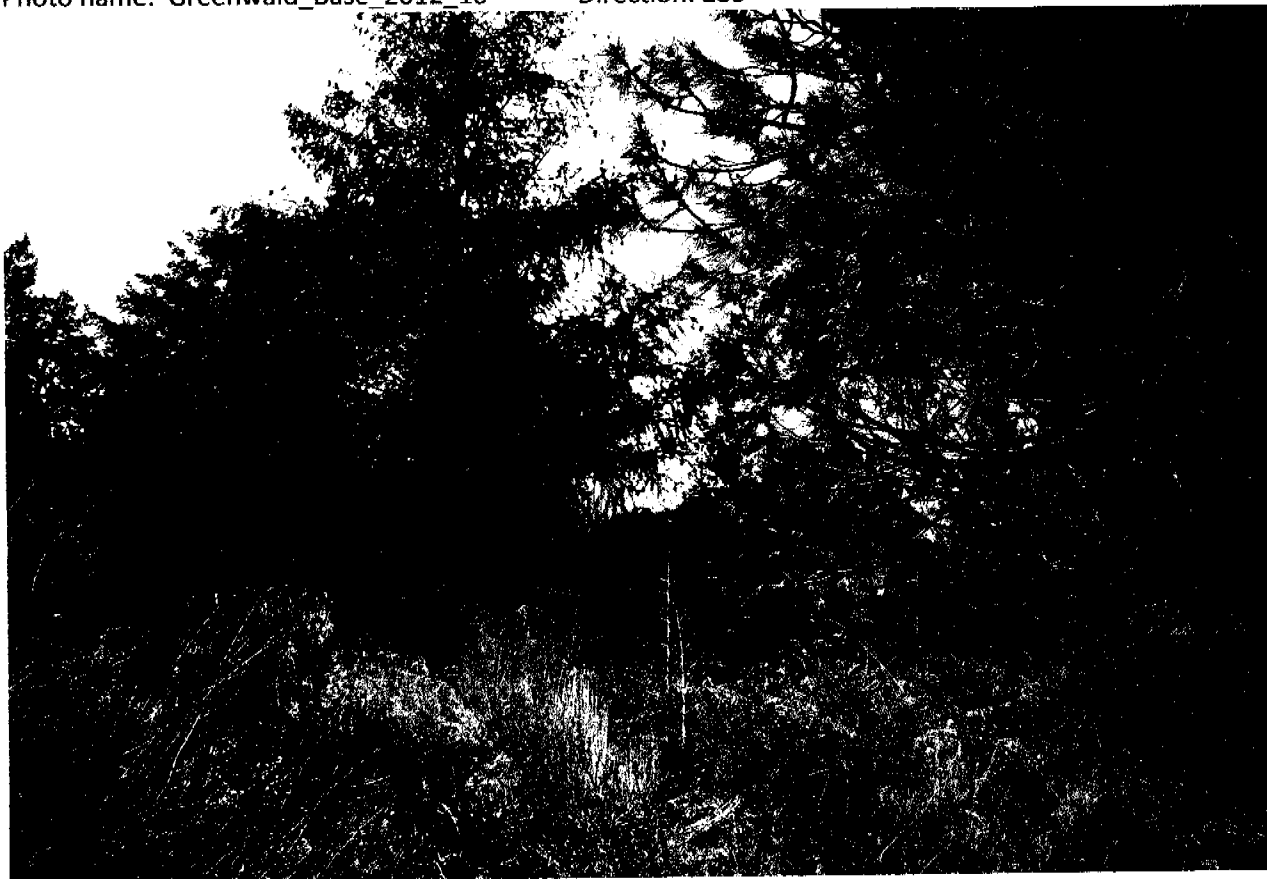


Photo name: Greenwald_Base_2012_11

Direction: 11°



Point 4: Location: X: 584410 Y: 4694377

Photo name: Greenwald_Base_2012_12

Direction: North



Photo name: Greenwald_Base_2012_13

Direction: West



Photo name: Greenwald_Base_2012_14

Direction: South

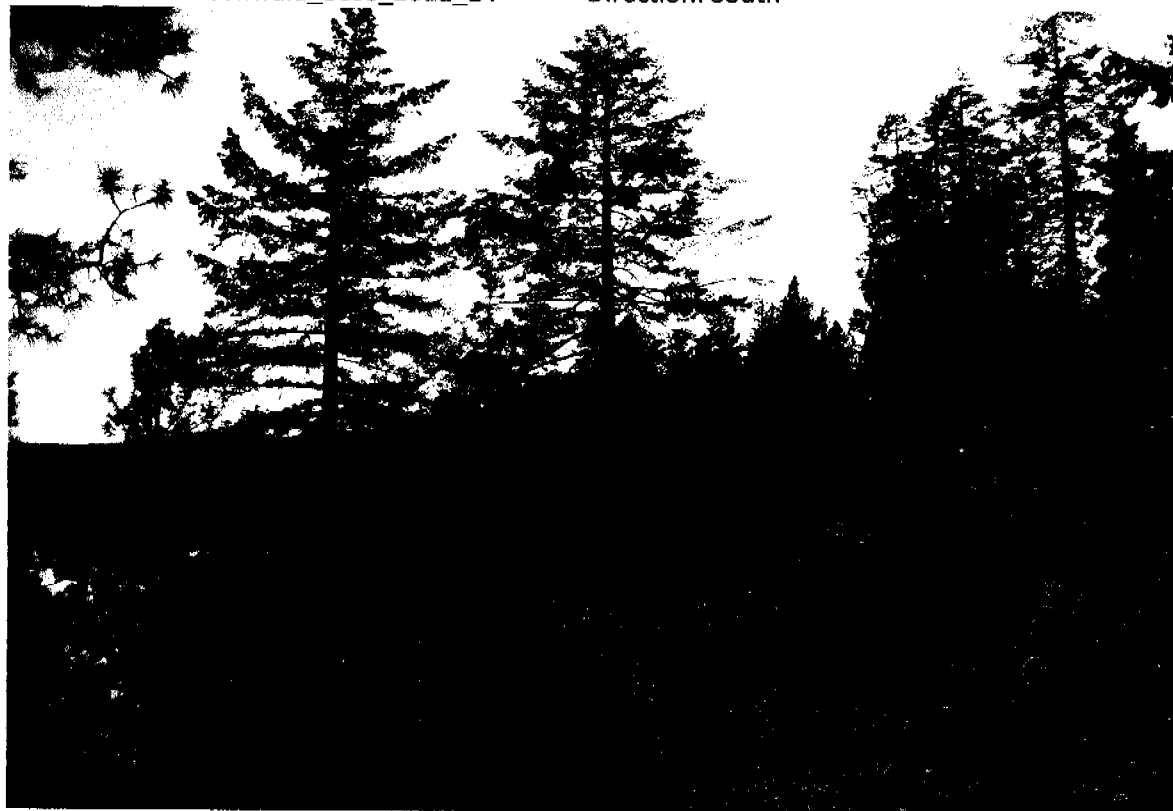


Photo name: Greenwald_Base_2012_15

Direction: East



Point 5: Location: X: 584340 Y: 4694349

Photo name: Greenwald_Base_2012_16

Direction: 12°



Photo name: Greenwald_Base_2012_17

Direction: 245°



Photo name: Greenwald_Base_2012_18

Direction: 195°



Photo name: Greenwald_Base_2012_19

Direction: 90°



Point 5: Location: X: 584287 Y: 4694182

Photo name: Greenwald_Base_2012_20

Direction: 270°



Photo name: Greenwald_Base_2012_21

Direction: 327°



Photo name: Greenwald_Base_2012_22

Direction: 13°



Point 7: Location: X: 584114 Y: 4694183

Photo name: Greenwald_Base_2012_23

Direction: 17°



Photo name: Greenwald_Base_2012_24

Direction: 59°



Photo name: Greenwald_Base_2012_25

Direction: 88°



Point 8: Location: X: 584121 Y: 4694330

Photo name: Greenwald_Base_2012_26

Direction: North



Photo name: Greenwald_Base_2012_27

Direction: West



Photo name: Greenwald_Base_2012_28

Direction: South

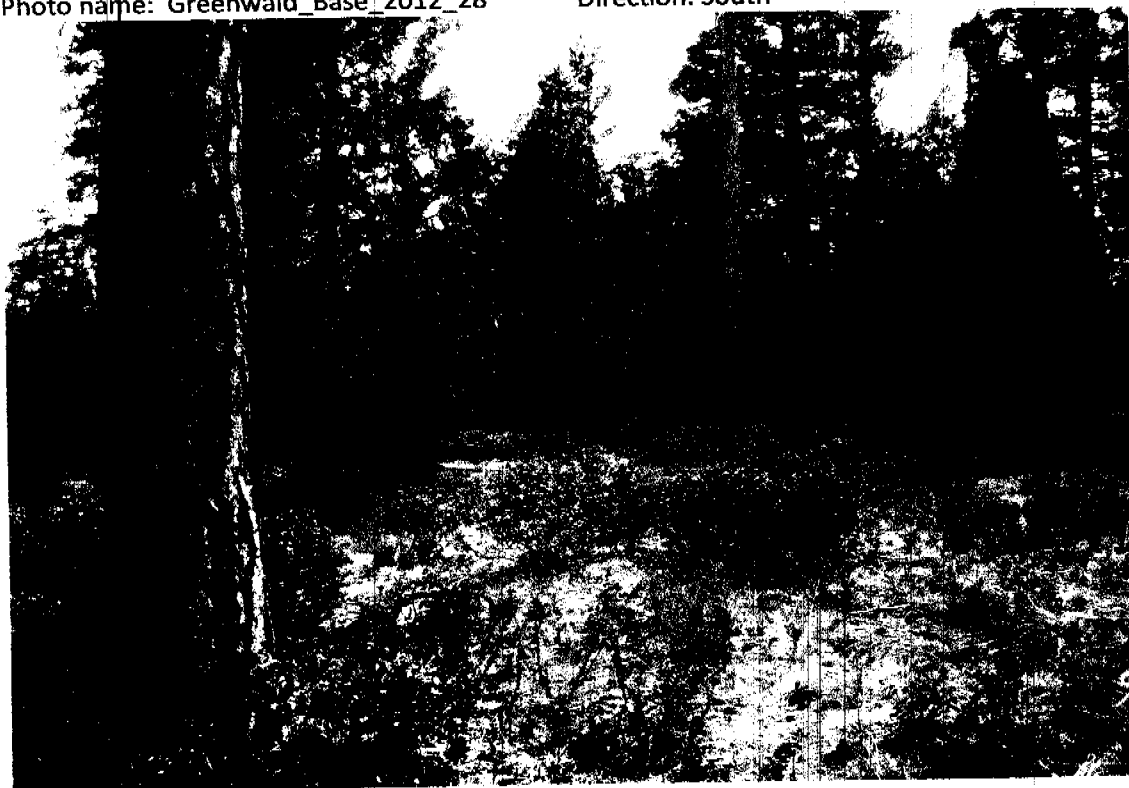


Photo name: Greenwald_Base_2012_29

Direction: East



Point 9: Location: X: 584113 Y: 4694409

Photo name: Greenwald_Base_2012_30

Direction: 67°



Photo name: Greenwald_Base_2012_31

Direction: 135°



Photo name: Greenwald_Base_2012_32

Direction: 172°



Point 10: Location: X: 584264 Y: 4694415

Photo name: Greenwald_Base_2012_33

Direction: East



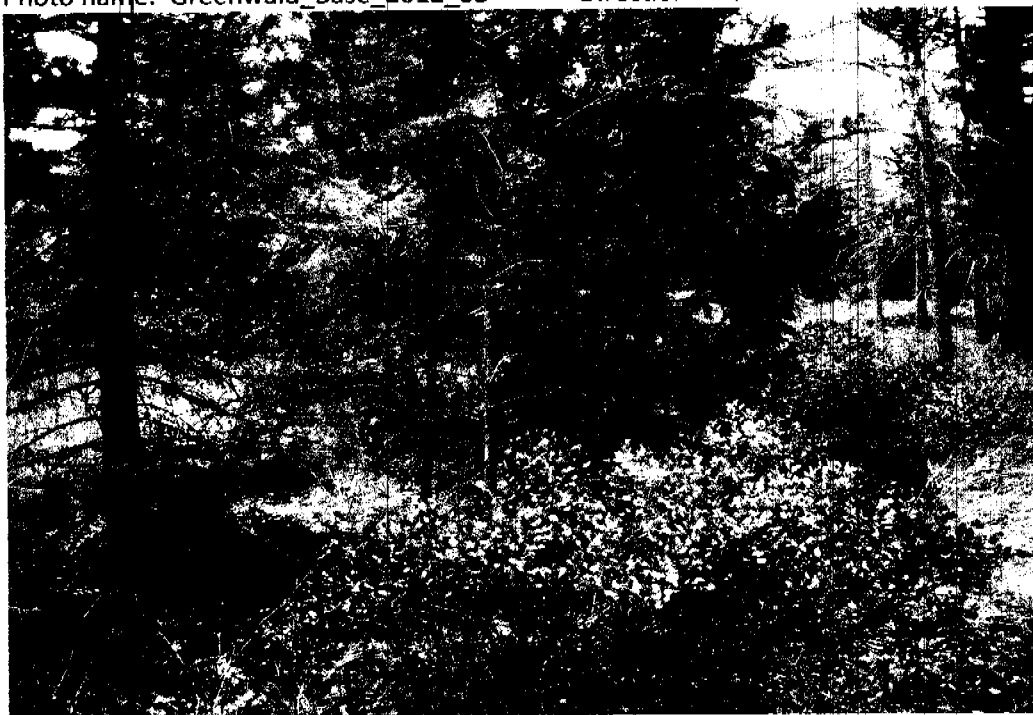
Photo name: Greenwald_Base_2012_34

Direction: South



Photo name: Greenwald_Base_2012_35

Direction: West



Point 11: Location: X: 584228 Y: 4694252

Photo name: Greenwald_Base_2012_36

Direction: 10°



Photo name: Greenwald_Base_2012_37

Direction: East

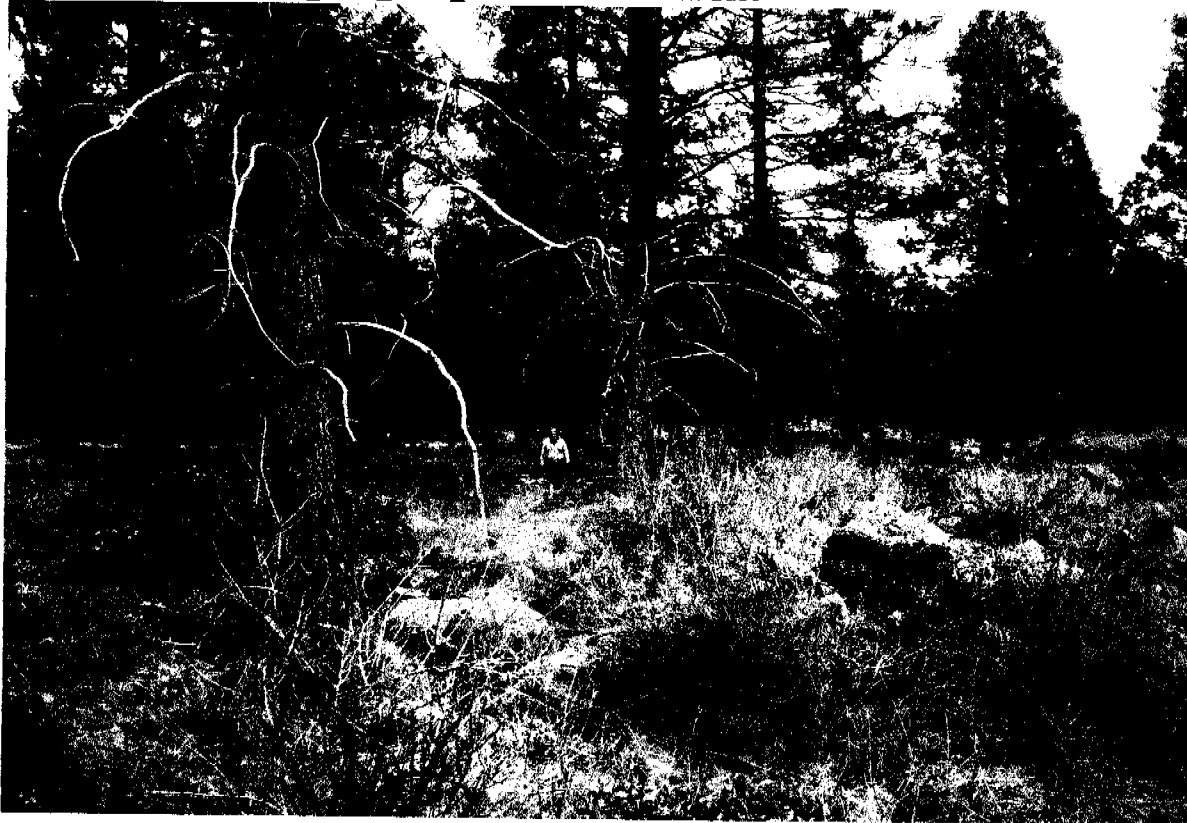


Photo name: Greenwald_Base_2012_38

Direction: South



Photo name: Greenwald_Base_2012_39

Direction: West



Residential Area	UTM Zone	Datum	X	Y
NW	10	NAD 83	584264	4694415
SW	10	NAD 83	584228	4694252
SE	10	NAD 83	584318	4694248
NE	10	NAD 83	584411	4694398
SE	10	NAD 83	584401	4694350

Photo Points

1	10	NAD 83	584448	4694392
2	10	NAD 83	584438	4694342
3	10	NAD 83	584449	4694411
4	10	NAD 83	584410	4694377
5	10	NAD 83	584340	4694349
6	10	NAD 83	584287	4694182
7	10	NAD 83	584114	4694183
8	10	NAD 83	584121	4694330
9	10	NAD 83	584113	4694409
10	10	NAD 83	584264	4694415
11	10	NAD 83	584228	4694252

Photo Point	Location	Photo Name	Direction
1	584448 4694392	Greenwald_Base_2012_01	218°
		Greenwald_Base_2012_02	82°
		Greenwald_Base_2012_03	339°
		Greenwald_Base_2012_04	274°
2	584438 4694342	Greenwald_Base_2012_05	18°
		Greenwald_Base_2012_06	334°
		Greenwald_Base_2012_07	275°
3	584449 4694411	Greenwald_Base_2012_08	108°
		Greenwald_Base_2012_09	214°
		Greenwald_Base_2012_10	285°
		Greenwald_Base_2012_11	11°
4	584410 4694377	Greenwald_Base_2012_12	N
		Greenwald_Base_2012_13	W
		Greenwald_Base_2012_14	S
		Greenwald_Base_2012_15	E
5	584340 4694349	Greenwald_Base_2012_16	12°
		Greenwald_Base_2012_17	245°
		Greenwald_Base_2012_18	195°
		Greenwald_Base_2012_19	90°
6	584287 4694182	Greenwald_Base_2012_20	270°
		Greenwald_Base_2012_21	327°
		Greenwald_Base_2012_22	13°
7	584114 4694183	Greenwald_Base_2012_23	17°
		Greenwald_Base_2012_24	59°

			Greenwald_Base_2012_25	88°
8	584121	4694330	Greenwald_Base_2012_26	N
			Greenwald_Base_2012_27	W
			Greenwald_Base_2012_28	S
			Greenwald_Base_2012_29	E
9	584113	4694409	Greenwald_Base_2012_30	67°
			Greenwald_Base_2012_31	135°
			Greenwald_Base_2012_32	172°
10	584264	4694415	Greenwald_Base_2012_33	E
			Greenwald_Base_2012_34	S
			Greenwald_Base_2012_35	W
11	584228	4694252	Greenwald_Base_2012_36	10°
			Greenwald_Base_2012_37	E
			Greenwald_Base_2012_38	S
			Greenwald_Base_2012_39	W

GPS Accuracy (meters)	Notes
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2	
4	
3	
4	
4	

	Dock and trail on lake.
	SE corner

Notes

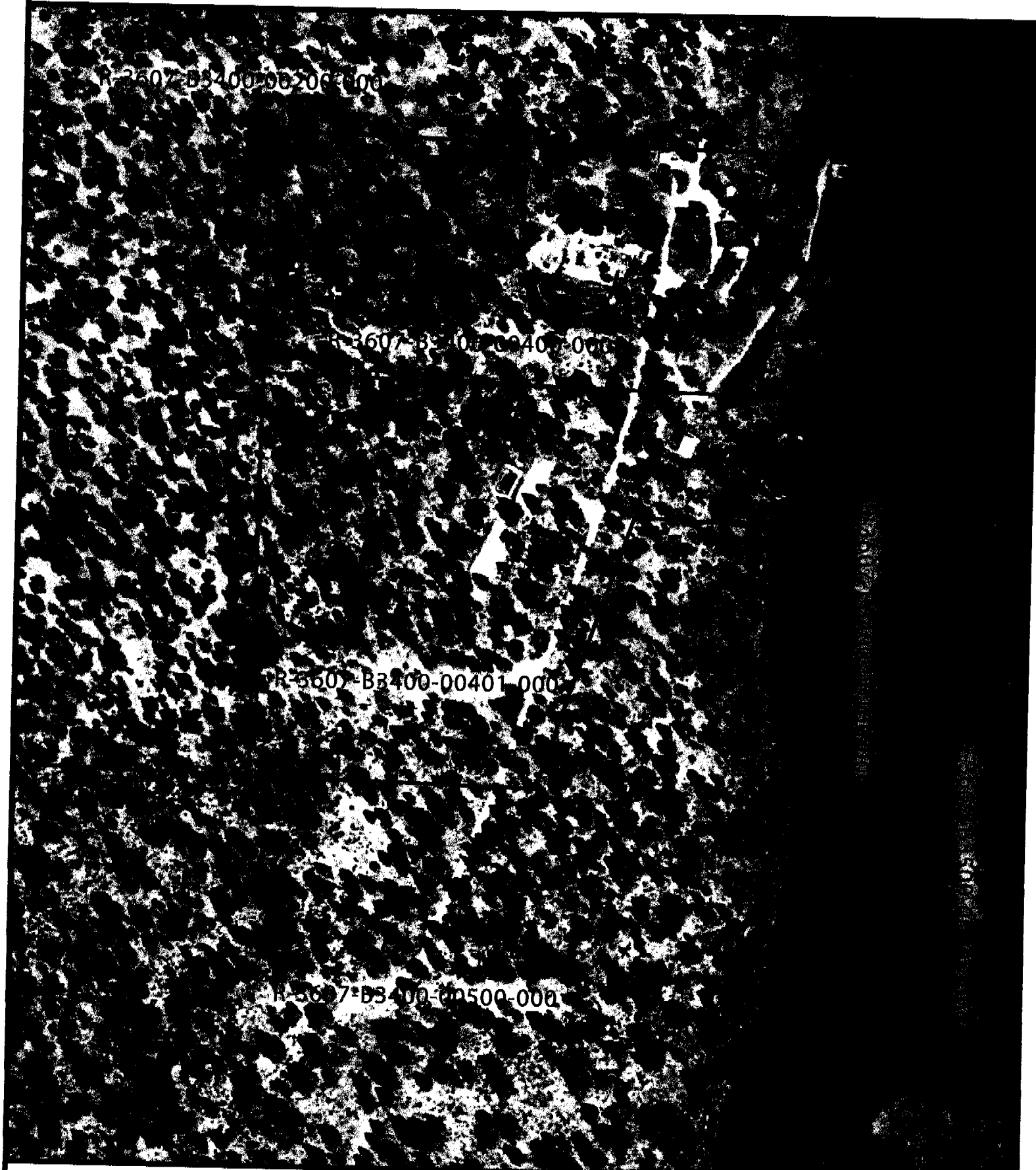
Greenwald Property and Vicinity



- ☐ Greenwald Property
- ☐ Eagle Ridge County Park

0 0.5 1 Miles

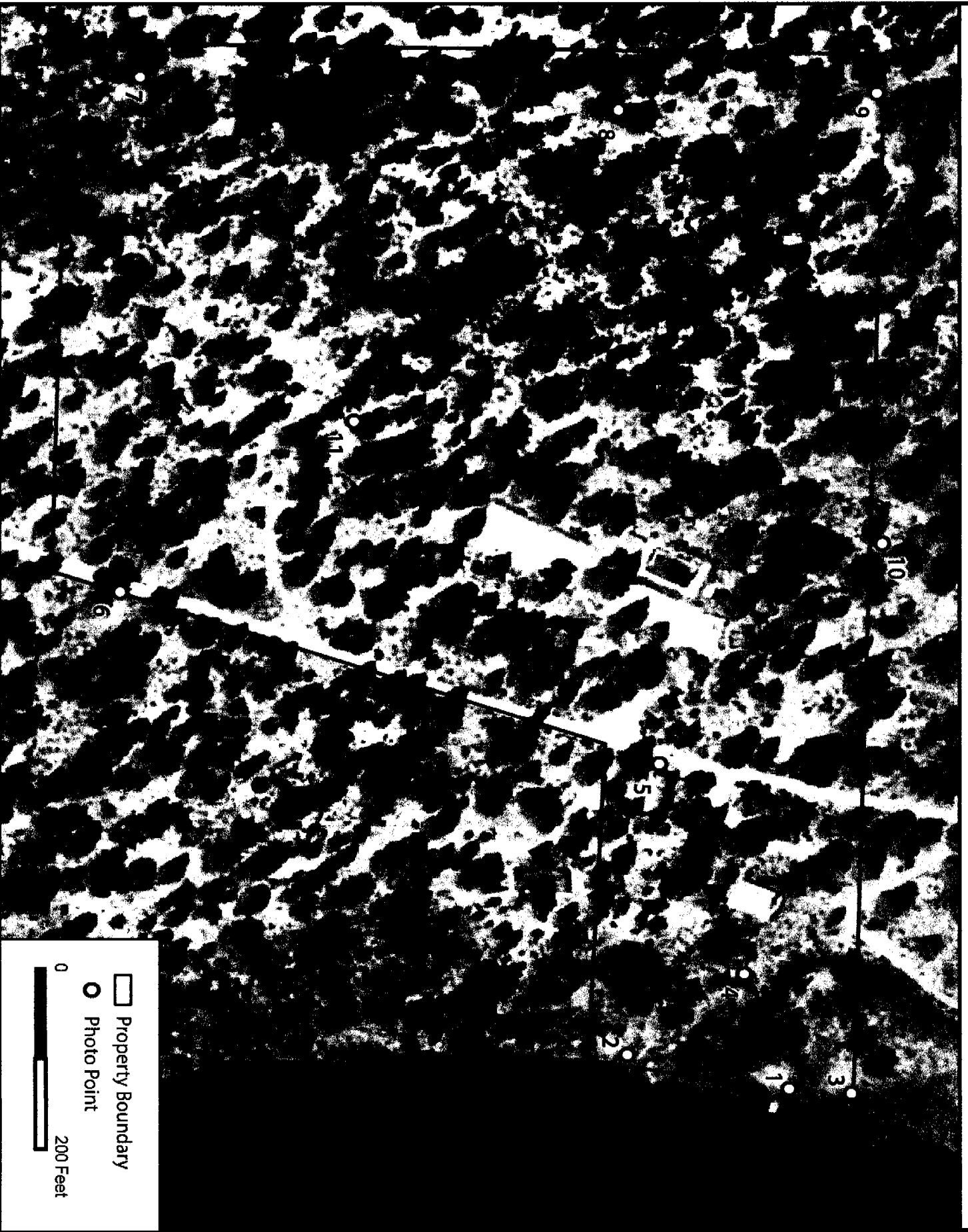
Taxlot Map



- ☐ Taxlot Boundaries
- ☐ Greenwald Property

0 500 1,000 Feet

Greenwald Property - Photo Point Locations



Special Management Areas

Main Road

Cabin Site

Shore Access Road



View Corridor
Lakeshore Fringe Habitat Area

Property Line



Trail Map: Approximate Location of Foot Trail from Home Site to Shoreline



GPS coordinates taken by Josh McPherson of Grayridge Cartography, June 25th, 2012

Greenwald-Shoalwater Bay Property - Easement July 2012

Coordinates were taken along the foot trail proceeding from the lakeshore (present site of dock up) up to the cabin/residence site. Coordinates correlate with GIS "Trail Map"

ID	Longitude	Latitude
1	-121 58.432	42 23.833
2	-121 58.433	42 23.834
3	-121 58.435	42 23.83
4	-121 58.436	42 23.832
5	-121 58.437	42 23.83
6	-121 58.443	42 23.835
7	-121 58.449	42 23.841
8	-121 58.453	42 23.836
9	-121 58.455	42 23.839
10	-121 58.458	42 23.833
11	-121 58.463	42 23.827
12	-121 58.466	42 23.832
13	-121 58.476	42 23.836

Boat Rack Location



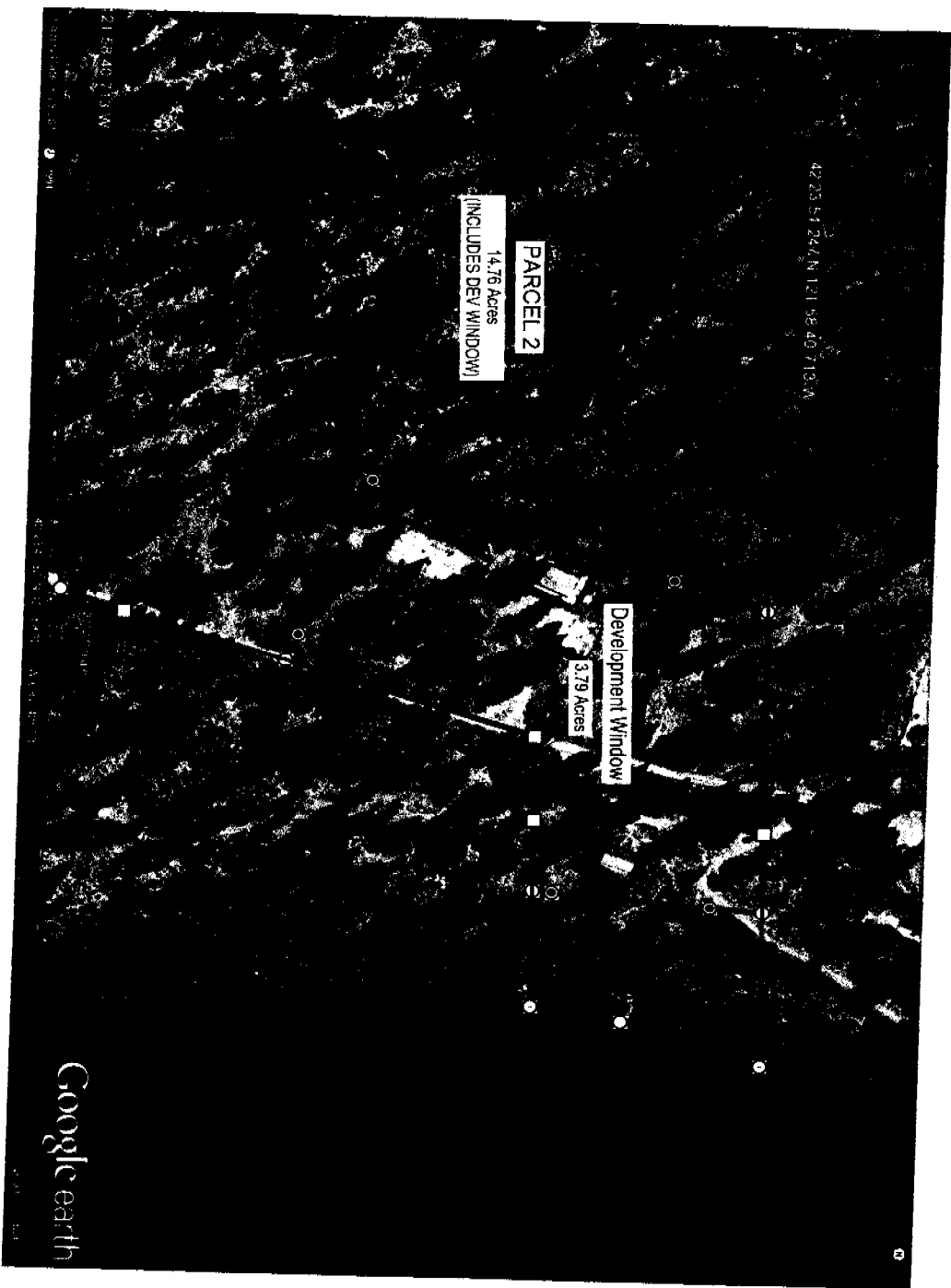
☐ Boat Rack Location

— Property Line

0

50

100 Feet



LEGEND

- EXISTING ADKINS MONUMENT
- EXISTING ADKINS MONUMENT NOT FOUND
- CHESEBRO & KALB MONUMENT SET THIS SURVEY
- CALCULATED POSITION NO MONUMENT

REGISTERED
PROFESSIONAL
LAND SURVEYOR

PRELIMINARY

OREGON
EVELYN R. KALB
JULY 25, 1990
02456

RENEWS: 6/30/2013

FILE NAME

02-12.TRV

SCALE

200 Ft/in

DATE

6-28-2012

DRAWN BY

KALB

JOB

12-01

REVISION

1/1

SHEET

1/1

This map drawn with TRAVERSE PC, Software