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BOOK 194 PAGE 198

## RETURN ADDRESS:

Skamania County Clerk to the  
Board of County CommissionersFILED  
SKAMANIA COUNTY

OCT 15 12 04 PM '93

O'Leary

GARY H. OLSON

Please Print or Type Information.

## Document Title(s) or transactions contained therein:

1. Temporary Mutual License Agreement & Stipulation for Construction
- 2.
- 3.
- 4.

## GRANTOR(S) (Last name, first, then first name and initials)

1. Skamania County
2. Lester Burns Family Limited Partnership
3. Burns & Burns Timber Management Inc.
- 4.

☐ Additional Names on Page \_\_\_\_\_ of Document.

## GRANTEE(S) (Last name, first, then first name and initials)

1. Lester Burns Family Limited Partnership
2. Burns & Burns Timber Management Inc.
3. Skamania County
- 4.

☐ Additional Names on Page \_\_\_\_\_ of Document.

## LEGAL DESCRIPTION (Abbreviated: i.e., Lot, Block, Plat or Section Township, Range, Quarter/Quarter)

Section 32, Township 2 North, Range 5 E.W.M.

☐ Complete Legal on Page \_\_\_\_\_ of Document.

## REFERENCE NUMBER(S) Of Document assigned or released:

Recorded	✓
Indexed	✓
Filed	✓
Valued	✓

☐ Additional Numbers on Page \_\_\_\_\_ of Document.

## ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER

02-05-31-1-0-0200-00

☐ Property Tax parcel ID is not yet assigned.☐ Additional Parcel Numbers on Page \_\_\_\_\_ of Document.

The Auditor/Recorder will rely on the information provided on the form. The Staff will not read the document to verify the accuracy or completeness of the indexing information.



**TEMPORARY MUTUAL  
LICENSE AGREEMENT AND  
STIPULATION FOR CONSTRUCTION**

SKAMANIA COUNTY, A WASHINGTON MUNICIPAL CORPORATION (COUNTY) and LESTER BURNS FAMILY LIMITED PARTNERSHIP & BURNS AND BURNS TIMBER MANAGEMENT, INC. (PARTNERSHIP) hereby enter into this Temporary Mutual and Reciprocal License Agreement for the purpose of permitting the PARTNERSHIP to harvest and fall certain timbers located on their property onto the County's right-of-way, and to permit the COUNTY to go onto the PARTNERSHIP property to construct a replacement fence adjacent to the north Right-of-Way of the LaBarre Road, County Road No. 11100 in Section 32 Township 2 North, Range 5 East, WM., Skamania County, Washington.

**WHEREAS:**

1. Conveyance of License from COUNTY to PARTNERSHIP: COUNTY hereby agrees to grant and convey to PARTNERSHIP from the effective date of this conveyance, a Temporary Mutual and Reciprocal License Agreement over and Right-of-Way of LaBarre Road, County Road No. 11100 in Section 32 Township 2 North, Range 5 East, WM., Skamania County, Washington between Mile Post 0.36 and Mile Post 0.68.

2. The purpose of this License is to permit the PARTNERSHIP to fall and remove timber located on the PARTNERSHIP's property.

3. Conveyance of License from PARTNERSHIP to COUNTY: PARTNERSHIP hereby agrees to grant and convey to COUNTY from the effective date of this conveyance, a Temporary Mutual and Reciprocal License Agreement over and across property owned by the Partnership lying in Section 32, Township 2 North, Range 5 East, WM., more particularly described and set out in Book 141, Page 101, Deed Records of the Skamania County Auditor (Tax Lot 02-05-31-1-0-0200); such temporary license to run across this real property as follows:

The True Point of Beginning being a point on the northerly right-of-way line of LaBarre Road, County Road No. 11100 at Mile Post 0.36; thence northwesterly perpendicular to the centerline of said LaBarre Road to a point that has a distance of 50.00 feet from said northerly right-of-way line; thence northeasterly parallel to said centerline to a point, said point being 50.00 feet distance northwesterly from said northerly right-of-way line as measured perpendicular to said centerline at Mile Post 0.68; thence southeasterly on said perpendicular line 50.00 feet distance to said northerly right-of-way line; thence southwesterly along said right-of-way line to the True Point of Beginning. Containing 1.94 acres more or less.

4. Purpose of License from PARTNERSHIP to COUNTY: The parties agree that the sole purpose of this Temporary Mutual and Reciprocal License Agreement is to allow the COUNTY to enter upon PARTNERSHIP property to construct a fence and to connect said constructed fence to an existing fence at each of the two ends of the newly built fence as agreed in the appendage Attachment "A."

5. The COUNTY will have the right to operate equipment on, over or under the above described Temporary Mutual and Reciprocal License Agreement and within the limits of this Temporary Mutual and Reciprocal License, to cut and trim trees or shrubbery that may interfere with or threaten to endanger the operation.

6. The PARTNERSHIP agrees to obtain all permits necessary to the falling and removal of brush and timber, and for the construction of said new fence as agreed in the appendage Attachment "A."



7. The COUNTY agrees to assume any and all liability arising out of the construction of such fence and/or any activities, including any omissions, and will, by the acceptance of this temporary license agreement, hold PARTNERSHIP harmless for any liability whatsoever and will defend PARTNERSHIP from any and all suits or actions relating to its use on this Temporary Mutual and Reciprocal License Agreement.

8. The COUNTY specifically waives its immunity under Title 51 (Industrial Insurance Act), and acknowledges that this waiver of immunity was mutually and expressly negotiated by the parties, and expressly agrees that this promise to indemnify and hold harmless applies to all claims filed by and/or injuries to COUNTY's own employees.

9. The PARTNERSHIP agrees to indemnify and hold COUNTY harmless from any and all liability occurring as a result of the PARTNERSHIP's use of this license.

10. The PARTNERSHIP specifically waives its immunity under Title 51 (Industrial Insurance Act), and acknowledges that this waiver of immunity was mutually and expressly negotiated by the parties, and expressly agrees that this promise to indemnify and hold harmless applies to all claims filed by and/or injuries to PARTNERSHIP's own employees.

11. This Temporary Mutual and Reciprocal License Agreement will terminate upon the completion of the fence or at midnight December 31, 1999, whichever comes first.

12. The Parties agree that this agreement represents the entirety of their understandings, oral or written, and cannot be modified without the written consent of both parties.

13. This Temporary Mutual and Reciprocal License Agreement shall constitute the entire agreement between the parties and any prior understandings or representations of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated herein.

14. It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Washington and that any actions to enforce or defend the terms of this temporary license agreement will be initiated in a court of competent jurisdiction within Skamania County.

15. In the event of any controversy, claim, or dispute relating to this instrument or its breach, the prevailing party shall be entitled to recover reasonable expenses, attorneys' fees and costs.

16. The PARTNERSHIP warrants that it has the authority to execute this license and that the persons signing this agreement had the proper authority to execute the same.

It is understood and agreed that the delivery of this Temporary Mutual and Reciprocal License Agreement is hereby tendered and that the terms and obligations hereby shall not become binding upon the Skamania County unless and until accepted and approved hereon in writing by the Skamania County Commissioners.

DATED: This 9<sup>th</sup> day of September, 1999.

  
LESTER BURNS FAMILY LIMITED PARTNERSHIP & BURNS AND BURNS TIMBER  
MANAGEMENT, INC

STATE OF Washington )  
COUNTY OF Skamania ) ss.

On this day personally appeared before me R. Robert Burns

to me known to be the individual(s) described in and who executed the within and foregoing instrument,

and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 9<sup>th</sup> day of September, 1999.



Shirley A. Little  
Notary Public in and for the State of Washington,  
residing at Skamania  
My commission expires 8-17-2003

DATED: 9-9, 1999

Skamania County Engineer

Judy A. Carter  
COMMISSIONER CHAIR

APPROVED AS TO FORM ONLY:

[Signature]  
Skamania County Prosecuting  
Attorney



ATTACHMENT "A"

**LaBarre Road, County Road No. 11100**

TERMS OF AGREEMENT BETWEEN *LESTER BURNS FAMILY LIMITED PARTNERSHIP*  
(PARTNERSHIP) AND *SKAMANIA COUNTY* (COUNTY).

SUBJECT: TREE REMOVAL AND FENCE LOCATION

- A. COUNTY and PARTNERSHIP will enter into a temporary license agreement for the logging operation between the new fence location and the road way of LaBarre Road; the loading and hauling of logs; the disposal of slash and debris after the logging operation; and building of the fence at the new location.
- B. PARTNERSHIP agrees to the following items:
  - 1. Obtain all necessary permits for falling timber, including but not limited to Forest Practice Permit, Special Right-of-Way Use Permit, etc.
  - 2. Determine and mark the new location of the fence.
  - 3. Clear the new fence location area of all brush, including trees.
  - 4. Fall hazard trees, trees located within the area cleared for a replacement fence, and trees between the roadway and the new fence location.
  - 5. Remove the felled trees; the logs are to be loaded from LaBarre Road quickly, consistent with usual practices, and with all practicability, timber will be felled parallel to LaBarre Road with the objective to reduce the damage to LaBarre Road.
  - 6. Provide fence materials (wire & posts) to construct a replacement fence.
  - 7. Gather all old fence materials together in a place that is accessible from LaBarre Road.
  - 8. Provide to Skamania County Engineering a plan to include the scheduled dates, including the hours of the day, logging activity will take place. The Partnership shall submit this plan one week before the start up. Skamania County recognizes the fact that unforeseen contingencies may alter the proposed plan.
  - 9. Shall clear lanes of traffic of logs, slash and debris at the end of each day to allow free and safe flow of traffic until the next working session. Slash and debris may be deposited along LaBarre Road on the shoulders, on the fill slopes and on the cut slopes. Skamania County Road crews will have a wood chipper at the location during the logging operation to chip the smaller material. No logs, slash and debris will be stored outside the south and/or southeasterly right-of-way of LaBarre Road without obtaining permission from the respective landowner.

C. The COUNTY agrees to the following items:

1. Clean up and dispose of slash and debris within the right-of-way of LaBarre Road, after logging operations.
2. Use a wood chipper during logging operation to prevent overnight closure of lanes of traffic on LaBarre Road.
3. Hydro or broadcast seed upon back slopes of the road bank.
4. Provide traffic control for tree falling and logging operations. Including, when necessary, providing channelizing devices that would direct traffic safely through the work zone.
5. Call in for one-time utility locate within the work zone.
6. Determine the type of utility and the size of utility line within the work zone.
7. Be responsible for road and ditch repair after the logging operation is completed; providing that operations were performed with expected reasonable care and caution.
8. Rebuild the fence along the marked location. The construction of the replacement fence shall be completed no later than ten working days after the completion of the logging operation.
9. Rebuild the fence of similar characteristic as the existing fence with materials provided by the Partnership.
10. Dispose of the old fence materials not used in the building of the new fence.
11. Will be responsible for contacting proper utility companies to repair any services if damaged during the logging, slash disposal, fence construction, or road repairs being done under the terms of this agreement.