

140898

BOOK 209 PAGE 44

FILED FOR RECORD
SKAMANIA CO. WASH.
BY *Byron Slack*

RETURN ADDRESS:

Byron Slack
National Appraisal Co. Inc.
8515-C N.E. Hazel Dell Ave.
Vancouver, WA 98665

APR 24 11 38 AM '01
AMUSKE
AUDITOR
GARY H. OLSON

Please Print or Type Information.

Document Title(s) or transactions contained therein:

1. *Surface Rock Lease Agreement*

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3.
4.

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

1. *Tech Rock LLC*

2.
3.
4.

☐ Additional Names on Page _____ of Document.

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

1. *Sasquatch Heights LLC*

2.
3.
4.

☐ Additional Names on Page _____ of Document.

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

NE 1/4 Sec. 4, T.2N, R.5E.W.M.

☐ Complete Legal on Page _____ of Document.

REFERENCE NUMBER(S) Of Document assigned or released:

☐ Additional Numbers on Page _____ of Document.

ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER

☐ Property Tax parcel ID is not yet assigned.

02-07-04-0-0-0100-00

☐ 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.

U.B.E. 60216784

Surface Rock Lease Agreement

Parties: Tech Rock LLC (Tech Rock)
8515-C NE Hazel Dell Avenue
Vancouver, WA 98665

02-07-04-0-0-0100-00

GHW

Sasquatch Heights LLC (Sasquatch Heights)
2204 SE 149th
Vancouver, WA 98683

BOOK 209 PAGE 45

Dated
Effective: February 13, 2001

Recitals:

- A. Sasquatch Heights owns the real property described on the attached *Exhibit 1* (Real Property).
- B. Tech Rock desires to lease the right to remove surface rock from the Real Property pursuant to the terms of this Surface Rock Lease Agreement.

Agreements:

1. *Lease.* Sasquatch Heights leases the right to remove surface rock from the Real Property for 50 years beginning on the Effective Date and ending 50 years from the Effective Date.
2. *Surface Rights of Lessee.*
 - 2.1. Tech Rock shall have the right of ingress and egress through the Real Property for the purposes of quarrying and removing any rock suitable for use in connection with its business.
 - 2.2. Tech Rock shall have the right and privilege of setting up and erecting any necessary buildings, equipment and machinery for the operation of the quarry or quarries, except that no residence or building used or to be used for residence purposes shall at any time be erected on the Real Property by Tech Rock shall be entitled to a reasonable time within which to remove any and all materials, buildings and equipment placed on the Real Property by it during the term of this lease, after the termination, forfeiture or abandonment of this lease.
 - 2.3. Tech Rock may use and possess as much of the Real Property as it may require during the term of this lease solely for the purpose of quarrying

and removing rock in connection with its business, and for no other purpose, but Tech Rock shall have exclusive rock and quarry privileges during the term of this lease.

3. **Surface Rights of Lessor.** Nothing in this lease shall be construed to prevent Sasquatch Heights from making such use of the Real Property as it may see fit, so long as the use in no way restricts, limits or interferes with the quarry operations of, and use of the Real Property for quarry purposes by Tech Rock.
4. **Royalties.** Tech Rock shall pay Sasquatch Heights or its assigns, as rental for the surface rock privileges granted, royalties as set out below.
 - 4.1. Royalties of \$8.00 per ton, as adjusted by the *Escalation* paragraph below, shall be paid for each ton of 2,000 tons of decorative rock removed from the Real Property.
 - 4.2. Royalties of \$0.50 per ton, as adjusted by the *Escalation* paragraph below, shall be paid for each ton of 2000 pounds of non-decorative rock removed from the Real Property.
 - 4.3. The royalties shall be paid quarterly on or before the fifteenth day of April, July, October and January of each year during the term of this lease.
 - 4.4. Tech Rock shall keep a strict and accurate record of all materials removed from the Real Property and all sales of the materials.
5. **Right to Information.** For purposes of and verifying the amount of royalties paid and compliance with this Surface Rock Lease Agreement, Sasquatch Heights's authorized agents and representatives shall be permitted at all reasonable times to:
 - 5.1. Enter on the Real Property and its workings for the purpose of examining, inspecting, surveying and taking samples as the representative or agent may desire.
 - 5.2. Review the books and records of Tech Rock for the purpose of verifying the amount of royalties payable.
 - 5.3. Review copies of all assay and geological maps and logs of drill holes pertaining to the Real Property to be furnished by Tech Rock 15 days after the close of each calendar quarter.
 - 5.4. Review quarterly reports of Tech Rock's operations in or on the Real Property to be furnished by Tech Rock 15 days after the close of each calendar quarter.

6. **Minimum Royalty.** Beginning two years from the date Tech Rock obtains all the necessary permits to begin removing surface rock and continuing through the term of this Surface Rock Lease Agreement, Tech Rock shall pay to Sasquatch Heights, in quarterly installments, a royalty of not less than \$200,000 a year, as adjusted by the *Escalation* paragraph below, whether that amount is mined or not. Nothing in this Minimum Royalty provision shall in any way diminish Tech Rock's obligation to mine and remove as much rock as can be mined and removed profitably. If in any lease year Tech Rock fails to remove as much material as has been paid for by advance payment of minimum royalties, the excess of the payment of minimum royalties shall not be applied as payment for materials removed in any prior or subsequent year that this lease has been or is in effect.
7. **Escalation.** The royalties and minimum royalties provided in the *Royalties* and *Minimum Royalty* paragraphs above shall be increased in the month of January every five years beginning in January 2005, by a percentage equal to the percentage change in the Consumer Price Index published by the United States Bureau of Labor Statistics of the United States Department of Labor. Comparisons shall be made using the index entitled U.S. City Average--All Items and Major Group Figures for All Urban Consumers (1982-84 = 100), or the nearest comparable data on changes in the cost of living if such index is no longer published. The change shall be determined by comparison of the figure for November 2000, with that of November of each succeeding year. In no event, however, shall royalties or minimum royalties be reduced.
8. **Mining Plan.** Tech Rock shall not conduct any mining operations upon the real property without a current mining plan approved in advance by Sasquatch Heights. On or before November 15th of each year, Tech Rock shall submit a specific mining plan for the following year, including, but not limited to plans for reclamation and transportation, to Sasquatch Heights for its review and consent, which consent shall not unreasonably be withheld.
9. **Quality of Work.** All work on the Real Property shall be done in accordance with good mining practice and with a view to the development and preservation of the Real Property for permanent mining purposes. Tech Rock shall, within the requirements of sound mining practice, avoid leaving any substantial or valuable amount of rock in an inaccessible place or condition and, so far as practicable, avoid any wasting of rock.
10. **Prevention of Damage.** Tech Rock shall conduct all operations authorized in this Surface Rock Lease Agreement with due regard to preventing unnecessary damage to vegetation, timber, soil, roads, bridges and other improvements and to preventing nuisance on adjacent and neighboring properties.
11. **Liability for Claims and Losses.** Tech Rock shall furnish and pay for labor, power, tools, equipment, power, timber and other materials and services and supplies that may be used by him in the prosecution of work under this Surface

Rock Lease Agreement. Tech Rock shall not allow any claim or lien to be made or asserted against the Real Property or against Sasquatch Heights. Tech Rock shall indemnify, defend and hold Sasquatch Heights harmless against any and all claims and demands of any kind or nature that may be made against Sasquatch Heights or against the Real Property for or on account of any debt or expenses contracted or incurred by Tech Rock, as well as from and against the consequences of any and all acts, transactions or emissions by Tech Rock, its agents or its employees. Tech Rock shall fully indemnify, defend and hold Sasquatch Heights harmless from any liability or asserted liability for or on account of injury to any person or damage to any property sustained during the term of this Surface Rock Lease Agreement resulting from any alleged act or emission of Tech Rock, its agents or its employees.

12. **Compliance with Legal Requirements.** Tech Rock shall comply with the worker compensation laws of the State of Washington and all federal, state, local and other laws and regulations now or subsequently applicable to the working and operation of the Real Property. Tech Rock shall make all payments, returns and reports required by these laws.
13. **Payment of Taxes.** Tech Rock shall pay, when due, all taxes levied on the Real Property and on personal property, improvements and structures now or subsequently placed or installed on the Real Property. Tech Rock shall also pay all net proceeds taxes, occupation taxes and other taxes levied because of and based on production by Tech Rock from the Real Property. Tech Rock shall furnish such information and data concerning operations on the Real Property as may be necessary to enable Sasquatch Heights to make proper returns for tax purpose:
14. **Reclamation.** Prior to the beginning of mining operations, Tech Rock shall develop a specific plan for reclaiming the Real Property that complies with all governing agencies. On the approval of the reclamation plan, Tech Rock may commence mining operations. Tech Rock shall implement the reclamation plan carefully and diligently.
15. **Breach.** Tech Rock shall be in breach of this Surface Rock Lease Agreement if:
 - 15.1. Tech Rock fails to pay rent, royalties or any other money due under this agreement within 10 days after the time fixed in this Surface Rock Lease Agreement for the payment.
 - 15.2. Tech Rock fails to perform any of the agreements contained in this Surface Rock Lease Agreement to be performed by Tech Rock and continues to

fail to perform the agreement for a period of 30 days after receiving written notice from Sasquatch Heights of the default and of the intention to terminate this Surface Rock Lease Agreement unless the rock is remedied within that period.

16. **Remedies.** Upon Tech Rock's breach of this Surface Rock Lease Agreement, Sasquatch Heights shall be entitled, in addition to Sasquatch Heights' other remedies, to terminate this Surface Rock Lease Agreement, to money damages for breach or to specific performance of Tech Rock's obligations set out in the *Right to Information, Mining Plan, Quality of Work Prevention of Damages, Compliance with Legal Requirements and Reclamation* paragraphs, Tech Rock acknowledges Sasquatch Heights' remedy at law would be inadequate.
17. **Mediation.** In the event of a dispute between Tech Rock and Sasquatch Heights, the parties shall first attempt to resolve the dispute by direct, personal negotiations between the parties within 30 days, or any mutually agreed extension of time, of the first notice of the dispute. If the parties are unable to dissolve the dispute by negotiation, the parties agree to try in good faith to settle the dispute by mediation administered by a mediator, mutually acceptable by the parties or, if the parties cannot agree, by mediation administered by the American Arbitration Association under its Commercial Mediation Rules.
18. **Effect of Change of Ownership of Land.** No change in ownership of the Real Property or any interest in the Real Property or change in the capacity or status of Sasquatch Heights, whether resulting from sale, inheritance or otherwise, shall release Tech Rock from any of its obligations to Sasquatch Heights under this Surface Rock Lease Agreement, including, but not limited to the obligation to pay royalties and minimum royalties. Sasquatch Heights's right to receive royalty and minimum royalty payments shall be separate from Sasquatch Heights ownership of the Real Property.
19. **Counterparts & Fax Copies.** This Surface Rock Lease Agreement may be executed in several counterparts that may be transmitted by fax transmission, each of which shall be deemed to be an original. The counterparts shall constitute one and the same document. This Surface Rock Lease Agreement shall be effective when each of the parties has executed one or more counterparts and each has delivered or faxed an executed counterpart to one of the other parties.
20. **Future Assurances.** Each of the parties shall, upon request of any other party, execute and deliver such additional documents as may be necessary or convenient for the purpose of evidencing or perfecting any rights or interests arising under this Surface Rock Lease Agreement.
21. **Assignments.** This Surface Rock Lease Agreement shall not be assigned by Tech Rock and the performance of the duties under this Surface Rock Lease Agreement shall not be delegated by Tech Rock to any party without Sasquatch Heights's

prior written consent, which consent may be withheld in Sasquatch Heights' sole discretion for any reason. This Surface Rock Lease Agreement shall not be assignable by operation of law. Sasquatch Heights may sell the Real Property subject to its rights and Tech Rock's rights under this Surface Rock Lease Agreement and retain its right to receive royalties and minimum royalties.

22. **Binding Effect.** This Surface Rock Lease Agreement shall be binding on and inure to the benefit of the parties and their heirs, personal representatives, successors and assigns. However, nothing in this paragraph shall be construed as modifying in any way any restrictions on assignment or transfer provided in this Surface Rock Lease Agreement.
23. **Modification.** Neither this Surface Rock Lease Agreement nor any term or provision of this Surface Rock Lease Agreement may be changed, waived, discharged, amended, modified or terminated in any manner other than by a written instrument signed by all the parties.
24. **Waiver.** No waiver of any right arising out of a breach of any covenant, term or condition of this Surface Rock Lease Agreement shall be a waiver of any right arising out of any other or subsequent breach of the same or any other covenant, term or condition or a waiver of the covenant, term or condition itself.
25. **Third-Party Beneficiaries.** Sasquatch Heights shall be a third-party beneficiary of all permits, approvals and agreements obtained by Tech Rock so that Tech Rock can conduct and continue mining operations. Sasquatch Heights shall specifically be a third-party beneficiary of any agreement between Tech Rock and any subsequent owner of the Real Property. Nothing in this Surface Rock Lease Agreement, express or implied, is intended to confer on any person, other than the parties to this Surface Rock Lease Agreement, any right or remedy of any nature whatsoever.
26. **Counsel.** Each of the parties to this Surface Rock Lease Agreement acknowledge they had the opportunity to be advised by counsel in connection with the preparation and execution of this Surface Rock Lease Agreement. The rule of construction that a written agreement is construed against the party drafting the agreement shall specifically not be applicable to the interpretation of this Surface Rock Lease Agreement.
27. **No Brokers.** No party has employed any broker or finder in connection with the transactions contemplated by this Surface Rock Lease Agreement and has not taken any other action which would give rise to a valid claim against any other property for a brokerage commission, finder's fee or other like payment.
28. **Notice.** Any notice under this Surface Rock Lease Agreement shall be in writing and shall be effective when actually delivered in person, faxed or when deposited in the U.S. mail, registered or certified, return-receipt requested, postage prepaid

and addressed to the party at the address stated in this Surface Rock Lease Agreement or such other address as either party may designate by written notice to the other. Notice to Sasquatch Heights shall also be delivered to its lawyer, currently:

Alan J. Thayer, Jr.
Perrin & Thayer LLP
P.O. Box 1268
Eugene, OR 97440

29. **Attorney Fees.** In the event any action or legal proceeding is commenced to enforce or interpret any provision of this Surface Rock Lease Agreement, the prevailing party shall be entitled to recover in the proceeding, or any appeal, a reasonable attorney fee to be set by the court, including a reasonable sum for post-judgment collection, in addition to the costs and disbursements allowed by law.
30. **Applicable Law.** The applicable law for the purpose of interpreting or enforcing any rights or obligations under this Surface Rock Lease Agreement shall be the laws of the State of Washington.
31. **Partial Invalidity.** If any provision of this Surface Rock Lease Agreement is held to be invalid or unenforceable, a valid and enforceable provision as similar as possible to the terms of the provision held to be invalid or unenforceable shall be added and all other provisions shall nevertheless continue in full force and effect.
32. **Time of the Essence.** Time is of the essence of this Surface Rock Lease Agreement.
33. **Entire Agreement.** This Surface Rock Lease Agreement and the documents anticipated in the future pursuant to this Surface Rock Lease Agreement, including but not limited to reporting, mining plan and reclamation documents, constitute a final and complete statement of the agreement between the parties and fully supersede all prior agreements or negotiations, written or oral.

Tech Rock LLC

Date: Feb 15, 2001

By: [Signature]
Byron C. Slack, Manager

Sasquatch Heights LLC

Date: Feb 15, 2001

By: [Signature]
Alan J. Thayer, Sr., Manager

Surface Rock Lease Agreement

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Memorandum of Surface Rock Lease Agreement

Parties: Tech Rock LLC (Tech Rock)
8515-C NE Hazel Dell Avenue
Vancouver, WA 98665

Sasquatch Heights LLC (Sasquatch Heights)
2204 SE 149th
Vancouver, WA 98683

Dated
Effective: February 13, 2001

Pursuant to a Surface Rock Lease Agreement dated February 13, 2001, Sasquatch Heights leased to Tech Rock Sasquatch Heights' interest in surface rock on the real property in Skamania County, Washington described in the attached *Exhibit A* through February 13, 2051.

The Surface Rock Lease Agreement provides, among other provisions, that:

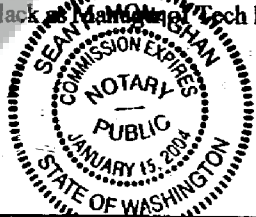
No change in ownership of the Real Property or any interest in the Real Property or change in the capacity or status of Sasquatch Heights, whether resulting from sale, inheritance or otherwise, shall release Tech Rock from any of its obligations to Sasquatch Heights under this Surface Rock Lease Agreement, including, but not limited to the obligation to pay royalties and minimum royalties. Sasquatch Heights's right to receive royalty and minimum royalty payments shall be separate from Sasquatch Heights ownership of the Real Property.


Tech Rock LLC

By: 
Byron C. Slack, Manager

STATE OF WASHINGTON)
) ss.
County of Clark)

This instrument was acknowledged before me on February 15, 2001, by Byron C. Slack as Manager of Tech Rock LLC.




Notary Public for Washington
My Commission expires: 1/15/04

Memorandum of Surface Rock Lease Agreement

Parties: Tech Rock LLC (Tech Rock)
8515-C NE Hazel Dell Avenue
Vancouver, WA 98665

Sasquatch Heights LLC (Sasquatch Heights)
2204 SE 149th
Vancouver, WA 98683

Dated
Effective: February 13, 2001

Pursuant to a Surface Rock Lease Agreement dated February 13, 2001, Sasquatch Heights leased to Tech Rock Sasquatch Heights' interest in surface rock on the real property in Skamania County, Washington described in the attached *Exhibit A* through February 13, 2051.

The Surface Rock Lease Agreement provides, among other provisions, that:

No change in ownership of the Real Property or any interest in the Real Property or change in the capacity or status of Sasquatch Heights, whether resulting from sale, inheritance or otherwise, shall release Tech Rock from any of its obligations to Sasquatch Heights under this Surface Rock Lease Agreement, including, but not limited to the obligation to pay royalties and minimum royalties. Sasquatch Heights's right to receive royalty and minimum royalty payments shall be separate from Sasquatch Heights ownership of the Real Property.

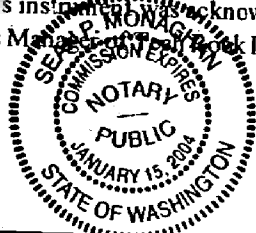
Tech Rock LLC

By: *Byron C. Slack*
Byron C. Slack, Manager

STATE OF WASHINGTON)

County of Clark) ss.

This instrument was acknowledged before me on February 13, 2001, by Byron C. Slack as Manager of Tech Rock LLC.



[Signature]
Notary Public for Washington
My Commission expires: 1/15/04

Memorandum of Surface Rock Lease Agreement

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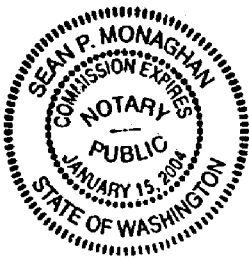
Page 1

Sasquatch Heights LLC

By: Alan J. Thayer
Alan J. Thayer, Sr., Manager

STATE OF WASHINGTON)
County of Clark)ss.

This instrument was acknowledged before me on February 15, 2001, by Alan J. Thayer, Sr., as Manager of Sasquatch Heights LLC.



[Signature]
Notary Public for Washington
My Commission expires: 1/15/04



TITLE COMPANY

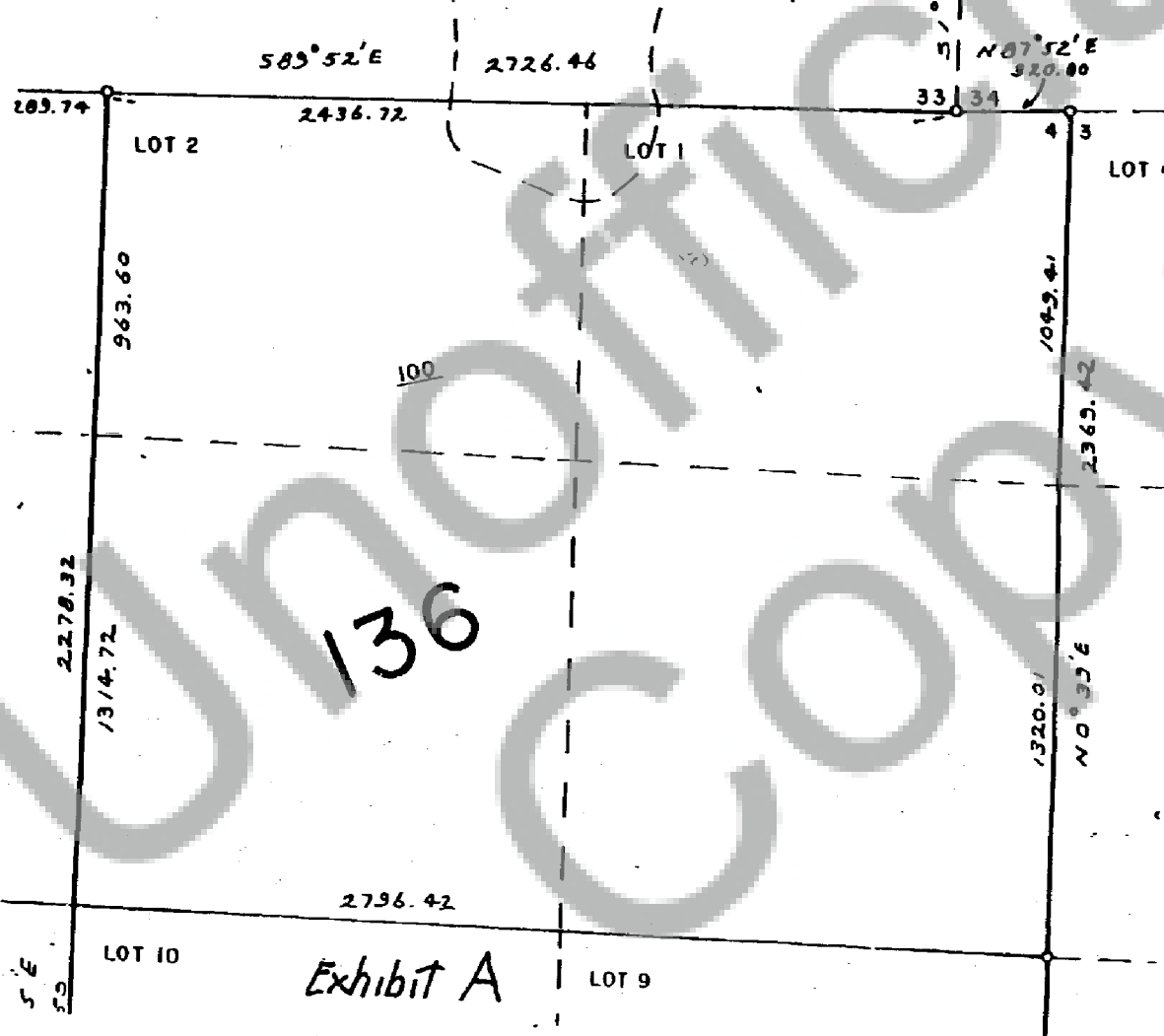
A DIVISION OF
COLUMBIA TITLE

(509) 427-5681
FAX (509) 427-5810

P.O. BOX 277 - 43 RUSSELL ST.
STEVENSON, WASHINGTON 98640

This sketch is furnished as a courtesy only by Skamania County Title Company and First American Title Insurance Company, and it is not a part of any title commitment or policy of title insurance. This sketch is furnished solely for the purpose of assisting in locating the premises and does not purport to show all highways roads or easements affecting the property. No reliance should be placed upon this sketch for the locations or dimensions of the property and no liability is assumed for the correctness thereof.

*NE 1/4 Section 4, T. 2 N, R. 7 E, W.M.
SKAMANIA COUNTY, Washington*



Request for Emergency Nonstandard Recording

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Tech Rock

Company name

By:

Bryan Shaw

Signature/Title