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AFTER RECORDING MAIL TO: REAL ESTATE EXCISE TAX

Name: COLUMBIA LAND TRUST

21972

DEC 28 2001

Address 1351 Officer's Row

PAID

1,369.60

City/State Vancouver, WA 98661

SKAMANIA COUNTY TREASURER

**CONSERVATION AND RECREATION
EASEMENT DEED**

THE GRANTOR

Daniel J. Twain and LeeAnn Moore
Twain, husband and wife

for and in consideration of

Ten Dollars and other consideration

Conveys and quit claims to

COLUMBIA LAND TRUST, a non-profit
nature conservancy corporation

The below-described partial interest in the following tract of land, situated in the county of Skamania, State of Washington, together with all after acquired title of the grantor therein:

A portion of NE 1/4, NW 1/4, Section 10, Township 1 North, Range 5 East, WM as described in the attached legal description (exhibit "A" on page ___ below) which is attached and incorporated into this Easement by this reference.

Gary H. Martin, Skamania County Assessor

Tax Assessor's ID: a portion of # 01-05-00-10-0400 Date 1-5-10 1-5-10 1-5-10

I. CONVEYANCE OF PARTIAL INTEREST

- A. Grantor hereby conveys and warrants to Grantee a conservation and recreation easement in perpetuity over the Protected Property, consisting of certain rights in the Protected Property, as defined in this Easement.
- B. This conveyance is a conveyance of an interest in real property under the provisions of RCW 64.04.
- C. This Easement shall run with the land and shall be binding upon Grantor's personal representatives, heirs, successors, and assigns.

II. PURPOSE

The purpose of this Easement is to assure that the Conservation and Recreation Values of the Protected Property will be controlled by Grantee. This easement transfers to the Grantee the right to control and limit any use or activity occurring on the Protected Property to such uses and activities that the Grantee considers consistent with this Purpose, which shall, at Grantee's sole discretion, include affording to the general public non-motorized physical access to the Protected Property.

III. RIGHTS CONVEYED TO GRANTEE

To accomplish the Purpose of this Easement, Grantor conveys the following rights to Grantee by this Easement:

- A. **Identification and Protection.** To preserve and protect in perpetuity and to enhance the Conservation and Recreation Values of the Protected Property.
- B. **Control of Access.** To maintain complete discretion to permit members of the general public to enter the property on foot, and to allow construction and maintenance of permitted trails, bridges, and other recreational facilities that are consistent with protecting and enhancing the Conservation and Recreation Values of the Protected Property.
- C. **Injunction and Restoration.** To enjoin any use of, or activity on, the Protected Property that is inconsistent with the Purpose of this Easement by Grantor or any other person and to undertake the restoration of such areas or features of the Protected Property as may be damaged by uses or activities inconsistent with the provisions of this Easement.
- D. **Enforcement.** To enforce the terms of this Easement.
- E. **Assignment.** To assign, convey, or otherwise transfer Grantee's interest in the Protected Property in accordance with Section XV.

IV. USES AND ACTIVITIES ALLOWED TO GRANTOR

General. Grantor reserves for itself and its personal representatives, heirs, successors and assigns, all rights accruing from ownership of the Protected Property, including the right to engage in, or permit or invite others to engage in, any use of, or activity on, the Protected Property that is not inconsistent with the Purpose of the Easement and that is not prohibited by this Easement. Grantor specifically reserves for itself and its personal representatives, heirs, successors, and assigns, the following uses and activities:

- A. **Non-Exclusive Recreation.** The undertaking of non-motorized recreational activities on the Protected Property; provided that such activities are conducted in a manner and intensity that does not adversely impact the Conservation and Recreation Values of the Protected Property or exclude others from passive enjoyment of the Protected Property.
- B. **Fences.** The construction and maintenance of fences directly along the surveyed boundary line between that portion of Grantor's property that is subject to this Easement and the remaining portion of the Grantor's property which is not encumbered by the terms and conditions of this Easement.
- C. **Protection of Public Health or Safety.** The undertaking of other activities necessary to protect public health or safety on the Protected Property, or that are actively required by and subject to compulsion of any governmental agency with authority to require such activity; provided that any such activity shall be conducted so that interference with the Conservation and Recreation Values of the Protected Property is avoided, or, if avoidance is not possible, minimized to the extent possible.

V. **USES AND ACTIVITIES INCLUDED IN RIGHTS CONVEYED TO GRANTEE**

General. Any use of, or activity on, the Protected Property inconsistent with the Purpose of this Easement is prohibited, except as deemed appropriate by Grantee, and Grantor acknowledges and agrees that it will not conduct, engage in or permit any such use or activity not undertaken under the express direction and written approval of Grantee. Without limiting the generality of this subsection, control of the following uses of, or activities on, the Protected Property, though not an exhaustive list, is included in the transfer of rights to Grantee:

- A. **Exclusion of Access.** The discouragement, interference, or prevention of physical access for any person.
- B. **Utilities.** The above ground installation of new utility systems or extensions of existing utility systems, including, without limitation, water, sewer, power, fuel, and communication lines and related facilities.
- C. **Construction.** The placement or construction of any buildings, structures, or other improvements of any kind (including, without limitation, pipelines, wells, septic systems, drain fields, fences, roads, and parking areas).
- D. **Alteration of Land.** The alteration of the surface of the land, including, without limitation, the excavation, fill or removal of soil, sand, gravel, rock, peat, or sod.

- E. Alteration of Water Courses. The draining, filling, dredging, ditching, or diking of wetland areas, the alteration or manipulation of ponds and water courses, or the creation of new wetlands, water impoundments, or water courses.
- F. Waste Disposal. The disposal or storage of rubbish, garbage, debris, vehicles, abandoned equipment, parts thereof, or other unsightly, offensive, or hazardous waste or material.
- G. Signs. The placement of any signs including No Trespassing and Keep Out signs, except No Trespassing and Keep Out signs placed along the surveyed boundary line between that portion of Grantor's property that is subject to this Easement and the remaining portion of the Grantor's property which is not encumbered by the terms and conditions of this Easement.
- H. Mining. The exploration for, or development and extraction of, minerals and hydrocarbons on or below the surface of the Protected Property. Provided that the Grantor and Grantee acknowledge that the State of Washington retains the right to extract certain minerals on the subject property as fully described in that document recorded under Recording No.: Volume 6, page 126 Records of Skamania County. In the event that minerals are removed under this right and authority, any and all proceeds from such extraction shall be the property of and paid directly to Grantee and Grantor hereby waives any right or claim to said proceeds. It is further provided that any mineral extraction as described herein shall not extinguish, terminate or otherwise affect any of Grantor's rights under this Deed of Conservation Easement.
- I. Wildlife Disruption. The disruption of wildlife breeding foraging and nesting activities.
- J. Domestic Animals. The keeping of pets or domestic animals.
- K. Herbicides or Pesticides. The use of any herbicides or pesticides; except as deemed necessary by Grantor to preserve, protect or enhance the Conservation and Recreation Values of the Protected Property.
- L. Removal of Trees and Other Vegetation. The pruning, cutting down, or other destruction or removal of live and dead trees, standing or fallen, and other vegetation located on the Protected Property.
- M. Introduced Vegetation. The introduction of nonnative wetland plants and nonnative invasive species on the Protected Property.
- N. Off-Road Vehicles and Excessive Noise. The operation of motorized dirt bikes, all-terrain vehicles, and any other type of off-road motorized vehicles.

VI. NOTICES

Addresses. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor: 181 Salmon Falls RD
Washougal, WA 98671

To Grantee: Columbia Land Trust
1351 Officers' Row
Vancouver, WA 98661

or to such other address as either party designates by written notice to the other.

VII. GRANTEE'S REMEDIES

A. **Notice of Violation, Corrective Action.** If Grantee determines that Grantor is in violation of the terms of this Easement or that 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 Protected Property resulting from any use or activity inconsistent with the Purpose of this Easement, to restore the portion of the Protected Property so injured to its prior condition in accordance with a plan approved by Grantee.

B. **Grantor's Failure to Respond.** Grantee may bring an action as provided in subsection C if Grantor:

1. Fails to cure the violation within thirty (30) days after receipt of a notice of violation from Grantee; or
2. Under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing the violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.

C. **Grantee's Action.**

1. **Injunctive Relief.** Grantee may bring an action at law or in equity in a court having jurisdiction to enforce the terms of this Easement:
 - a. To enjoin the violation, ex parte as necessary, by temporary or permanent injunction; and

- a. To enjoin the violation, ex parte as necessary, by temporary or permanent injunction; and
 - b. To require the restoration of the Protected Property to the condition that existed prior to any such injury.
2. **Damages.** Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation and Recreation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability in any way, Grantee in its sole discretion, may apply any damages recovered to the cost of undertaking corrective or restoration action on the Protected 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 and Recreation Values of the Protected Property, Grantee may pursue its remedies under this section without prior notice to Grantor or without waiting for the period provided for cure to expire.

E. **Scope of Relief.** Grantee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms 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 providing either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

F. **Costs of Enforcement.** In the event Grantee must enforce the terms of this Easement, the costs of restoration necessitated by acts or omissions of Grantor, its agents, employees, contractors, family members, invitees or licensees in violation of the terms of this Easement and Grantee's reasonable enforcement expenses, including attorneys' and consultants' fees, shall be borne by Grantor or those of its personal representatives, heirs, successors, or assigns, against whom a judgment is entered. In the event that Grantee secures redress for an Easement violation without initiating or completing a judicial proceeding, the costs of such restoration and Grantee's reasonable expenses shall be borne by Grantor and those of its personal representatives, heirs, successors, or assigns who are otherwise determined to be responsible for the unauthorized use or activity. If Grantor ultimately prevails in any judicial proceeding initiated by Grantee to enforce the terms of this Easement, each party shall bear its own costs.

G. **Grantee's Forbearance.** Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any terms of this Easement by Grantor, its agents, employees, contractors, family members, invitees or licensees shall not be deemed or construed to be a waiver by Grantee of such term of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

H. **Waiver of Certain Defenses.** Grantor acknowledges that it has carefully reviewed this Easement and has consulted with and been advised by counsel of its terms and requirements. In full knowledge of the provisions of this Easement, Grantor hereby waives any claim or defense it may have against Grantee or its successors or assigns under or pertaining to this Easement based upon waiver, laches, estoppel, or prescription.

I. **Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor to abate, correct, or restore any condition on the Protected Property or to recover damages for any injury to or change in the Protected Property resulting from causes beyond Grantor's control, including, without limitation, natural changes, fire, flood, storm, or earth movement, or from acts of trespassers, that Grantor could not reasonably have anticipated or prevented or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes. In the event the terms of this Easement are violated by acts of trespassers that Grantors could not reasonably have anticipated or prevented, Grantor agrees, at Grantee's option, to join in any suit, to assign its right of action to Grantee, or to appoint Grantee its attorney in fact, for the purpose of pursuing enforcement action against the responsible parties.

J. **Estoppel Certificates.** Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor, or to any party designated by Grantor, any document, including an estoppel certificate, that certifies, to the best of Grantee's knowledge, Grantor's compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement. Such certification shall be limited to the condition of the Protected Property as of Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within thirty (30) days of receipt of Grantor's written request.

VIII. TAXES, ENVIRONMENTAL COMPLIANCE, AND INDEMNIFICATION

A. **Legal Requirements and Liabilities.** Other than taxes, which are the responsibility of Grantor as stipulated in subsection B. below, Grantee assumes all responsibilities and shall bear all costs and liabilities of any kind typically related to the ownership, operation, upkeep, and maintenance of the Protected Property. Grantee assumes responsibility for obtaining any applicable governmental permits and approval for any construction or other activity or use undertaken by Grantee on the Protected Property,

and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements.

B. Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, charges of whatever description levied on or assessed against the Protected Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement. If Grantor fails to pay any taxes when due, Grantee is authorized, but in no event obligated, to make or advance such payment of taxes upon thirty (30) 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 the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the maximum rate allowed by law.

C. Representations and Warranties. Grantor represents and warrants that, after reasonable investigation and to the best of Grantor's knowledge:

1. There are no apparent or latent defects in or on the Protected Property;
2. There has been no release, dumping, burying, abandonment or migration from off-site on the Protected Property of any substances, materials, or wastes that are hazardous, toxic, dangerous, or harmful or are designated as, or contain components that are, or are designated as, hazardous, toxic, dangerous, or harmful and/or that are subject to regulation as hazardous, toxic, dangerous, or harmful and/or that are subject to regulation as hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute, or ordinance;
3. Neither Grantor nor Grantor's predecessors in interest have disposed of any hazardous substances off-site, nor have they disposed of substances at sites designated or proposed to be designated as federal Superfund (42 U.S.C. § 9601 et seq.) or state Model Toxics Control Act (RCW 70.105D.010 et seq.) ("MTCA") sites; and

IX. SUBSEQUENT TRANSFER

Subsequent Transfers. Grantor agrees to:

1. Incorporate the terms of this Easement by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including, without limitation, a leasehold interest;
2. Describe this Easement in and append it to any executory contract for the transfer of any interest in the Protected Property;

3. Give written notice to Grantee of the transfer of any interest in all or a portion of the Protected Property no later than fifteen (15) days prior to the date of such transfer. Such notice to Grantee shall include the name, address, and telephone number of the prospective transferee or the prospective transferee's representative.

The failure of Grantor to perform any act required by this subsection shall not impair the validity of this Easement or limit its enforceability in any way.

X. AMENDMENT

If circumstances arise 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 the amendment shall be consistent with the Purpose of this Easement, shall not affect its perpetual duration, and shall be recorded in the official records of Skamania County, Washington, and any other jurisdiction in which such recording is required.

XI. ASSIGNMENT AND SUCCESSION

A. Assignment. This Easement is transferable, and Grantee may assign all or a portion of its rights and obligations under this Easement to a public or private party. Grantee shall notify Grantor in writing, at Grantor's last known address, in advance 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.

B. Succession. If at any time it becomes impossible for Grantee to ensure compliance with the covenants, terms, conditions and restrictions contained in this Easement and Grantee has not named a successor organization, or Grantee ceases to exist or to be a qualified organization under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable) or to be authorized to acquire and hold conservation easements under RCW 64.04.130 and 84.34.250 (or any successor provision(s) then applicable), then Grantee's rights and obligations under this Easement shall become vested and fall upon such other entity, with purposes similar to Grantee's, constituting a "qualified organization" within the meaning of the Internal Revenue Code of 1986, as amended (or any successor provision(s) then applicable);

provided that if such vesting in any of the entities named above is deemed to be void under the Rule Against Perpetuities, the rights and obligations under this Easement shall vest in such organization as a court having jurisdiction shall direct, pursuant to the applicable Washington law and the Internal Revenue Code and with due regard to the Purpose of this Easement.

XII. RECORDATION

Grantee shall record this instrument in a timely fashion in the official records of Skamania County, Washington, and in any other appropriate jurisdictions, and may re-record it at any time as may be required to preserve its rights in this Easement.

XIII. GENERAL PROVISIONS

A. **Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the State of Washington.

B. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the Purpose of this Easement and the policy and purpose of RCW 64.04.130 and Chapter 84.34 RCW. If any provision in this instrument is found to be ambiguous, 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.

C. **Severability.** If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.

D. **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Protected Property and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Protected Property, all of which are merged into this Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section X.

E. **No Forfeiture.** Nothing contained in this Easement will result in a forfeiture or reversion of Grantor's title in any respect.

F. **"Grantor" - "Grantee".** The terms "Grantor" and "Grantee," wherever used in this Easement, and any pronouns used in their place, shall be held to mean and include, respectively the above-named Grantor, and its personal representatives, heirs, successors, and assigns, and the above-named Grantee, its personal representatives, successors and assigns.

G. **Successors and Assigns.** 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 Protected Property.

H. **Termination of Rights and Obligations.** A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or

Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

I. **Counterparts.** The parties may execute this instrument in two or more counterparts, which shall be signed by both parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

XIV. SCHEDULE OF EXHIBITS

- A. Legal Description of Property Subject to Easement.
- B. Subordination Agreement.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument this 21st day of December, 2000.

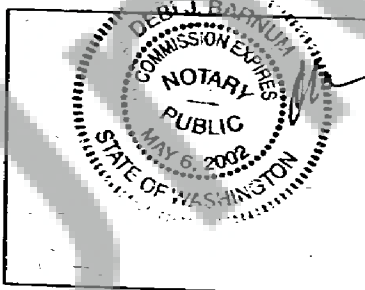
Grantor

STATE OF WASHINGTON)
COUNTY OF CLALLAM) ss.

DANIEL J. TWAIN a

I certify that I know or have satisfactory evidence that LEANN MOORE TWAIN is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the voluntary act of such party for the uses and purposes mentioned in the instrument. to be the free and

Dated: 12-21-01



(Use this space for notarial stamp/seal)

Notary Public
Print Name DEBI J. BAENUM
My commission expires MAY 6, 2002

The Columbia Land Trust does hereby accept the
above Grant Deed of Conservation Easement.

Dated: 12/26/01

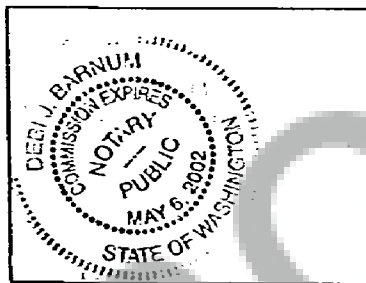
D. Lamb
Grantee

By Glenn Lamb
Its Executive Director [Official Capacity]

STATE OF WASHINGTON)
COUNTY OF CLALLAM) ss.

I certify that I know or have satisfactory evidence that GLENN LAMB is
the person who appeared before me, and said person acknowledged that he/she signed this instrument, on
oath stated that he/she was authorized to execute the instrument and acknowledged it as the
DIRECTOR of COLUMBIA LAND TRUST to be the free and
voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 12-26-01



(Use this space for notarial stamp/seal)

Debi J. Barnum
Notary Public
Print Name DEBI J. BARNUM
My commission expires MAY 6, 2002

Exhibit A

A portion of the Northeast quarter of the Northwest quarter of Section 10, Township 1 North, Range 5 East of the Willamette Meridian, Skamania County, Washington, described as follows:

BEGINNING at a 3/4 inch iron pipe with brass cap at the Northwest corner of Section 10, as shown in Book 3 of Survey, page 111, Skamania County Auditor's Records; thence North 89°30'27" East, 1300.99 feet to the Northwest corner of the Northeast quarter of the Northwest quarter of Section 10 and the True Point of Beginning; thence continuing North 89°30'27" East, along the North line of the Northeast quarter of the Northwest quarter, for a distance of 100.00 feet to a 5/8 inch iron rod as set in a 1998 Hagedorn, Inc., Survey; thence South 00°55'34" West, 388.41 feet to a 5/8 inch iron rod, 1998 Hagedorn, Inc., Survey; thence South 16°00'00" East, 288.00 feet to a 5/8 inch iron rod, 1998 Hagedorn, Inc., Survey; thence South 60°00'00" East, 100.00 feet to a 5/8 inch iron rod, 1998 Hagedorn, Inc., Survey; thence South 89°00'00" East, 230.00 feet to a 5/8 inch iron rod, 1998 Hagedorn, Inc., Survey; thence North 76°30'00" East, 265.00 feet to a 5/8 inch iron rod, 1998 Hagedorn, Inc., Survey, on the West right of way line of Salmon Falls Road, also known as Cape Horn cut-off, as described in Book 59 of Deeds, page 23, Skamania County Auditor's Records; thence following said right of way line, along the arc of an 1880 foot radius curve to the right (the radial bearing of which is South 80°50'13" West), through a central angle of 2°13'29", for an arc distance of 73.00 feet to a point opposite Engineer's Station PC 7+22.56 and 30 feet left therefrom; thence continuing along said right of way line, South 06°52'52" East, 568.85 feet to the South line of the Northeast quarter of the Northwest quarter of Section 10; thence South 89°29'09" West, 847.64 feet to the Southwest corner of the Northeast quarter of the Northwest quarter; thence North 00°57'49" East, 1301.31 feet to the True Point of Beginning.