



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 16, 2011

Ordinance 17097

Proposed No. 2011-0207.1

Sponsors Phillips

1 AN ORDINANCE authorizing the King County executive
2 to sign a fifty-year lease for a thirty-acre vacant property
3 along Issaquah creek owned by Washington state
4 Department of Natural Resources through the States Trust
5 Land Transfer Program at no cost to King County.

6 STATEMENT OF FACTS:

- 7 1. In March 2011, the Washington state Department of Natural Resources
8 ("DNR") approved the thirty-acre Issaquah creek property for lease to
9 King County under the Trust Land Transfer Program ("TLT program").
10 The TLT program is a program that transfers Common School Trust
11 properties, either by lease or in fee, to an agency that can better manage
12 the property for the intended public use. The value of the lease, paid for
13 by the state general fund appropriation, is deposited to the common school
14 construction account. The TLT program is paid for the value of the lease
15 from the state building construction account and must be completed prior
16 to the end of the biennium, June 30, 2011. King County will receive a
17 fifty-year lease from the state at no cost to the county.
- 18 2. This project protects critical aquatic and spawning habitat for Chinook
19 salmon along two thousand two hundred feet of the Issaquah creek

20 corridor. This reach of the Issaquah creek is identified as part of a
21 Wildlife Network in the King County Comprehensive Plan (2004). The
22 property provides a link in the wildlife corridor that incorporates Tiger
23 Mountain and Squak Mountain state Forests, Taylor Mountain Forest, the
24 city of Seattle watershed and other protected forests in the Issaquah and
25 surrounding drainage basins. This property also provides an opportunity
26 to protect a view of the Issaquah creek from the Issaquah-Hobart Road.

27 3. K.C.C. 4.04.040.B.5.b. requires any lease or agreement for real
28 property longer than a cumulative total of two years to be approved by
29 ordinance of the King County council.

30 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

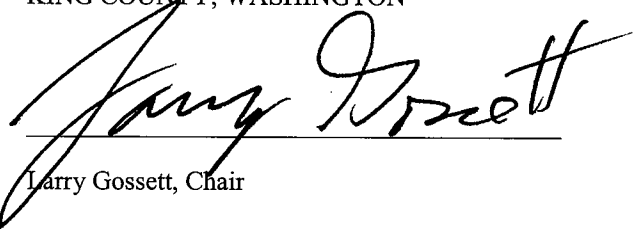
31 SECTION 1. The King County executive is hereby authorized to sign the
32 Issaquah Creek Trust Land Transfer Lease in substantially the form of Attachment A to

33 this ordinance as well as any related documents that are necessary or convenient to
34 complete the transaction.
35

Ordinance 17097 was introduced on 5/2/2011 and passed by the Metropolitan King County Council on 5/16/2011, by the following vote:


Yes: 8 - Mr. Phillips, Mr. Gossett, Ms. Hague, Ms. Patterson, Ms. Lambert, Mr. Ferguson, Mr. Dunn and Mr. McDermott
No: 0
Excused: 1 - Mr. von Reichbauer

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



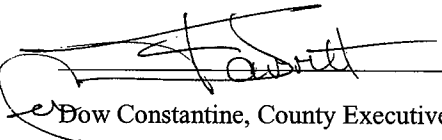
Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 27 day of May, 2011.



Dow Constantine, County Executive

Attachments: A. Trust Land Transfer Lease

RECEIVED
2011 MAY 27 PM 3:49
KING COUNTY COUNCIL

17097

AFTER RECORDING RETURN TO:
Department of Natural Resources
Asset and Property Management Division
ATTN: Trust Land Transfer Program
PO Box 47014
Olympia, WA 98504-7014

Document Title: TRUST LAND TRANSFER LEASE

Grantor: STATE OF WASHINGTON, acting by and through the
Department of Natural Resources

Grantee: KING COUNTY, DEPARTMENT OF NATURAL
RESOURCES & PARKS

Legal Description: Portions of Section 36, Township 23 North, Range 6 East,
W.M., King County, Washington
(Full legal in attached **Exhibit 1A**)

**Assessor's Property Tax
Parcel/Account Number(s):** 3623069005

**Reference Number(s) of
Documents assigned or
released:** N/A

Lease No. 60-085145 - Issaquah Creek TLT



WASHINGTON STATE DEPARTMENT OF
Natural Resources
 Peter Goldmark - Commissioner of Public Lands

**ISSAQUAH CREEK
 TRUST LAND TRANSFER LEASE**

Lease No. 60-085145

BY THIS LEASE, issued under the authority of Washington Laws of 2010, Ch.36, Section 3037, the STATE OF WASHINGTON, Department of Natural Resources, hereinafter called "State", leases to KING COUNTY, DEPARTMENT OF NATURAL RESOURCES & PARKS, hereinafter called "Lessee", the use of the premises, hereinafter called the "Premises", in King County Washington, comprising approximately 30 acres, the legal description(s) of which is set forth in Exhibit 1A, attached hereto and incorporated herein by this reference and the encumbrances, if any, of which are set forth in Exhibit 1B, attached hereto and incorporated herein by this reference. This Lease is made upon the terms and conditions and for the consideration enumerated herein.

SECTION 1 OCCUPANCY

1.01 Lease Term. This Lease is effective as of the date of termination of the current grazing lease for the Premises described in Section 2.04(6) ("Effective Date") and shall expire fifty (50) years from the date of mutual execution of this Lease. Between the date of mutual execution and the Effective Date, State hereby grants Lessee a land use license giving Lessee permission to use the Premises. During the period of use under this license from State, Lessee shall comply with all terms and conditions in this Lease applicable to the use of the Premises, except as otherwise specified herein. The applicable provisions of this Lease reflect the terms and conditions of the license in effect until the Effective Date and no other agreement is needed in order to grant permission for this use.

1.02 Condition of Premises. Taking possession of the Premises by Lessee shall constitute acknowledgment by Lessee that the Premises are in good condition and that the Premises are in all respects suitable for the Permitted Use(s) in Section 2. State has no obligation to make any repairs, additions, or improvements thereto and expressly disclaims any warranty that the Premises are suitable for such Permitted Use(s). Lessee agrees to maintain the Premises in at least as good a condition as the Premises are received, and allow no degradation of the Premises and natural resources thereon.

1.03 Non-Default Termination. In response to a written request from Lessee asking to surrender the leasehold, State may, at its sole discretion, terminate all or part of this Lease upon satisfaction by Lessee of all outstanding duties and obligations. Notwithstanding any provision to the contrary, this Lease and Lessee's obligations hereunder are contingent upon approval by ordinance of the King County Council on or before May 23, 2011 and Lessee may at any time prior to such approval terminate this Lease and Lessee shall have no further obligation to the State whatsoever, including but not limited to the obligations provided in Sections 6.02, 10.5, 11.01 and 11.03(2). If Lessee does not obtain approval of the King County Council on or before May 23, 2011, this Lease shall automatically terminate and be of no further force or effect, unless otherwise mutually agreed.

1.04 Renewal of Lease. At the end of this Lease term, Lessee shall have the option to apply for another fifty (50) year lease term, upon lump sum payment of full fair market value of the leasehold on the date of renewal, and subject to reaching agreement upon the provisions of a new Lease in context of applicable law in existence at the time of renewal.

SECTION 2 USE OF PREMISES

2.01 Permitted Use. Lessee may put the Premises to the following use(s) for public benefit: Fish and wildlife habitat, open space, or recreation, or any combination thereof. Lessee may also request alternative uses of the Premises that are compatible with the original intended public purposes, provided such uses are approved by State, and by the Legislature of the State of Washington, at Lessee's sole expense.

2.02 Plan of Development. Lessee shall not make any improvements to nor modify the Premises without submitting ninety (90) days in advance to State its general plan for the use and development hereinafter called "Plan of Use and Development", of the Premises seeking State's consent to the uses and development proposed in the plan. State will review the plan and provide comments within ninety (90) days of receipt, with State's review primarily focusing upon consistency with the Permitted Uses and the Habitat Conservation Plan described in Section 2.05. State may condition its consent on its review or any review or approval required by other entities or may delay its comments and consent until any required review or approval(s) is received, at State's discretion.

Lessee shall comply with the agreed upon terms of the approved Plan of Use and Development. The plan shall include, as appropriate, the following:

1. A map showing the areas and acreage to be developed along with the location of improvements;
2. Changes in use that may occur as a result of the Lessee's management of the Premises pursuant to a plan of development;
3. Timber harvest, land clearing and grading plans with acreage figures; and

4. An estimated total cost of improvements.

Any Plan of Use and Development must be consistent with the Permitted Uses, and may be limited by Section 2.04 and Section 6.

All costs and fees associated with development, construction, maintenance and removal of improvements upon the Premises during and at the end of the Lease term shall be the sole responsibility of Lessee.

Lessee shall be responsible for compliance with State Environmental Policy Act (SEPA) requirements under RCW 43.21C and WAC 197-11 as those requirements may pertain to its Plan of Use and Development for any action subject to SEPA. Lessee shall obtain all building permits and other required permits, licenses, permissions, consents, and approvals from governmental agencies or third parties in connection with this Lease and Lessee's Permitted Uses including construction of any improvements, changes, alterations, additions, repairs, maintenance to, or replacement of, the Premises, or for the conduct of any activity upon the Premises at the sole cost and expense of Lessee. State agrees to reasonably cooperate with Lessee as required by any applicable permit or approval process. Copies of such permits, licenses, notifications, permissions, consents, and approvals shall be supplied to State upon request.

2.03 Compliance Specifications. On all improvements relating to the development of the Premises, the following shall apply:

1. State may make inspections during construction.
2. State shall make a final inspection of the completed project and, if acceptable, shall issue its written acceptance.

State's approval or disapproval of any plans, specifications, improvements or completed projects, shall not obligate or render State liable in any way.

2.04 Limitations on Use. The following restrictions shall apply to use of the Premises:

1. Lessee shall conform to all applicable laws, rules, regulations, permits, orders, or requirements of any public authority affecting the Premises and the use thereof and shall bear, at Lessee's sole expense, any costs of such compliance including any attorney fees, costs, fines or penalties.
2. Except as provided in Section 4.04 concerning danger tree removal, Lessee shall remove no valuable material, including but not limited to forest products, timber, minerals, sand, or gravel, unless Lessee has received State's prior written approval and made arrangements to compensate State for the value thereof. All timber, forest products and valuable material ownership thereof remain with State.

3. Lessee shall take all reasonable precautions to control negative effects of designated or dispersed public access, including, but not limited to: a) protect the Premises from fire, insects and disease, and reasonably report and cause suppression of such fires, and report outbreaks of insects and disease as may occur; b) protect the Premises from asset value losses due to vandalism, garbage dumping, resource theft or other illegal activities; and c) protect the Premises from damage to soils, water quality, plants, animals or other elements of the forest environment. If necessary to control such negative effects, Lessee shall close, limit, or redirect public access, at Lessee's reasonable discretion. Lessee's regulation of activities on the Premises shall be consistent with applicable law and the Plan of Use and Development.
4. Lessee shall not allow any activity that negatively impacts adjoining land managed by State. State shall have sole discretion in this regard.
5. Lessee shall not allow any activities on the Premises that adversely impact the natural resources without written authorization.
6. Prior to the Effective Date, Lessee's use of the Premises shall be subordinate to, shall not interfere with, and shall not be inconsistent with the rights of the current lessee under that certain grazing lease between State and Sandra Bonomi for the Premises, Grazing Lease No. 10-A69562, attached hereto as Exhibit 1C and incorporated herein by this reference (the "Grazing Lease"). No improvements may be made on the Premises nor may the Premises otherwise be altered, except with respect to the removal of Danger Trees pursuant to Section 4.04, until the Grazing Lease terminates.

2.05 Habitat Conservation Plan. The Premises are located within an area that is subject to the State of Washington, Department of Natural Resources Habitat Conservation Plan (HCP) and amendments thereto adopted in connection with Incidental Take Permit No. PRT-812521 as supplemented by Permit No. 1168, and the Implementation Agreement for the HCP dated January 30, 1997, and any amendments to said permits and agreement (Collectively "ITP"), which are incorporated herein by this reference and which are publicly available at http://www.dnr.wa.gov/ResearchScience/Topics/TrustLandsHCP/Pages/lm_hcp_trust_lands_report.aspx. As long as the HCP remains in effect, Lessee and all persons acting under Lessee shall comply with the ITP and notify State if new locations of permit species are identified or upon locating dead, injured, or sick individual species as more specifically set forth in Exhibit 1D while operating on the Premises. State shall have the right to modify these terms and conditions from time to time to comply with the ITP, the Endangered Species Act, the implementing regulations, and amendments thereto, or the requirements of the federal agencies administering these laws. In conjunction with any Plan of Use and Development submitted to State under Section 2.02 of this Lease, Lessee shall provide any documentation, analysis, or other information that may be required by the United States Department of the Interior, Fish and Wildlife Service, that is deemed necessary to maintain compliance with the ITP. In the event State is required to provide any information about the Permitted Uses in order to comply with the

ITP, Lessee shall cooperate and promptly provide all information required in the time requested by State.

SECTION 3 PAYMENT

3.01 Consideration. Under the authority of, and in compliance with Washington Laws of 2010, Ch.36, Section 3037, the State of Washington, Department of Natural Resources Trust Land Transfer Program has been authorized to enter into this Lease following deposit of a one time, lump sum payment, representing the fair market value of the Lease as appraised, of THREE HUNDRED SEVENTY THREE THOUSAND DOLLARS AND 00/100 CENTS (\$373,000), from the State Building Construction Account to the Common School Construction Account ("Lease Payment") if this Lease is executed on or before June 30, 2011, receipt of which is hereby acknowledged. Lessee's adherence to, compliance with, and performance under, the provisions of this Lease are necessary consideration to support Lessee's rights under this Lease. No additional consideration is required from Lessee during the initial fifty (50) year term of this Agreement.

3.02 Option to Purchase the Remainder of the Fee Interest. At any time during this Lease, Lessee may request to purchase the residual value of the fee interest by submitting an offer to accept a land transfer that contains the terms and conditions of the offer. If State determines the offer reflects the fair market value of the residual fee interest at the time submitted, then State may accept the offer on terms and conditions acceptable to State, pending approval of the Board of Natural Resources. State, upon payment in advance by Lessee of appraisal costs, will obtain a current appraisal which will determine the balance owed State to buy out the residual value of the fee interest and acquire all interest in the property identified in Exhibit 1A. The appraisal will represent, at a minimum, a Uniform Standards of Professional Appraisal Practice (USPAP) compliant summary appraisal report completed by a state certified general appraiser. To be acceptable to the State, the current appraisal must reflect the highest and best use that is equal to, or exceeds, the highest and best use as originally appraised, and considers any applicable hypothetical conditions and extraordinary assumptions. The terms and conditions of the offer must include a deed restriction that restricts the Permitted Use of the Property to fish and wildlife habitat, open space, or recreation use in conformance with Washington Laws of 2010, Ch.36, Section 3037 and other applicable law, and require that the Premises no longer be used for any other purposes. The State in its sole discretion may also require the offer to include a deed restriction that restricts management of the property to a manner that complies with the ITP, HCP, and Implementation Agreement identified in Section 2.05. If the State requires such deed restriction, the offer must also include a covenant by the Lessee to commit in writing to the U.S. Fish and Wildlife Service that the property will be managed in a manner that maintains the commitments of the HCP. Said deed restriction shall be binding on the purchaser and all successors and assigns. The offer must be contingent upon proper authorization, be in accordance with applicable law, contain adequate reservations for minerals and other valuable materials, and be in a form satisfactory to State.

3.03 Costs Resulting from Use or Changes in Use. All costs and fees associated with a

change in a use or development of the Premises, including but not limited to permits, licenses, construction, or reconstruction shall be the sole responsibility of Lessee. In addition, Lessee shall pay all costs and fees incurred by State which are associated with any change in use or review or monitoring of any development requested by Lessee and authorized by State. Costs and fees may include, but are not limited to, appraisals, surveys, staff time, and other similar costs.

SECTION 4 RESERVATIONS

4.01 Compliance. State shall have access to the Premises at all reasonable times to determine and secure compliance with this Lease. Failure to inspect or enforce compliance shall not be construed as a waiver of State's right to declare a breach, nor relieve Lessee of any liability to State for any breach of the terms, conditions, or requirements of this Lease.

4.02 Access. State reserves access to the Premises at all reasonable times as it deems necessary to manage its mineral rights and other valuable materials including timber, rock, sand, and gravel. State reserves the right to grant easements on the Premises that do not materially interfere with Lessee's use of the Premises. The easement applicant may be required to remedy any damages to the Premises. Lessee's Plan of Use and Development and placement of improvements must be such that access to State's adjacent ownership, if any, will not be impaired.

4.03 Resource Disposal. Mineral rights and other valuable materials including timber, rock, sand and gravel, shall continue to be managed, in a manner consistent with Lessee's use of the Premises, by and be the property of State and no timber sale will proceed that would be in contravention of applicable state land management plans. In connection with Lessee's submission of a Plan of Use and Development pursuant to Section 2.02, and in the event a timber sale is approved for the Premises that is consistent with the Lessee's use of the Premises, State shall be entitled to the revenue from any such sale unless otherwise agreed and approved by the Board of Natural Resources. State shall distribute any revenue accruing from resource disposal to the appropriate trust, as presently specified at Chapter 79.64 RCW, or as may hereafter be designated by the Legislature.

4.04 Danger Tree Removal. Lessee shall be responsible for inspecting the Premises for and removing trees that pose a danger to persons or tangible property on or adjacent to the Premises. Such trees are referred to herein as "danger trees." Lessee is authorized to cut and remove danger trees, subject to the following: (i) Lessee shall mark the tree(s); (ii) Notify State in writing of its intent to remove the danger tree(s) and include a map showing the location of the tree(s); (iii) State will determine the fair market value of the tree(s) it authorizes to be removed; and (iv) Lessee shall pay the State for the tree(s) in full prior to removal.

In the event Lessee determines danger trees pose an emergency requiring immediate action to protect persons or property located on or adjacent to the Premises, Lessee shall cut and remove the danger trees, subject to the following: (i) A maximum of twelve (12) trees may be removed

under this emergency provision; (ii) Lessee shall provide written or verbal notice to the State before removing the trees; (iii) Within fourteen (14) days after removing the trees, Lessee shall provide State with a timber cruise and map of the location of the trees; (iv) State will determine the fair market value of the trees; and (v) Lessee shall pay for the trees within thirty (30) days of receiving the billing notice.

SECTION 5 ASSESSMENTS, TAXES, INSURANCE

5.01 Assessments. Following the Effective Date, Lessee shall pay all assessments that may be charged against the Premises. Lessee obligations under this subsection are not limited to assessments relating to the encumbrances (if any) listed in Exhibit 1B of this Lease, but extend to all assessments that may be charged against the Premises, including, but not limited to, forest patrol assessments, weed assessments, watershed protection district assessments, conservation district assessments, storm water runoff assessments, and local improvement district assessments.

5.02 Utilities. Following the Effective Date, Lessee shall be liable for all electrical power, water, sewer and other utility charges or expenses, including power minimums and utility disconnect charges incurred prior to, or following, termination or expiration of this Lease, but only to the extent arising from Lessee's use of the Premises

5.03 Taxes. Following the Effective Date, Lessee shall pay leasehold excise tax if required by Washington State statute. Lessee shall pay all federal, state and local taxes including, but not limited to, personal property tax and excise tax, if any, that may be charged against the Lease and improvements located on the Premises. If State must pay any assessments, taxes, penalties or interest because of Lessee's failure to pay such assessments, taxes, penalties or interest, Lessee shall immediately reimburse State for such expenditures and the obligation shall accrue interest until paid.

5.04 Insurance. Lessee shall, at all times during the term of the license and effective period of the Lease at its cost and expense, buy and maintain insurance of the types and amounts listed below. Failure to buy and maintain the required insurance may result in the termination of this Lease, at State's option.

All insurance and surety bonds should be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by State's risk manager before this Lease is accepted. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.

State shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications:

1. Insurers subject to Chapter 48.18 RCW (admitted and regulated by the Insurance Commissioner): The insurer shall give State forty-five (45) days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, State shall be given ten (10) days advance notice of cancellation.
2. Insurers subject to Chapter 48.15 RCW (surplus lines): State shall be given twenty (20) days advance notice of cancellation. If cancellation is due to non-payment of premium, State shall be given ten (10) days advance notice of cancellation.

Before starting work, Lessee shall furnish State with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in the Lease and, if requested, copies of policies to State. The certificate of insurance shall reference the "State of Washington, Department of Natural Resources", and the Lease number, found on the front page and footer of this Lease.

Lessee shall include all contractors and subcontractors as insured under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each contractor and subcontractor. Contractors and subcontractors must comply fully with all insurance requirements stated herein. Failure of contractors and subcontractors to comply with insurance requirements does not limit Lessee's liability or responsibility.

The "State of Washington, Department of Natural Resources", its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella, and property insurance policies, if and when Lessee elects to cease self-insured status.

All insurance provided in compliance with this Lease shall be primary as to any other insurance or self-insurance programs afforded to or maintained by State.

Lessee waives all rights against State for recovery of damages to the extent these damages are covered by general liability or umbrella insurance maintained pursuant to this Lease.

If Lessee is self-insured, evidence of its status as a self-insured entity shall be provided to State. If requested by State, Lessee must describe its financial condition and the self-insured funding mechanism. Lessee is a self-insured government entity lacking the ability to name State of Washington, Department of Natural Resources as additional insured and will not procure commercial general liability policies under this Lease. Lessee shall within thirty (30) days of ceasing self-insured status procure all insurance coverages required by this Section 5, name the State of Washington, Department of Natural Resources as additional insured, and provide proof of coverage as required by the State.

By requiring insurance herein, State does not represent that coverage and limits will be adequate to protect Lessee and such coverage and limits shall not limit Lessee's liability under the indemnities and reimbursements granted to State in this Lease.

The limits of insurance, which may be increased by State, as deemed necessary, shall not be less than as follows:

Commercial General Liability Insurance.

Lessee shall maintain Commercial General Liability (CGL) insurance covering claims for bodily injury, personal injury, or property damage arising on the Premises and/or out of Lessee's operations and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 per each occurrence. If such CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have a products-completed operations aggregate limit of at least two times the "each occurrence" limit.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability arising out of Premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another party assumed in a business contract), and contain separation of insured (cross liability) condition.

Employer's Liability ("Stop Gap") Insurance.

Lessee shall buy employers liability insurance, and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

Workers' Compensation Coverage.

Lessee shall comply with all State of Washington workers' compensation statutes and regulations. Workers' compensation coverage shall be provided for all employees of Lessee and employees of any contractor, subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which exists out of or in connection with the performance of this Lease. Except as prohibited by law, Lessee waives all rights of subrogation against State for recovery of damages to the extent they are covered by workers' compensation, employer's liability, commercial general liability, or commercial umbrella liability insurance.

If Lessee, contractor, subcontractor or sub-subcontractor fails to comply with all State of Washington workers' compensation statutes and regulations and State incurs fines or is required by law to provide benefits to or obtain coverage for such employees, Lessee shall indemnify State. Indemnity shall include all fines, payment of benefits to Lessee, contractor or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees.

Business Auto Policy.

Lessee shall maintain Business Auto Policy (BAP) liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." BAP coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage and cover a "covered pollution cost or

expense” as provided in the 1990 or later editions of CA 00 01. Lessee waives all rights against State for the recovery of damages to the extent they are covered by BAP liability or commercial umbrella liability insurance.

SECTION 6 MANAGEMENT

6.01 Weed Control. Following the Effective Date, Lessee shall control all weeds, including but not limited to county, state or federally listed noxious weeds, on all lands under this Lease. Lessee shall be responsible for, or shall immediately reimburse State, any weed control cost incurred as a result of Lessee’s failure to control weeds on said Premises.

6.02 Deleterious, Hazardous, Toxic, or Harmful Substances.

1. Deleterious Material. Lessee shall not make, or suffer to be made, any filling in of the Premises or any deposit of rock, earth, ballast, refuse, garbage, waste matter, chemical, biological or other wastes, hydrocarbons, any other pollutants, or other matter within or upon the Premises, except as approved in writing by State. If Lessee fails to remove all non-approved fill material, refuse, garbage, wastes or any other of the above materials from the Premises, Lessee agrees that State may, but is not obligated to, remove such materials and charge Lessee for the cost of removal and disposal.
2. Hazardous, Toxic, or Harmful Substances.
 - a. Lessee shall not keep on or about the Premises, any substances now or hereinafter designated as or containing components now or hereinafter designated as hazardous, toxic, dangerous, or harmful, and/or which are subject to regulation as hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance (hereinafter collectively referred to as “Hazardous Substances”) unless such are necessary to carry out Lessee’s Permitted Use under Subsection 2.01 and unless Lessee fully complies with all federal, state and local laws, regulations, statutes, and ordinances, now in existence or as subsequently enacted or amended.
 - b. Lessee shall:
 - (1) Immediately notify State of (i) all spills or releases of any Hazardous Substance affecting the Premises, (ii) all failures to comply with any federal, state, or local law, regulation or ordinance, as now enacted or as subsequently enacted or amended, (iii) all inspections of the Premises by, or any correspondence, orders, citations, or notifications from any regulatory entity concerning Hazardous Substances affecting the Premises, (iv) all

regulatory orders or fines or all response or interim cleanup actions taken by or proposed to be taken by any government entity or private party concerning the Premises; and

- (2) On request, provide copies to State of any and all correspondence, pleadings, and/or reports received by or required of Lessee or issued or written by Lessee or on Lessee's behalf with respect to the use, presence, transportation or generation of Hazardous Substances related to the Premises.
- c. Lessee shall be fully and completely liable to State, and shall indemnify, defend, and hold harmless State and its agencies, employees, officers, and agents with respect to any and all damages, costs, fees (including attorneys' fees and costs), penalties (civil and criminal), and cleanup costs assessed against or imposed as a result of Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of Lessee's employees, agents, assigns, lessees, contractors, subcontractors, licensees or invitees, and for any breach of this subsection.

6.03 Hazardous Conditions. Lessee shall immediately remedy hazardous conditions, and exercise due diligence in notifying State and anyone at risk of harm.

6.04 No Waste. Lessee shall not commit or allow any waste of the Premises.

6.05 Condition of Premises at End of Lease. Prior to vacating the Premises, Lessee shall leave the Premises and all improvements thereon to which State has elected to claim title in the state of repair and cleanliness required to be maintained by Lessee during the term of this Lease, and shall peaceably and quietly surrender the same to State.

SECTION 7 SUBLEASES AND ASSIGNMENTS

7.01 Subleases. The Premises, in whole or in part, and the appurtenances thereon shall not be subleased without prior written approval from State, which approval shall be in State's sole discretion and only if consistent with state trust land status and the Permitted Uses. If subleased, Lessee shall remain obligated and responsible for all actions on the Premises, including compliance with all provisions contained in this Lease. Subleases to public agencies as defined by RCW 79.17.200 (1) or any nonprofit nature conservancy corporation or nonprofit historic preservation corporation as defined by RCW 64.04.130, if for conserving for open space purposes, are deemed consistent with state trust land status.

7.02 Assignment. Lessee shall not hypothecate, mortgage, assign, encumber, transfer, or otherwise alienate this Lease, or any interest therein, or engage in any other transaction which has the effect of transferring or affecting the right of enjoyment of the Premises, without the prior written approval of State, which approval shall be in State's sole discretion and if consistent

with state trust land status and the Permitted Uses. Assignments to public agencies as defined by RCW 79.17.200 (1) or any nonprofit nature conservancy corporation or nonprofit historic preservation corporation as defined by RCW 64.04.130, if for conserving for open space purposes, are deemed consistent with state trust land status.

7.03 Assignee/Transferee Obligations. Each permitted assignee, or transferee of Lessee shall assume and be deemed to have assumed all obligations of Lessee under this Lease. Notwithstanding any such assignment or transfer, Lessee shall be and remains jointly and severally liable with the assignee or transferee for all obligations under this Lease, unless released, in writing, by State.

SECTION 8 IMPROVEMENTS

8.01 Authorized Improvements. No improvement shall be placed on the Premises without the prior written consent of State and shall be in conformance with any approved Plan of Use and Development submitted to State under Section 2. Authorized improvements must be listed in Exhibit 2 or an amendment thereto, or contained in a written Letter of Authorization issued by State. Unauthorized improvements shall either be: removed by Lessee without damage to the Premises, removed by State at Lessee's expense, or become the property of State, at State's option.

All improvements currently on the Premises belong to State or the grazing lessee if prior to the Effective Date of this Lease except those authorized improvements, both of which, if any, are listed in Exhibit 2. Upon termination of the Grazing Lease, Exhibit 2 shall be amended as indicated by State to reflect remaining improvements owned by State and treatment of the improvements owned by grazing lessee pursuant to the terms of the Grazing Lease. Exhibit 2 may be supplemented with a Letter of Authorization issued by State, for the purpose of authorizing additional improvements to the Premises during the term of this Lease. Letters of Authorization shall be cumulative and become addenda to Exhibit 2 when determining the sum of all authorized improvements.

8.02 Disposition of Authorized Improvements. Upon the expiration or termination of this Lease, all authorized improvements shall belong to State as provided in RCW 79.13.050 without compensation to Lessee, or, at the election of State, Lessee shall remove the improvements from the Premises at Lessee's sole cost, and the affected portion of the Premises restored to its pre-improved and natural condition. In the event State elects to have the improvements removed and Lessee fails to remove the improvements within ninety (90) days, State may have the improvements removed and the area restored at Lessee's expense.

8.03 Removal of Improvements during Lease. During the term of this Lease, authorized improvements owned by Lessee may be removed by Lessee by submitting a general plan for removal of authorized improvements and restoration of the Premises. State will review that plan and, if acceptable, issue written approval. Lessee shall comply with the agreed upon terms of the approved plan. Lessee shall be liable for any and all costs and/or fees and any and all damage to

the Premises or any improvement belonging to State resulting from such removal.

8.04 State's Repairs. State shall not be required or obligated to make any repairs, alterations, maintenance, replacements, or repairs in, on, or about the Premises, or any part thereof, during the term of this Lease.

8.05 Lessee's Repairs, Alteration, and Maintenance. Following the Effective Date, Lessee shall, at its sole cost and expense, keep and maintain the Premises and all improvements thereon and all facilities appurtenant thereto (regardless of ownership) in good order and repair and safe condition for the conduct of any activities or enterprises carried out on the Premises pursuant to this Lease, and keep and maintain the whole of the Premises, including all improvements in a clean and sanitary condition.—Lessee shall maintain and repair State-owned improvements at Lessee's own expense.

SECTION 9 ROADS AND ROAD MAINTENANCE

9.01 Roads Across Premises. Lessee is authorized, subject to an approved Plan of Use and Development in accordance with Section 2, to use existing roads on the Premises needed for Permitted Uses under this Lease. Lessee may, with written approval of State, construct additional roads needed on the Premises, in accordance with Section 2 of this Lease and subject to any limitations related to the ITP as determined by State in State's sole discretion. Construction and maintenance activities shall meet or exceed Forest Practices Board standards (Chapter 222-24 WAC) and be in conformance with the ITP. Lessee shall comply with the terms set forth herein when using the roads.

9.02 Access to Premises. The property may be legally accessed by county and/or state rights-of-way. Lessee is responsible for determining the appropriate legal access route that serves the Permitted Use. Should the Lessee need alternate access, Lessee must also provide for access by State to exercise its rights under the Lease. Lessee shall submit to State any agreements intended to obtain and provide legal access to the Premises for State's review and approval prior to entry, and State's consent may not be unreasonably withheld provided that State may withhold consent for any additional access that could affect State's future compliance with the ITP. Lessee is responsible for acquisition and construction costs that may be needed to develop the desired access route.

9.03 Term. The rights granted in this section shall last only until this Lease expires or is terminated as provided herein unless otherwise authorized by State.

9.04 Road Repair. Lessee shall repair or cause to be repaired at its sole cost and expense damage to a road(s) occasioned by it which is in excess of that which it would cause through normal and prudent usage of said road(s). Within fifteen (15) days of the damage, Lessee shall meet with State and provide a plan for the repairs.

9.05 Road Maintenance. The cost of road maintenance and resurfacing shall be borne by

Lessee unless associated with State's use of the Premises. State and Lessee acknowledge that Lessee may make the roads available for public use to carry out the Permitted Uses and Lessee accepts all cost and liability associated with any such public use. State shall not be required to perform maintenance and resurfacing work unless it can be established that such work is needed as a direct result of State's use of any roads on the Premises. Lessee hereby releases, discharges, and agrees to defend, indemnify and hold State harmless for any and all claims, damages, liabilities, and causes of action which may arise as a result of the Permitted Uses or Lessee's use and control of the Premises. This indemnity is not intended to limit the scope or effectiveness of the indemnity found in Section 11.01, but shall be in addition to said indemnity.

9.06 Improvements. Lessee shall construct no road improvements without the prior written consent of State, which shall not be unreasonably withheld provided that State may withhold consent for any road improvements that could affect State's future compliance with the ITP. Unless the parties agree in writing to share the cost of improvements, improvements shall be at the sole expense of the improver. Any improvements to road areas shall become property of State upon expiration or termination of the Lease.

9.07 Road Fee. Lessee shall pay any road use or maintenance fees, including but not limited to the Access Road Revolving Fund fees established by State.

9.08 Insurance. The provisions under Subsection 5.04 shall apply to Lessee's use of and to those authorized by Lessee to use the roads and easements authorized herein.

SECTION 10 DEFAULT AND REMEDIES

10.01 Nonwaiver. Waiver by State of strict performance of any provision of this Lease shall not be a waiver of, nor prejudice State's right to require strict performance of the same provision in the future or of any other provision. The acceptance of performance, rent, or any other sum owing, by State following a breach by Lessee of any provision of this Lease shall not constitute a waiver of any right of State with respect to such breach and State shall be deemed to have waived any right hereunder only if State shall have expressly done so in writing.

10.02 Attorney Fees and Venue. Each party shall be responsible for their own attorney fees and court costs in the event of a dispute arising out of this agreement. Venue for resolving such disputes shall be in Thurston County Superior Court of Washington.

10.03 Notices. Any notice given under this Lease shall be deemed received when delivered by hand or five (5) days after deposit in the United States mail with first-class postage affixed, addressed as noted below. Changes of address shall immediately be given in accordance with this subsection. Any notice or missive given under this Lease shall be sent:

To State:

DEPT. OF NATURAL RESOURCES
 SOUTH PUGET SOUND REGION
 Product Sales & Leasing
 950 Farman Avenue North
 Enumclaw, WA 98022-9282

To Lessee:

KING COUNTY, DEPT. OF
 NATURAL RESOURCES & PARKS
 Water & Land Resources Division
 201 South Jackson St., Suite 600
 Seattle, WA 98104-3855

10.04 Default. If Lessee breaches or defaults on any undertaking, promise or performance called for herein, State may cancel this Lease after Lessee has been given thirty (30) days notice of the breach or default and such breach or default has not been corrected within such time, or for a breach with a necessary cure period of longer than thirty (30) days, if the cure has not been initiated by Lessee within thirty (30) days and diligently thereafter prosecuted to successful completion. Upon such cancellation, all improvements on the Premises shall be forfeited and become the property of State subject only to any previously approved waiver of interest or security interest. State may seek damages for any and all violations or defaults with or without canceling this Lease. In the event State deems the breach or default to constitute a threat to safety, life, or property it may elect to intervene immediately and enter the Premises, without notice, to remedy the breach or default and Lessee hereby agrees to repay State for all costs in remedying the breach or default upon demand, together with interest thereon from the date of expenditure at the rate set forth in this Lease. Alternatively, State may require Lessee to act immediately to remedy the breach or default, should State deem it a threat to safety, life, or property.

10.05 Survival. All obligations of Lessee to be performed prior to the expiration or earlier termination shall not cease upon the termination or expiration of this Lease, and shall continue as obligations until fully performed. All clauses of this Lease, which require performance beyond the termination or expiration date, shall survive the termination or expiration date of this Lease. However, upon expiration or earlier termination of this Lease, the rights of Lessee and of all persons, firms, corporations, and entities claiming under Lessee in and to the Premises and all improvements thereon, unless specified otherwise in this Lease, shall cease.

10.06 State's Right to Cure Defaults. If Lessee fails to perform and is in default of any undertaking or promise contained herein, including those set forth in any Plan of Use and Development, State shall have the option, but is not obligated, to make such performance after giving ten (10) days written notice to Lessee. State's costs and expense to correct Lessee's failure to perform shall be reimbursed by Lessee and shall be immediately due and payable, together with interest accruing from the date such cost or expense is incurred.

10.07 Remedies Cumulative. The specified remedies to which State may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which State may lawfully be entitled in case of any breach or threatened breach by Lessee of any provision of this Lease.

SECTION 11 GENERAL PROVISIONS

11.01 Indemnity (Assumption of Liability). Following the Effective Date, and to the fullest extent permitted by law, Lessee shall indemnify, defend and hold harmless State, and all officials, agents and employees of State, from and against all claims arising out of or resulting from the performance of this Lease. A “claim” as used in this Lease means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys’ fees, attributable for bodily injury, sickness, disease or death, or injury to or destruction of tangible property including loss of use resulting therefrom. Lessee’s obligation to indemnify, defend, and hold harmless includes any claim related to fallen trees and any claim by Lessee’s agents, sublessees, employees, representatives, invitees, licensees, permittees, contractors or any subcontractor or their employees, and any other persons entering the Premises pursuant to the Permitted Uses. Lessee expressly agrees to indemnify, defend, and hold harmless State for any claim arising out of or incident to Lessee’s, sublessee’s, any contractor’s or subcontractor’s performance or failure to perform a contract. Lessee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its officials, agents or employees.

To the fullest extent permitted by law, and during the time of land use license, State shall indemnify, defend and hold harmless Lessee, and all officials, agents and employees of Lessee, from and against all claims arising out of or resulting from the use of the Premises by any party authorized by State to enter the Premises. A “claim” as used in this Lease means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys’ fees, attributable for bodily injury, sickness, disease or death, or injury to or destruction of tangible property including loss of use resulting therefrom. State’s obligation to indemnify, defend, and hold harmless includes any claim by State’s agents, employees, representatives, invitees, permittees, contractors or any subcontractor or their employees, and any other persons entering the Premises prior to the Effective Date. State expressly agrees to indemnify, defend, and hold harmless Lessee for any claim arising out of or incident to State’s and State’s contractor’s or subcontractor’s performance or failure to perform a contract. State waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its officials, agents or employees.

11.02 No Partnership. State is not a partner nor a joint venturer with Lessee in connection with the activities conducted and business carried on under this Lease, and State shall have no obligation with respect to Lessee’s debts or other liabilities.

11.03 Authority.

1. State’s Authority. This Lease is entered into by State pursuant to the authority granted under Washington Laws of 2010, Ch. 36, Section 3037, by statute and the Constitution of the State of Washington, and the State’s Enabling Act. The terms and conditions hereof are subject to such statutory and constitutional provisions as may be now in effect and such provisions which do not impair the contractual rights of Lessee under this Lease that may lawfully be enacted subsequent to the date of this Lease provided that State may interfere with Lessee’s contractual expectations to the extent required by laws

subsequently enacted that relate to State's trust responsibilities.

Lessee's Authority. By signing this Lease, and subject to the contingency in Section 1.03, Lessee represents that Lessee is authorized to enter this Lease and that Lessee's representative has been authorized to execute this Lease on Lessee's behalf. Lessee shall provide State documentation of Lessee's governing body's authorization to enter this Lease on or before May 23, 2011.

11.04 Preservation of Markers. Any legal land subdivision survey corners, reference points or monuments are to be preserved. If such are destroyed or disturbed, State shall be notified immediately and prior to re-establishment. Upon approval of State, they shall be re-established by a licensed land surveyor in accordance with the United States General Land Office standards at Lessee's expense. Corners and/or reference points or monuments that must necessarily be disturbed or destroyed in the process of carrying out the operations allowed by this Lease must be adequately referenced and/or replaced in accordance with Chapter 58.09 RCW. Such references and replacements must be approved in writing by State prior to removal of said corners, reference points or monuments.

11.05 Condemnation. If all of the Premises are taken by any public authority under the power of eminent domain, this Lease shall terminate as of the date possession is taken by said public authority pursuant to such condemnation. If any part of the Premises is so taken and, in the opinion of Lessee, it is not feasible to continue this Lease, then Lessee may terminate the Lease. Such termination shall be made by notice to State given not later than thirty (30) days after possession is so taken, the termination to be effective as of the later of thirty (30) days after said notice or the date possession is so taken. No refunds or prorations on sums paid or due will be made. All damages awarded for the taking or damaging of all or any part of the Premises shall belong to and become the property of State, and Lessee hereby disclaims and assigns to State any and all claims to such award.

State will not claim any interest in any award for personal property belonging to Lessee or for Authorized Improvements then belonging to Lessee. State will not claim a share of any award made to Lessee for moving expenses.

Lessee shall not exercise any powers of eminent domain that Lessee might otherwise be entitled to use against State or the Premises, unless Lessee calculates the fair market value of the Premises absent the encumbrance of this Lease.

11.06 Time of Essence. Time is expressly declared to be of the essence of this Lease and each and every covenant of Lessee hereunder. This Lease shall not be valid unless mutually executed on or before June 30, 2011, unless otherwise approved by the Legislature.

11.07 Lease Changes and Additions. Any changes or additions to this Lease or the attached exhibits shall be made in writing, executed by the parties hereto, and neither State nor Lessee shall be bound by verbal or implied agreements.

11.08 Entire Agreement. This written Lease or its successor or replacement contains the entire agreement of the parties hereto with respect to the matters covered hereby, and no other agreement, statement or promise made by any party hereto, or to any employee, officer or agent of any party hereto, which is not contained herein, shall be binding or valid.

11.09 Invalidity. If any term or provision of this Lease or the application thereof to any person or circumstance shall to any extent prove to be invalid, unenforceable, void, or illegal, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall be not affected thereby, and each term and provision of this Lease shall be valid and be enforced as written to the fullest extent permitted by law.

11.10 Discrimination. Lessee shall not conduct or suffer any business or activity upon the Premises which unlawfully discriminates against any person on the basis of race, color, creed, religion, sex, age, or physical or mental handicap.

11.11 Exhibits. Any exhibit attached hereto shall be deemed a part of this agreement and incorporated herein by reference.

Signed this _____ day of _____, 20__.

KING COUNTY, FACILITIES MANAGEMENT
DIVISION

Signature

Printed Name

Title

Signed this _____ day of _____, 20__.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

PETER GOLDMARK
Commissioner of Public Lands

Approved as to Form,

By _____,
Assistant Attorney General

LESSEE ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this day personally appeared before me _____, to me known to be the _____ that executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said _____ for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument.

WITNESS my hand and official seal this ____ day of _____, 20____.

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

My appointment expires _____.

EXHIBIT 1A
(As referenced in Introductory)

**ISSAQUAH CREEK
TRUST LAND TRANSFER LEASE**

Legal Description

That portion of the NW1/4 of the NE1/4 and of the NE1/4 of the NW1/4 of Section 36, Township 23 North, Range 6 East, Willamette Meridian, King County, Washington, lying southwesterly of the centerline of the Issaquah-Hobart Road.

Dennis J. Gelvin, PLS (360) 902-1674
Land Description & R/W Specialist
State Land Survey Unit
PO Box 47060
Olympia, WA 98504-7060

Date _____

EXHIBIT 1B

(As referenced in Introductory)

**ISSAQUAH CREEK
TRUST LAND TRANSFER LEASE**

Encumbrances

Subject to a grazing lease granted under Lease 10-A69562 with an expiration date of December 31, 2014.

Subject to an easement for right of way for overhead transmission lines granted under Application No. 50-048542 for an indefinite term.

Subject to an easement for right of way for county road granted under Application No. 50-CR0878 for an indefinite term.

There may be additional encumbrances that presently do not show on the records of the State of Washington, such as cultural sites or endangered species. Encumbrances change over time. Lessee is responsible to perform their own due diligence in matters where Lessee needs a complete and current list of encumbrances.

EXHIBIT 1C
(As referenced in Section 2.04(6))
ISSAQUAH CREEK
TRUST LAND TRANSFER LEASE
Grazing Lease No. 10-A69562

EXHIBIT 1D

(As referenced in Section 2.05)

**ISSAQUAH CREEK
TRUST LAND TRANSFER LEASE****Habitat Conservation Plan Requirements**

1. Lessee shall immediately notify State of new locations of Permit species covered in the ITP that are discovered within the leased Premises covered by the HCP, including, but not limited to: locations of occupied murrelet habitat; spotted owl nest sites; wolves; grizzly bears; nests, communal roosts, or feeding concentrations of bald eagles; peregrine falcon nests; Columbian white-tailed deer; Aleutian Canada geese; and Oregon silverspot butterflies. In all circumstances notification must occur within a twenty-four (24) hour time period.
2. Upon locating any live, dead, injured, or sick specimens of any listed species covered by the ITP within the leased Premises, Lessee shall immediately notify State. In all circumstances notification must occur within a twenty-four (24) hour time period. Lessee may be required to take certain actions to help State safeguard the well being of any live, injured or sick specimens of any listed species discovered, until the proper disposition of such specimens can be determined by State. Lessee may be required to take certain actions to preserve biological material in the best possible state for handling any dead specimens.
3. Lessee shall refer to ITP number PRT-812521 (a copy of the ITP is located for reference in any of State's region offices) and PRT-1168 in all correspondence and reports concerning Permit activities.
4. All applicable provisions of the ITP and this schedule must be presented and clearly explained by Lessee to all authorized officers, employees, contractors, or agents of Lessee conducting authorized activities on the Premises. Any questions Lessee may have about the ITP should be directed to State.
5. Lessee shall notify State of any non-timber activity in order to allow State to determine its obligation to provide information related to non-timber activities to the United States Department of the Interior, Fish and Wildlife Service and Lessee shall provide any information required by State that State is required to submit to the United States Department of the Interior, Fish and Wildlife Service under the ITP, Condition L.

EXHIBIT 2

(As referenced in Section 8.01)

**ISSAQUAH CREEK
TRUST LAND TRANSFER LEASE**

Authorized Improvements

State-owned improvements include, but are not limited to:

Fencing improvements within the lease boundaries constructed by State.

All improvements currently on the Premises not belonging to State but to current grazing lessee prior to termination of Grazing Lease for Premises:

Fencing around perimeter of Holder Creek.

The following improvements are hereby authorized to be placed by Lessee upon the Premises:

None.