

Filed for Record at Request of and  
copy returned to:

Harrang Long Gary Rudnick P.C.  
Attn: John T. Witherspoon  
1001 SW 5th Ave 16th Floor  
Portland, OR 97204

Auditor File #: **2011 0002997**

Recorded at the request of:

**STEVENS COUNTY TITLE COMPANY**

on **05/02/2011** at **15:31**

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STEVENS COUNTY, WASHINGTON  
TIM GRAY, AUDITOR

AALLEN

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## WELL AND WATERLINE EASEMENT AGREEMENT

This WELL AND WATERLINE EASEMENT AGREEMENT ("Agreement") is effectively dated the 16<sup>th</sup> day of June, 2010 ("Effective Date") by and between Deep Lake, LLC, a Washington limited liability company ("Grantor") and Deep Lake Condominium Association, a Washington non-profit corporation, in and of itself and also on behalf of its members ("Grantee").

A. The members of the Grantee own the real property legally described in the attached Exhibit A ("Association Parcel") with a abbreviated legal description of:

PTN GOV LOT 1, S 26, T 39 N, R 41 EWM.

Assessor's Tax Parcel ID Numbers: 5675202, 5675211, 5675212,  
5675213, 5675214, 5675215, 5675216

B. Grantor owns the real property located across Grizzly Way to the south of the Association Parcel, legally described in the attached Exhibit B ("Lot 12") with an abbreviated legal description of:

DEEP LAKE WILDERNESS WEST LOT 12.

Assessor's Tax Parcel ID Number: 621326

C. Grantor also owns the real property located further south from Lot 12, legally described in the attached Exhibit C ("Beachfront Parcel") with an abbreviated legal description of:

PTN GOV LOT 2, S 26, T 39 N, R 41 EWM.

Assessor's Tax Parcel ID Number: 5675301

D. Grantor has created a condominium for the Association Parcel pursuant to a Declaration of Covenants, Conditions, and Restrictions of the Deep Lake Condominium, which declaration is recorded in the real property records of Stevens County. Grantor desires to grant the Grantee an easement for the water well and pump on the Beachfront Parcel and the pipeline from the well located on the Beachfront Parcel and Lot 12.

NOW, THEREFORE, it is mutually agreed by and between Grantee and Grantor as set forth below:

1. **Grant of Well and Waterline Easement.** Grantor hereby grants to Grantee a non-exclusive easement under, through, and across the portions of the Beachfront Parcel as legally described in Exhibit D to this Agreement (“Well Area”) for the purpose of Grantee operating, maintaining, repairing, and replacing a well with a pump and the related equipment. Grantor also hereby grants to Grantee a non-exclusive easement under, through, and across the portions of Lot 12 as legally described in Exhibit E to this Agreement (“Waterline Area”) for the purpose of Grantee operating, maintaining, repairing, and replacing waterlines from the well to the Association Parcel. The Waterline Area may be relocated within the sole discretion and at the sole expense of the Grantor by the Grantor relocating the affected waterlines and by the Grantor unilaterally recording an amendment to this Agreement which shows the amended Waterline Area; provided, however, that the relocated waterlines and amended Waterline Area must still provide for the water connections at the locations on the Association Parcel and the Beachfront Parcel existing at the time of this Agreement. Grantor also hereby grants to Grantee a non-exclusive easement to access the portions of Lot 12 and the Beachfront Parcel as are necessary for accessing the well and waterlines for the purposes set forth in this Agreement. The use of the access easement is subject to reasonable rules and regulations adopted by the Grantor, including without limitation rules and regulations limiting construction hours and the timing of construction, and shall not unreasonably interfere with the use and enjoyment of Lot 12 or any other property owned by Grantor.

2. **Use of Water Permit.** This Agreement is contingent on and subject to approval from governmental entities or agencies, including without limitation the Washington State Department of Health and Department of Ecology. This Agreement will terminate to the extent that the water use related to this Agreement violates or is reasonably perceived to violate any applicable government rule or regulation. The risk of approval or disapproval from government entities or agencies shall be borne solely by the Grantee. Any costs expended by the Grantee in reliance on or with the expectation of approval by government entities or agencies shall not be refunded or returned to the Grantee in the event of disapproval.

3. **Maintenance, Repair, and Replacement.** Grantee shall undertake all maintenance, repair, and replacement of the well with the pump and the waterlines. Grantee shall keep the well and pump enclosure in at least as good a condition as exists as of the Effective Date. Grantee shall also be responsible for all water quality testing and compliance measures, as required by the Washington Department of Health or any other entity or regulatory authority. Grantee shall ensure that the planning, design, materials, specifications and all other aspects of any construction comply with applicable laws and regulations and shall be done in a

workmanlike manner. Grantee will not at any time permit any materialman's liens, mechanic's liens, and similar statutory liens associated with the provision of goods or services to stand against Lot 12 or the Beachfront Parcel. Within ten (10) days after the substantial completion of any construction or improvements, Grantee shall return the Easement Area and any other portions of Lot 12 and the Beachfront Parcel, including without limitation all improvements and landscaping, disturbed in the course of construction to the condition existing prior to construction, at the sole cost and expense of Grantee.

(a) **Payment for Electrical Use.** Grantee will pay directly to the utility provider all costs associated with the electricity used to operate the well and pump.

(b) **Failure to Maintain, Repair or Replace.** In the event that Grantee or any of its members fails to maintain, repair or replace any improvement made by the Grantee as set forth in this Agreement, or to pay any expense required to be paid under this Agreement, the Grantor will have the right, but not the obligation, to send a notice to Grantee of such failure. If the failure is not cured within seven (7) days of when the notice is sent, the Grantor will have the right under this Agreement to cure the failure and collect from Grantee all expenses and costs, including attorneys' fees, incurred in curing the failure, together with interest at fifteen percent (15%) per annum (or the highest rate permitted by law, if lower).

4. **Liability and Indemnification.** Grantee agrees to indemnify, defend, and hold Grantor harmless from and against all claims, demands, suits and causes of action, and the accompanying liabilities, damages, losses, costs and expenses, whether presently known or unknown, or fixed or contingent (including, without limitation, reasonable legal expenses and attorneys' fees with respect to the same) related to or arising from the use of the Well Area, Waterline Area, Lot 12, and the Beachfront Parcel by Grantee or by Grantee's guests, invitees, licensees, agents, employees, members, officers, directors, or other affiliates, including without limitation any environmental liability and claims of materialmen's liens. Grantee further agrees to obtain and maintain during the term of this Agreement, at its sole cost and expense, an insurance policy for comprehensive or general liability arising out of the ownership, use, occupancy or maintenance of the Well Area, Waterline Area, Lot 12, and the Beachfront Parcel under this Agreement. Such insurance shall initially be for an amount not less than Two Million Dollars (\$2,000,000.00) for injury or death to one person in any one accident or occurrence and for Three Million Dollars (\$3,000,000.00) in the aggregate and shall be for an amount not less than Two Million Dollars (\$2,000,000.00) for property damage. The limits of such insurance will increase from time to time upon the recommendation of an independent third party insurance agent or broker. Such insurance will name as additional insureds the Grantor and such other persons or entities having an insurable interest in Lot 12 or the Beachfront Parcel as the Grantor may designate. Grantee shall provide Grantor upon Grantor's request with a copy of or certificate of each policy required to be obtained or maintained under this Agreement. Each party acknowledges that its obligations under this Section survive and continue in effect after the termination of this Agreement.

5. **DISCLAIMER OF WARRANTIES.** GRANTEE IS ACQUIRING THE RIGHTS UNDER THIS AGREEMENT AND THE WATER "AS IS". IN CONSIDERATION

OF GRANTOR ENTERING INTO THIS AGREEMENT, GRANTEE DOES HEREBY EXPRESSLY AGREE AND ACKNOWLEDGE THAT GRANTOR DOES NOT AND HAS NOT MADE ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, OR OTHERWISE, WITH REGARD TO THE WELL, PUMP, WATERLINES, OR WATER, INCLUDING BUT IN NO WAY LIMITED TO ANY WARRANTY OF QUANTITY, QUALITY, CONDITION, MERCHANTABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR USE, OR COMPLIANCE WITH LAW, OR ENVIRONMENTAL OR HAZARDOUS CONDITION OR APPROVAL BY ANY GOVERNMENT ENTITY OF THE WELL AND PIPELINE USE CONTEMPLATED IN THIS AGREEMENT. WITHOUT LIMITING ANY OF THE FOREGOING, GRANTEE ACKNOWLEDGES THAT GRANTOR HAS MADE NO REPRESENTATION OR AGREEMENT AS TO THE VOLUME, FLOW, QUANTITY, OR QUALITY OF THE WATER FROM THE WELL. GRANTEE HEREBY ASSUMES THE RISK OF ALL CHANGES IN THE VOLUME, FLOW, QUANTITY, AND QUALITY OF WATER.

6. **Miscellaneous Provisions.**

(a) **Term.** The term of this Agreement will be perpetual. In the event that the term violates the rule against perpetuities or any other similar rule or law, then the term of this Agreement will be for later of the time permitted under law, twenty-one years after the last life in being, or, if longer, twenty-one years after the life in being of the youngest lineal descendant of the Queen of England living at the time of this Agreement.

(b) **Successors and Assigns.** The terms, covenants and conditions contained in this Agreement are binding upon Grantor and any other person having any interest in the Beachfront Parcel and Lot 12, upon Grantee and its members and any other person having any interest in the Association Parcel, and any legal representatives, successors and assigns.

(c) **Covenant to Run with Land.** Except as may be specifically limited in this Agreement, the easement granted herein shall be deemed to be covenants which run with, burden, and benefit, as set forth above, the Beachfront Parcel, Lot 12, and the Association Parcel.

(d) **Incorporation.** The above recitals and all exhibits to this Agreement are hereby incorporated by this reference. This Agreement, including all exhibits, is the entire agreement between the parties with respect to the subject matter. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties.

(e) **Recording.** This Agreement may be recorded by any party without the prior written consent of the other.

(f) **No Waiver.** The waiver by any party of any right granted to it hereunder shall not be deemed to be a waiver of any other right granted hereunder, nor shall the same be deemed to be a waiver of a subsequent right obtained by reason of the

continuation of any matter previously waived. No waiver will be effective unless in writing and executed by the party against whom such waiver is sought.

(g) **Venue and Governing Law.** The venue for any suit or action brought in connection with this Agreement shall be in Stevens County in the State of Washington. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington.

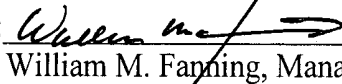
(h) **Time of the Essence.** Time is of the essence with respect to the performance of all terms, conditions and provisions of this Agreement.

(i) **Not a Public Dedication.** Nothing contained in this Agreement shall be deemed to be a dedication of any portion of Beachfront Parcel or Lot 12 to the general public or for the general public or for any public purposes whatsoever, it being the intention that this grant of easement will be strictly limited to and for the purposes expressed in this Agreement.

This Agreement is entered into effective as of the date first set forth above.

GRANTOR:

DEEP LAKE, LLC, a Washington limited liability company

By:   
William M. Fanning, Managing Member

GRANTEE:

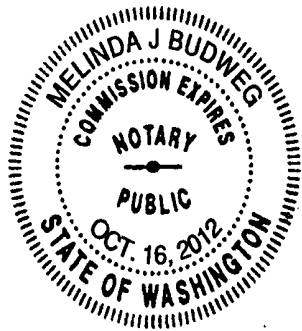
DEEP LAKE CONDOMINIUM ASSOCIATION, a Washington nonprofit corporation

By:   
William M. Fanning, its President.

STATE OF Washington )  
 )  
:SS.  
County of Spokane )

On this 16th day of June, 2010, before me, Melinda Budweg, a Notary Public in and for the State of Washington, personally appeared WILLIAM M. FANNING, known or identified to me to be a the Managing Member of Deep Lake, LLC, the limited liability company that executed the within instrument and the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

WITNESS my hand and official seal hereto affixed the day and year first above written.

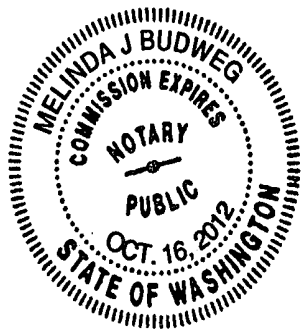


Melinda J Budweg  
Notary Public for \_\_\_\_\_  
Residing at Spokane, WA  
Commission Expires 10/16/2012

STATE OF Washington )  
 )  
: SS  
County of Spokane )

On this 16th day of June, 2010,, before me, Melinda Budweg, a Notary Public in and for the State of Washington, personally appeared WILLIAM M. FANNING, known or identified to me to be a the President of Deep Lake Condominium Association, the corporation that executed the within instrument and the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

GIVEN UNDER MY HAND AND OFFICIAL SEAL the day and year in this certificate first above written.



Melinda J Budweg  
Notary Public (Signature)  
Melinda J Budweg  
(Print Name)

My appointment expires: 10/16/2012

**EXHIBIT "A"**  
**WELL EASEMENT**

**ENTIRE CONDOMINIUM TRACT**  
**DECEMBER 22, 2009**

A tract of land located in Government Lot 1 of Section 26, Township 39 North, Range 41 E., W.M., Stevens County, Washington, more particularly described as follows:

Beginning at a point on the Southerly boundary of a tract of land described in that deed dated August 31, 1948, recorded in book 136 of Deeds, page 263, said point bears N 88°29'06" W, along the North line of said Section 26, 1455.94 feet and S 1°30'54" W, perpendicular to said North line, 200.00 feet, all from the North quarter corner of said Section 26 (said point also being the Northwesterly corner of the "Wilderness West Homeowners Association" community drainfield); thence S 19°14'36" W, along the Westerly boundary of said community drainfield, 106.94 feet; thence S 0°07'29" W, along the Westerly boundary of said community drainfield, 11.60 feet; thence N 85°50'03" E, along the Westerly boundary of said community drainfield, 31.90 feet; thence S 2°13'31" E, along the Westerly boundary of said community drainfield, 32.39 feet; thence S 78°46'01" W, along the Westerly boundary of said community drainfield, 6.22 feet; thence S 11°13'59" E, along the Westerly boundary of said community drainfield, 64.00 feet; thence N 78°46'01" E, along the Westerly boundary of said community drainfield, 7.81 feet; thence S 11°13'59" E, along the Westerly boundary of said community drainfield, 73.71 feet to the Southwesterly corner of said "Wilderness West Homeowners Association" community drainfield; thence N 79°53'27" E, along the Southerly boundary of said community drainfield, 3.98 feet; thence S 4°08'40" E 72.91 feet; thence S 49°18'49" E 31.95 feet; thence N 86°29'13" E 102.57 feet to its intersection with the Westerly right of way line of "Deep Lake Boundary Road"; thence Southeasterly, along said Westerly right of way line, along the arc of a curve to the right 326.89 feet (radius= 1402.50 feet, delta= 13°21'16", chord= S 5°39'10" E, 326.15 feet) to its intersection with the Northerly right of way line of "Grizzly Way"; thence N 88°36'19" W, along said Northerly right of way line of "Grizzly Way", 6.76 feet; thence Northwesterly, along said Northerly right of way line of "Grizzly Way", along the arc of a curve to the right 25.67 feet (radius= 25.30 feet, delta= 58°07'53", chord= N 59°32'22" W, 24.58 feet); thence N 30°28'25" W, along the Easterly right of way line of "Grizzly Way" 182.74 feet; thence Northwesterly, along said Easterly right of way line of "Grizzly Way", along the arc of a curve to the left 13.53 feet (radius= 124.70 feet, delta= 6°12'58", chord= N 33°34'54" W, 13.52 feet); thence N 36°41'23" W, along said Easterly right of way line of "Grizzly Way" 180.45 feet; thence Northwesterly, along said Easterly right of way line of "Grizzly Way", along the arc of a curve to the right 36.69 feet (radius= 75.00 feet, delta= 28°01'35", chord= N 22°40'36" W, 36.32 feet); thence N 8°39'48" W, along said Easterly right of way line of "Grizzly Way" 162.99 feet;

thence Northerly, along said Easterly right of way line of "Grizzly Way", along the arc of a curve to the right 11.98 feet (radius= 75.00 feet, delta= 9°08'55", chord= N 4°05'20" W, 11.96 feet); thence N 0°29'07" E, along said Easterly right of way line of "Grizzly Way" 61.90 feet; thence N 88°09'54" E, along said Easterly right of way line of "Grizzly Way" 25.02 feet; thence N 0°29'07" E, along said Easterly right of way line of "Grizzly Way" 50.04 feet; thence S 88°09'54" W , along said Easterly right of way line of "Grizzly Way" 25.00 feet; thence N 2°02' 22" W 46.09 feet to its intersection with the Southerly boundary of that tract of land described in that deed dated August 31, 1948, recorded in Book 136 of Deeds, Page 263; thence S 88°29' 06" E, along said Southerly boundary, 81.92 feet to the point of beginning.

Real Estate Excise Tax	
AFF#	<i>EASMT</i>
Date Pd	
Original	
Ami Pd	<i>[Signature]</i>
Int	Pen
Stevens County Treasurer Deputy	
By	Date
<i>[Signature]</i>	<i>5-2-11</i>



**EXHIBIT "B"**  
WELL EASEMENT

WILDERNESS WEST (LP 1-98) - REVISED LOT 12  
DECEMBER 23, 2009

A tract of land located in Section 26, Township 39 North, Range 41 E., W.M., Stevens County, Washington, more particularly described as follows:

Said tract being revised Lot 12 of "Wilderness West (LP - 1- 98)" as recorded on record of survey Auditor's instrument no. 2008-0010175 under Stevens County application and approval COE 015-2008.

**EXHIBIT C  
LEGAL DESCRIPTION  
BEACHFRONT PARCEL**

A tract of land located in Section 26, Township 39 North, Range 41 East, W.M., Stevens County, Washington, more particularly described as follows:

Beginning at a point on the Westerly right of way line of Deep Lake Boundary Road, said point being located Southerly, along the arc of a curve to the right, 30.97 feet ( $\Delta = 1^{\circ}15'55''$ , radius = 1402.50 feet, chord = S  $3^{\circ}39'25''$  W 30.97 feet), and S  $4^{\circ}17'23''$  W 49.00 feet, all from the Northeasterly corner of Lot 12 of "Wilderness West" (LP-1-98); thence S  $4^{\circ}17'23''$  W, along said Westerly right of way line of Deep Lake Boundary Road, 245.00 feet; thence N  $85^{\circ}42'37''$  W, along said Westerly right of way line of Deep Lake Boundary Road, 10.00 feet; thence S  $4^{\circ}17'23''$  W, along said Westerly line of Deep Lake Boundary Road, 31.56 feet; thence S  $89^{\circ}48'58''$  W 7.48 feet; thence S  $89^{\circ}48'58''$  W, 9 feet, more or less, to its intersection with the ordinary high water line of Deep Lake; thence Northerly, along said ordinary high water line, to its intersection with a line extended N  $75^{\circ}05'41''$  W 26.46 feet, and S  $72^{\circ}05'01''$  W from the point of beginning; thence N  $72^{\circ}05'01''$  E 11 feet, more or less, to a point; thence N  $72^{\circ}05'01''$  E 75.19 feet; thence S  $75^{\circ}05'41''$  E 26.46 feet to the point of beginning. Said tract containing approximately 0.33 acres.

**EXHIBIT "D"**  
WELL EASEMENT

WELL EASEMENT  
DECEMBER 24, 2009

A tract of land located in Section 26, Township 39 North, Range 41 East, W.M., Stevens County, Washington, more particularly described as follows:

Beginning at the Southeasterly corner of revised Lot 12 (COE 015-2008 of "Wilderness West (L.P. 1-98)", as shown on record of survey Auditor's Instrument No. 2008-0010175 recorded October 23, 2008; thence S 59°55'01" W 36.35 feet; thence N 4°17'23" E 23.76 feet to its intersection with the Southerly line of said revised Lot 12; thence N 72°05'01" E, along said Southerly line of revised Lot 12, 4.32 feet; thence S 75°05'41" E, along said Southerly line of revised Lot 12, 26.46 feet to the point of beginning.

**EXHIBIT "E"**

**EASEMENT**

**LOT 12 UTILITY EASEMENT**

**DECEMBER 22, 2009**

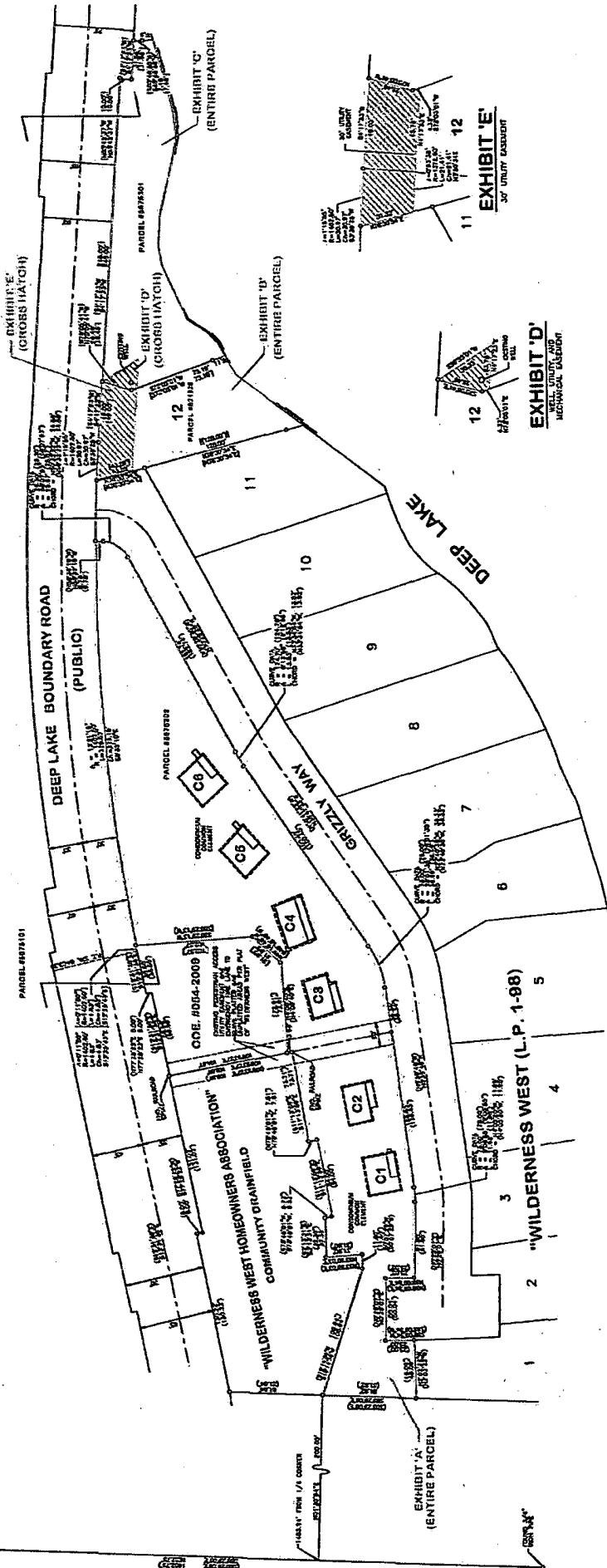
A tract of land for utility easement being 30 feet wide and located in Section 26, Township 39 North, Range 41 E., W.M., Stevens County, Washington, more particularly described as follows:

Said easement being the Easterly 30.00 feet of revised Lot 12 (COE 015-2008), of "Wilderness West (L.P. 1-98)", as shown on record of survey Auditor's Instrument No. 2008-0010175 recorded October 23, 2008.

**FIRST AMENDED SURVEY - DEEP LAKE CONDOMINIUM**  
**SECTION 26, TOWNSHIP 39 NORTH, RANGE 41 EAST, W.M.**  
**STEVENS COUNTY, WASHINGTON**



28  
 26



- LEGEND**
- ( ) - INFORMATION AS SHOWN ON "WILDERNESS WEST (L.P. 1-98)" IS UNRECORDED INFORMATION LOCATED IN STEVENS COUNTY, WASHINGTON.
  - ( ) - INFORMATION AS SHOWN ON BOUNDARY LINE ADJUSTMENT COE 1004-2009.
  - ( ) - INFORMATION AS SHOWN ON RECORDS OF SURVEY L.P. 1-98, 1-99, 1-100, 1-101, 1-102, 1-103, 1-104, 1-105, 1-106, 1-107, 1-108, 1-109, 1-110, 1-111, 1-112, 1-113, 1-114, 1-115, 1-116, 1-117, 1-118, 1-119, 1-120, 1-121, 1-122, 1-123, 1-124, 1-125, 1-126, 1-127, 1-128, 1-129, 1-130, 1-131, 1-132, 1-133, 1-134, 1-135, 1-136, 1-137, 1-138, 1-139, 1-140, 1-141, 1-142, 1-143, 1-144, 1-145, 1-146, 1-147, 1-148, 1-149, 1-150, 1-151, 1-152, 1-153, 1-154, 1-155, 1-156, 1-157, 1-158, 1-159, 1-160, 1-161, 1-162, 1-163, 1-164, 1-165, 1-166, 1-167, 1-168, 1-169, 1-170, 1-171, 1-172, 1-173, 1-174, 1-175, 1-176, 1-177, 1-178, 1-179, 1-180, 1-181, 1-182, 1-183, 1-184, 1-185, 1-186, 1-187, 1-188, 1-189, 1-190, 1-191, 1-192, 1-193, 1-194, 1-195, 1-196, 1-197, 1-198, 1-199, 1-200, 1-201, 1-202, 1-203, 1-204, 1-205, 1-206, 1-207, 1-208, 1-209, 1-210, 1-211, 1-212, 1-213, 1-214, 1-215, 1-216, 1-217, 1-218, 1-219, 1-220, 1-221, 1-222, 1-223, 1-224, 1-225, 1-226, 1-227, 1-228, 1-229, 1-230, 1-231, 1-232, 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