

RECORDING REQUESTED BY:

When Recorded Mail Document:

Pacific County
Department of Public Works
P.O. Box 66
South Bend, Washington 98586

APN: 14110424600, 14110410000

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF ROAD EASEMENT

This ROAD EASEMENT AGREEMENT ("Agreement") is made by and between Green Diamond Resource Company, a Washington corporation, having a mailing address of P.O. Box 9001, Shelton, WA 98584-0931 ("Grantor") and County of Pacific, Department of Public Works, a political subdivision of the State of Washington, having a mailing address of P.O. Box 66, South Bend, WA 98586 ("Grantee"). Grantor and Grantee collectively are the "Parties".

WITNESSETH

WHEREAS, Grantor is the owner of certain lands and premises situated in the County of Pacific, State of Washington, more particularly described as Tax Parcel 14110424600 (the N ½ of SE ¼ of NW ¼ Section 4, Township 14 North, Range 11 West, W.M.) and Tax Parcel 14110410000 (SW ¼ of NE ¼ of NW ¼ Section 4, Township 14 North, Range 11 West, W.M.) (collectively, the "Property"); and

WHEREAS, Grantee is desirous of acquiring certain rights and privileges over, under, above and across specific portions of the Property,

WHEREAS, Grantor is desirous of granting such rights and privileges in accordance with the terms and conditions herewith.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Grantor and Grantee hereby agree as follows:

- 1. GRANT AND AUTHORIZED USE.** Grantor conveys and grants to Grantee, subject to the terms and conditions herein, a non-exclusive easement with a width of 20 feet over the portions of the Property described in Attachment A to this Agreement and shown in Exhibit A to this Agreement (the "Easement Area"). Grantee shall have a right to use the Easement Area for motor vehicle or pedestrian ingress and egress across the Property for purposes of accessing and managing a public communication equipment site on Grantee's property (the "Authorized Use"). The Easement Area shall consist of 10 feet on either side of the centerline of existing roads in the Easement Area unless Grantor expressly approves road construction by Grantee in the Easement Area subject to the terms and conditions herein below.

2. TYPE OF EASEMENT AND TERM.

This grant of easement is made in gross to Grantee for so long as the Easement Area is used within the scope of Authorized Use. This Agreement and the rights herein granted solely for the use of Grantee and Grantee's invitees, employees, contractors, and agents. The rights herein granted may not be subdivided and/or assigned to a third party, including a tenant leasing any portion of Grantee's property, unless such assignment or subdivision is approved in a written, executed, and recorded amendment consenting to such an assignment.

3. COVENANTS AND WARRANTY.

(a) Grantee covenants and warrants to Grantor that it is in good standing and has the right, power, and authority to enter into this Agreement and bind itself hereto through the signatory for Grantee below.

(b) The privileges granted herein to Grantee are given expressly subject to existing encumbrances, regulatory requirements, and other matters of record affecting the rights in any manner whatsoever. Grantor does not warrant that it has authority to permit the Authorized Use on behalf of any third party and Grantee shall secure all other permits, privileges or rights required for the Authorized Use. Grantor does not warrant title to the Property and shall not be liable for defects thereto or failure thereof.

(c) Grantor makes no representation as to the present or future conditions of the Easement Area or the character of the traffic on Grantor's roads. Grantor makes no representation as to the present or future conditions of the Easement Area and its fitness for the Authorized Use under this Agreement. Grantee accepts this Agreement subject to all danger or injury to persons and damages or destruction to property while Grantee is on or about the Easement Area. In this regard, Grantee assumes all risk of injury or death to individuals who are on the Easement Area pursuant to this Agreement and all risk of damage to property upon or in proximity to the Easement Area with Grantee's knowledge or consent, without regard to whether such injury or damage is occasioned by known or unknown, hidden or disclosed defects in the Easement Area or by the negligence of Grantor or any person in the employ or service of Grantor.

4. RESERVATIONS AND NON-INTERFERENCE.

(a) Grantor reserves the right to use the Easement Area for the benefit of adjacent lands, including the right to cross and re-cross and construct intersecting roads, and installation of overhead and/or underground utilities, for itself, its agents, employees, contractors, licensees, permittees, successors, and assigns.

(b) By acceptance of this Agreement, Grantee acknowledges that the Easement Area and the Property are commercial timberland, and Grantor manages its property for timber production including, but not limited to, harvesting, slash burning, and herbicide application. Grantee shall exercise its privileges under this Agreement so as to avoid any interference with Grantor's use of its own property as commercial timberland or with the exercise by other easement holders of privileges that Grantor may give them in the Easement Area. Grantee further agrees that it will not object to any lawfully conducted timber harvesting, management activities and/or development of property carried out by Grantor or its agents, other easement holders, lessees,

contractors, successors, or assigns.

(c) Prior to constructing or improving roads in the Easement Area, Grantee shall provide Grantor with a plan showing the location and specifications for the proposed road and Grantor shall review the road plan to ensure compliance with the limitations in this Agreement and to ensure that it does not interfere with Grantor's use of the Property. If Grantor finds that the proposed road will interfere with Grantor's use of the Property, Grantor will provide Grantee with notice and an alternative road location, alignment or specification within thirty (30) days of receiving Grantee's proposed road plan. Grantee shall not proceed with any construction or improvement of roads in the Easement Area until Grantor approves in writing Grantee's plan. Grantor's approval shall not be unreasonably withheld. Any labor, equipment, materials and supplies necessary to complete any road construction or reconstruction authorized pursuant to this Agreement shall be performed and paid for by Grantee. New road construction or reconstruction shall conform to state law and any permits. Any new road construction or reconstruction shall be performed in accordance with any site-specific standards prescribed by Grantor.

(d) Grantor retains ownership of all merchantable and pre-merchantable timber on the Property.

5. MAINTENANCE AND ADDITIONAL CONDITIONS OF USE.

(a) Grantee agrees to comply with all applicable governmental laws, rules, statutes, regulations, and permits relating to its use of the Easement Area, and to do so at Grantee's cost. Grantee's agreement to comply shall include any programmatic or generally applicable local, state or federal government regulatory permits held by Grantor and applicable to the Easement Area, including, without limitation, incidental take permits held by Grantor. Grantor reserves the right to require Grantee to take affirmative steps to review and comply with permits noticed by Grantor and to promptly comply when Grantor requests specific action on a requirement applicable to Grantee's use of the Property.

(b) Grantee shall promptly report to Grantor any violations of any laws, regulations, or permits relating to the Authorized Use of which Grantee has knowledge and shall promptly send to Grantor a copy of any notice of violation received by Grantee that relates to the Authorized Use.

(c) Grantee shall take reasonable care to prevent wildfires from igniting on or spreading onto the Easement Area. If a wildfire should occur on or near the Easement Area, Grantee shall immediately notify Grantor and appropriate government agencies and shall make any on-site equipment available to help suppress or contain the fire.

(d) In the event of dangerous fire weather, possible damage to roads, or potential or actual interference with Grantor's operations, Grantor shall notify Grantee's representative and Grantee shall immediately suspend the Authorized Use or take steps to mitigate the risk of damage as Grantor may direct.

(e) If any portion of the Easement Area requires access through a locked gate owned or maintained by Grantor, Grantor shall issue copies of key(s) needed to open gates for the access provided herein. Grantee shall not copy the key(s) provided by Grantor unless permitted to do so in writing by Grantor. Grantee shall return any key(s) that has been so issued in the event of termination of this Agreement. Grantee shall pay a five hundred dollar (\$500) fee per key for any key(s) that is not so returned. Grantee shall keep road gates closed and locked unless otherwise instructed by a Grantor representative.

(f) Grantee shall repair any damage to Grantor's roads when such damage is caused by Grantee's use of the Easement Area. Grantee shall maintain the road(s), at its sole cost and expense, on an ongoing basis during all periods of road use, including: periodic spot rocking and grading to prevent damage to subgrades; ditching and culvert maintenance to prevent water damage to the roads and creeks; and maintenance of all erosion control devices in good working order.

(g) Grantee shall obtain prior written permission from Grantor's authorized representative before gating, obstructing, or storing equipment on the Easement Area, and before causing or allowing any dirt, mud or other materials to be placed on or graded over any roads owned by Grantor. Grantee shall at no time be allowed to, or allow others to, dump or deposit any waste, debris, fill, soil, or other material from outside the Easement Area upon any portion of the Easement Area.

6. INDEMNIFICATION.

(a) Grantee shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Grantor and its agents, contractors, successors, or assigns from and against any and all liability for damages, costs, losses, and expenses resulting from, arising out of or in any way connected with the occupation or use of the Easement Area by Grantee or anyone else entering the Property at Grantee's direction or invitation, or the failure on the part of Grantee to perform fully its promises contained herein. This indemnity obligation shall apply whether such liability is caused by or contributed to by Grantor or any other party indemnified herein, unless caused by the sole active negligence or willful misconduct of Grantor.

(b) In any and all claims against Grantor by any employee of Grantee, any contractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, Grantee's indemnification obligation shall not be limited in any way by any limitation on the amount or type of damage, compensation, or benefits payable by or for Grantee or any contractor under any industrial insurance act, workers' compensation act, disability benefit act, or other employee benefit act, and Grantee hereby expressly waives any immunity it may have under such acts to the extent necessary or permitted under the law to assure the validity and enforceability by Grantor of Grantee's aforesaid indemnification obligation.

7. ENVIRONMENTAL. In the event of a spill or release of Hazardous Materials on the Property by Grantee or of one of its agents, invitees, employees, or vendors, Grantee shall promptly comply with all federal, state and local spill notification and response requirements and shall notify Grantor of the spill event. Grantee shall be responsible for the response and restoration costs of any release of Hazardous Materials in connection with the Agreement, and

shall indemnify, defend, and hold harmless Grantor from any liability arising from claims or damages in connection with such release. "Hazardous Materials" shall mean any pollutant, contaminant, chemical or hazardous, toxic, or dangerous waste, substance, chemical or material, or any other substance or material regulated or controlled pursuant to any environmental laws now or at any time hereafter in effect.

8. **Intentionally Blank.**

9. **LIENS.** Grantee shall keep the Easement Area free from any liens or encumbrances arising out of any work performed by Grantee, materials furnished to Grantee, or obligations incurred by Grantee. Grantor shall have the right to pay and discharge any lien imposed against the Property due to Grantee's breach of the aforesaid covenant. Grantee shall reimburse Grantor for the amount so paid, including the reasonable expenses of Grantor in connection therewith, within thirty (30) days of receiving notice from Grantor of any such payment with interest thereon at the rate of seven (7) percent per annum from the date of payment thereof by Grantor until the repayment thereof by Grantee. If Grantor exercises the option to make such payments, it shall not be obligatory on Grantor to inquire into the validity of any such lien unless Grantee shall have given notice to Grantor that said lien was being challenged and shall have furnished to Grantor the bond of a surety company or other security satisfactory to Grantor, in an amount satisfactory to Grantor, securing Grantor against the payment of the lien so contested and against any loss, damage, or penalty arising from Grantee's failure to pay it.

10. **INSURANCE.** Grantee is self-insured.

11. **TERMINATION OR ABANDONMENT.** All rights of Grantee hereunder shall terminate immediately upon (1) ninety (90) days after notice of default given by Grantor to Grantee, if the default has not been remedied within such time, or (2) upon Grantee's use of the Easement Area for any purposes other than the Authorized Use. Termination of this Agreement shall not prejudice Grantor's right to collect damages accrued theretofore or thereafter accruing, on account of Grantee's breach of any term hereof; and any failure to exercise the right to terminate this Agreement in case of default shall not constitute a waiver of Grantee's obligation to perform strictly in accordance with the term hereof. Upon termination the easement conveyed in this Agreement shall revert to and merge with the interests of Grantor, its successors or assigns. Upon abandonment or other termination, Grantee shall remove the improvements constructed on the Easement Area unless Grantor agrees in writing that Grantee may instead abandon the improvements in place, and Grantee shall repair any damage to the Easement Area caused by such removal or abandonment. Upon such abandonment or termination, Grantee agrees to execute and deliver such documents as may be required to extinguish of record such easement.

12. **REMOVAL/RESTORATION.** In the event of termination of this Agreement, Grantee shall repair all damage and deterioration of the road or road segments within the Easement Area,

13. **DEFAULT AND RIGHT TO CURE.**

(a) The following will be deemed a default by Grantee and a breach of this Agreement:
(1) Grantee does or permits to be done anything that creates a lien upon the Property and the lien is not removed or bonded around within thirty (30) days after written notice thereof from Grantor

to Grantee; or (b) Grantee's failure to perform any other term or condition under this Agreement within thirty (30) days after receipt of written notice from Grantor specifying the failure; provided that no such failure will be deemed to exist if Grantee has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence, and delay in curing a default will be excused if due to causes beyond the reasonable control of Grantee. If Grantee remains in default beyond any applicable cure period, Grantor will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Grantor and a breach of this Agreement: Grantor's failure to perform any term or condition under this Agreement within thirty (30) days after receipt of written notice from Grantee specifying the failure; provided that no such failure will be deemed to exist if Grantor has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence, and delay in curing a default will be excused if due to causes beyond the reasonable control of Grantor. If Grantor remains in default beyond any applicable cure period, Grantee will have the right to exercise any and all rights available to it under law and equity.

14. NOTICES. All notices, requests, demands and communications hereunder will be given by first-class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notice will be addressed as follows:

As to Grantee:

Michael W. Collins, Director and County Engineer
P.O. Box 66
South Bend, WA 98586
Phone: (360) 875-9368

as to Grantor:

Green Diamond Resource Company
Attn: Property Manager
P.O. Box 9001
Shelton, WA 98584
Phone: (360) 427-4797

with a copy to:

Green Diamond Resource Company
Attn: Legal Department
1301 Fifth Avenue, Suite 2700
Seattle WA 98101-2613
Phone: 206-224-5830

Either Party hereto may change the place for the giving of notice to it by thirty (30) days' prior written notice to the other as provided herein.

15. INTERPRETATION.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, without regard to the conflicts of law principles of such state.

(b) A Party's waiver of any right hereunder or of the other Party's breach or failure to perform shall not be deemed a waiver of any other right hereunder or of any other breach or failure by the other Party, whether of a similar nature or otherwise.

(c) If any term or condition of this Agreement is found unenforceable, the remaining terms and conditions will remain binding upon the Parties as though said unenforceable provision were not contained herein. However, if the invalid, illegal or unenforceable provision materially affects this Agreement then the Agreement may be terminated by either Party on ten (10) days' prior written notice to the other Party hereto.

(d) Terms and conditions of this Agreement which, by their sense and context, survive the termination, cancellation, or expiration of this Agreement, including, but not limited to, Grantee's obligations under Paragraphs 6, 7, and 16, shall so survive.

(e) This Agreement constitutes the entire agreement of the Parties with respect to the matters described herein and supersedes all prior written or oral negotiations or agreements with respect thereto. Each Party acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by either party, or anyone acting on behalf of either party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by both parties, and the amended Agreement remains subject to the enforcement provisions of this Agreement.

(f) This Agreement shall bind and inure to the benefit of the successors, personal representatives, and permitted assignees of the respective Parties.

(g) Each of the Parties hereto has been or has had the opportunity to be represented, to the extent desired, by legal counsel of its choice in respect to this transaction. No provision of this Agreement shall be construed against one party as the drafter of the Agreement for that provision.

(h) Unless otherwise specified, the following rules of construction and interpretation apply: (1) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (2) use of the term "including" will be interpreted to mean "including but not limited to"; (3) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (4) use of the terms

"termination" or "expiration" are interchangeable; and (5) reference to a default will take into consideration any applicable notice, grace and cure periods.

16. ENFORCEMENT.

(a) If an action is instituted to enforce any of the terms, covenants, conditions or agreements contained in this Agreement or if an action is commenced because of any breach hereof, then the prevailing party in such action shall be entitled to all of its costs and reasonable attorneys' fees as fixed by the trial and appellate courts in said action.

(b) Grantee and Grantor hereby expressly and irrevocably waive all right to a trial by jury in any action, proceeding, claim, counterclaim or other litigation arising out of or relating to the Agreement or any of the activities or events referenced in this Agreement.

17. EXECUTION.

(a) Unless otherwise provided herein, this Agreement shall be effective on the last date of execution by the undersigned parties. This Agreement shall not be binding upon either Party until signed and acknowledged by each Party.

(b) Each of the undersigned represents that they have sufficient authority to execute this binding Agreement on behalf of the Party they represent.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed as below subscribed.

"Grantor"

**Green Diamond Resource Company,
A Washington corporation**

By: _____
Print Name: William R. Brown, President

Date: _____

"Grantee"

By: _____
Print Name: _____
Its: _____

STATE OF _____
COUNTY OF _____

On _____ before me, _____, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the persons), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

STATE OF _____
COUNTY OF _____

On _____ before me, _____, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the persons), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

ATTACHMENT A
DESCRIPTION OF EASEMENT AREA

ATTACHMENT "A"

A twenty foot (20') easement for road access purposes over, under and above the northwest quarter of Section 4, Township 14 North, Range 11 West, W.M. The centerline of said easement is described as follows:

Commencing at the northwest corner of Section 4, Township 14 North, Range 11 West, W.M.

1 ½" pipe as shown on recorded survey filed in Book 22 at page 132 with the Pacific County Auditor, Pacific County, Washington and basis of bearing

Thence N 89°46'23" E for a distance of 613.20 feet to a ¾" iron pipe along the north line of Section 4

Thence N 89°40'01" E for a distance of 725.12 feet to a 1" iron pipe being the west 1/16th north line along the north line of Section 4

Thence S 00°01'40" E a distance of 1,309.33 feet to a 5/8" rebar and 1 ½" aluminum cap along the 1/16th line being the northwest 1/16th corner of Section 4

Thence S 00°10'39" E a distance of 653.46 feet to an iron pipe with concrete and brass tack

Thence N 89°37'43" E a distance of 1,320.97 feet to a 2" iron pipe

Thence S 89°37'43" W a distance of 1,112.56 back along said line to the Point of Beginning and centerline of the existing access gravel road

Thence N 66°31'19" W a distance of 221.18 feet along the centerline of existing access road

Thence N 44°51'15" W a distance of 69.43 feet

Thence N 31°19'06" W a distance of 178.42 feet

Thence N 15°17'48" W a distance of 216.29 feet

Thence N 23°12'13" E a distance of 49.87 feet

Thence N 60°34'19" E a distance of 172.46 feet

Thence N 64°39'50" E a distance of 84.16 feet

Thence N 24°37'29" E a distance of 21.83 feet

Thence N 14°06'40" W a distance of 100.96 feet

Thence N 00°12'26" E a distance of 75.01 feet

Thence N 19°46'18" W a distance of 53.62 feet

Thence N 34°07'53" W a distance of 52.98 feet to the end of said access road being N 00°01'40" W a distance of 296.38 feet from the northwest 1/16th corner of said Section 4.

EXHIBIT A

LOCATION OF EASEMENT AREA

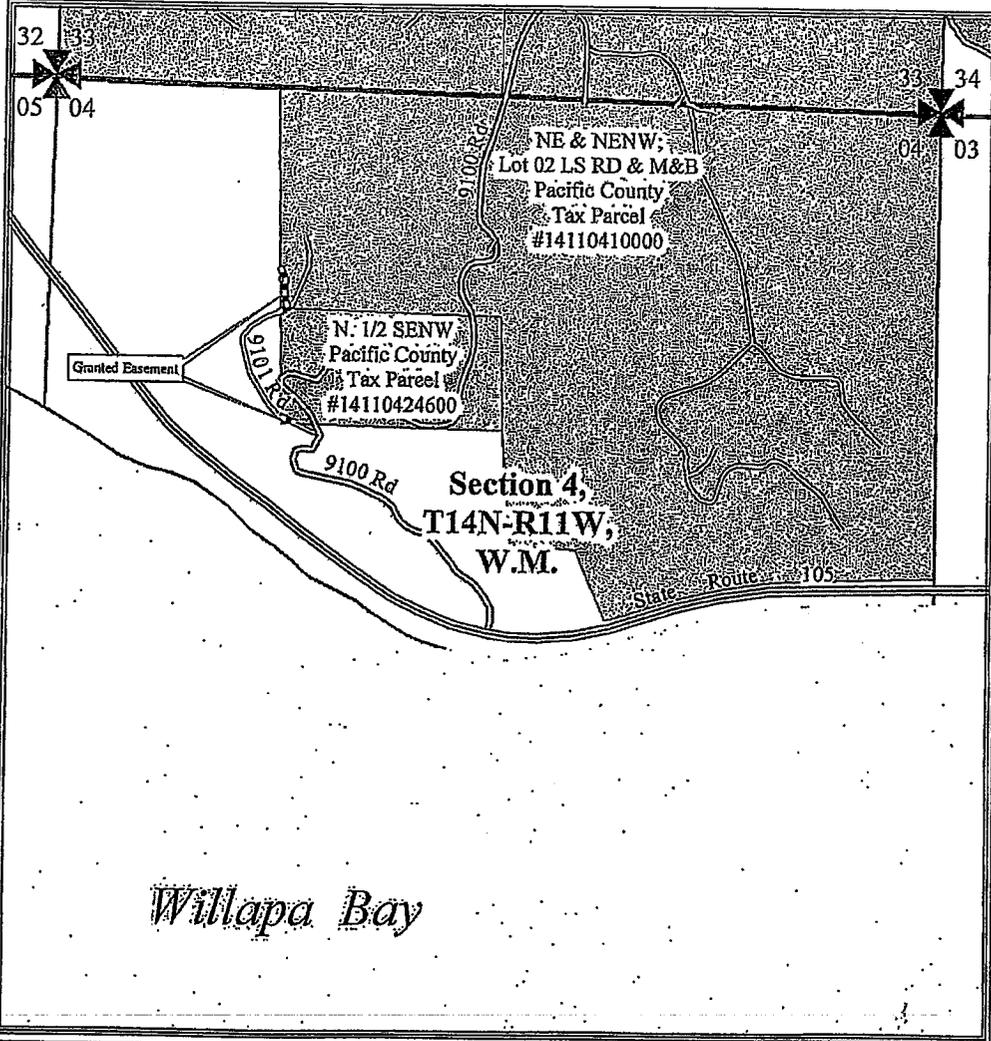
EXHIBIT "A"

**GREEN DIAMOND
RESOURCE COMPANY**

N.W. TIMBERLANDS DIVISION
215 NORTH 3RD. ST.
P.O. BOX 9001
SHELTON, WA. 98584
Phone: 1-360-426-3381

Easement granted by
Green Diamond Resource Company
to Pacific County,
State of Washington

Located in
Pacific County Tax Parcels
#14110424600 & #14110410000
Section 04, T14N-R11W, W.M.
Pacific County, State of Washington



SCALE: 1" = 1000' +/-

Legend

Green Diamond Resource
Co. Ownership
Easement Granted

