

APPENDIX B

<p>Return Address</p> <p>National Oceanic and Atmospheric Administration 7600 Sand Point Way NE Seattle, WA 98115</p> <p>Attention:</p>
<p>Document Title(s) (or transactions contained therein):</p> <p>1. Declaration of Conservation Easement</p>
<p>Reference Number(s) of Documents assigned or released: (on page <u>N/A</u> of documents(s))</p>
<p>Grantor(s) (Last name first, then first name and initials):</p> <p>1. The Boeing Company</p>
<p>Grantee(s) (Last name first, then first name and initials):</p> <p>1. United States Department of Commerce acting through the National Oceanic and Atmospheric Administration</p>
<p>Legal description (abbreviated: i.e. lot, block, plat or section, township, range)</p> <p>Portion of NW 1/4 of Sec. 33, T. 24N, R. 4E, W.M. AND Portion of SE 1/4 of Sec. 29, T. 24 N, R. 4E, W.M.</p> <p><input checked="" type="checkbox"/> Full legal is on page ___ of document.</p>
<p>Assessor's Property Tax Parcel/Account Number</p>

Declaration of Conservation Easement

This Declaration of Conservation Easement ("**Declaration**") is made this ___ day of _____, 20__ by The Boeing Company ("**Grantor**") for the benefit of the United States Department of Commerce, acting through the National Oceanic and Atmospheric Administration ("**NOAA**"), for itself and on behalf of the Trustees named in the Consent Decree described below ("**Trustees**").

Recitals

A. This Declaration is made pursuant to and in accordance with the Consent Decree by and among Grantor as Defendant and NOAA, the United States Department of the Interior, the Washington State Department of Ecology, the Muckleshoot Indian Tribe and the Suquamish Tribe, Civil No. _____, _____, 20__ (the "**Consent Decree**").

B. Grantor is the fee owner of certain real property (the "**Boeing Easement Areas**") located in the County of King, State of Washington that are the subject of the Boeing Habitat Project Scope of Work ("**Scope of Work**") attached to the Consent Decree as Appendix A. The Boeing Easement Areas are legally described in **Exhibit A** attached to and made a part of this Declaration by this reference as "Easement Area #1 (Legal Description)", "Easement Area # 2 (Legal Description)" and "Easement Area #3 (Legal Description)". The Boeing Easement Areas are also depicted on Exhibit A for reference purposes only. Pursuant to the Consent Decree, Grantor will implement a habitat restoration project (the "**Habitat Project**") on the Boeing Easement Areas to restore and/or create off-channel and riparian habitats in the Lower Duwamish Waterway.

C. Grantor desires to make this declaration of conservation easement in accordance with the terms of the Consent Decree.

Declaration

NOW THEREFORE, Grantor declares that the Boeing Easement Areas shall be held, conveyed, hypothecated, encumbered, leased, used, occupied and improved subject to the following covenants, conditions and restrictions, all of which are declared and agreed to be equitable servitudes in furtherance of a plan for the improvement and use of the Boeing Easement Areas, and are established and agreed upon for the purpose of enhancing and protecting the values of the Boeing Easement Areas for the purposes set forth in the Consent Decree. All such covenants, conditions and restrictions shall run with the Boeing Easement Areas and each part of them, and shall be binding upon, and shall be for the benefit of, Grantor, NOAA and each owner of fee title to all or any portion of the Boeing Easement Areas and their successors in ownership of fee title.

Section 1. The Boeing Easement Areas shall be used only for the Habitat Project and for such traditional industrial uses (including, but are not limited to, navigation for commercial purposes), stormwater facilities, and utility installations as are consistent with the Habitat Project, and shall not be used for any purpose or activity that interferes with the Habitat Project.

Section 2. Authorized representatives of Ecology, NOAA and the other Trustees shall have the right to enter the Boeing Easement Areas at the times and under the circumstances described in the Consent Decree.

Section 3. This Declaration may not be modified or amended except by a writing signed by Grantor and NOAA.

Section 4. Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Boeing Easement Areas is and shall be conclusively deemed to have consented and agreed to every covenant, condition, restriction and provision contained in this Declaration.

Section 5. This Declaration may be enforced by NOAA or by any other Trustee which is acting on behalf of all of the Trustees.

Section 6. This Declaration shall be governed by the laws of the State of Washington.

Section 7. This Agreement may be executed in a number of identical counterparts. Each of the counterparts will be deemed an original for all purposes and all counterparts will collectively constitute one Agreement.

Section 8. The sole remedy for breach of this Declaration shall be specific performance, and damages shall not be recoverable against Boeing or any successor in ownership of the Boeing Easement Area; provided, however, that nothing in this Declaration shall limit the remedies that are available to NOAA and the Trustees under the Consent Decree.

Section 10. If any covenant, condition, provision, term or agreement of this Declaration is to any extent held invalid or unenforceable, the remaining portion thereof and all othe

THE BOEING COMPANY

By: _____

Its: _____

Dated: _____

**UNITED STATES DEPARTMENT OF COMMERCE ACTING THROUGH THE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

By: _____

Its: _____

Dated: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this ____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the person who signed as _____ of The Boeing Company, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that _____ was duly elected, qualified and acting as said officer of the corporation, that _____ was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

(Signature of Notary)

(Print or stamp name of Notary)
NOTARY PUBLIC in and for the State of _____, residing at _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

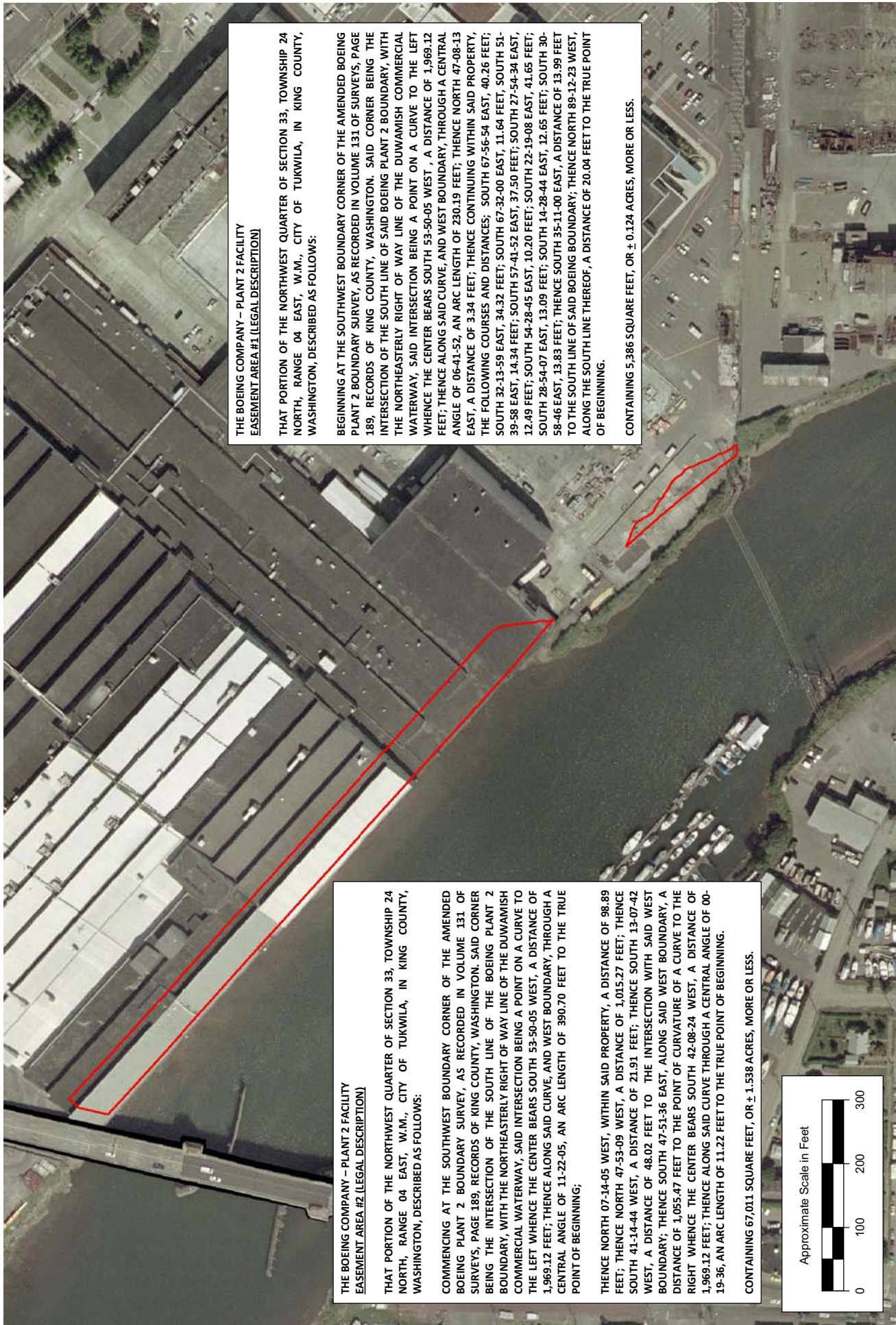
On this ____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the person who signed as _____ of the National Oceanic and Atmospheric Administration, the United States Department of the Interior, the agency that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said agency for the uses and purposes therein mentioned, and on oath stated that _____ was authorized to execute said instrument on behalf of said agency.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

(Signature of Notary)

(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State of _____, residing at _____
My commission expires _____



**THE BOEING COMPANY – PLANT 2 FACILITY
EASEMENT AREA #1 (LEGAL DESCRIPTION)**

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 24 NORTH, RANGE 04 EAST, W.M., CITY OF TUKWILA, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST BOUNDARY CORNER OF THE AMENDED BOEING PLANT 2 BOUNDARY SURVEY, AS RECORDED IN VOLUME 131 OF SURVEYS, PAGE 189, RECORDS OF KING COUNTY, WASHINGTON. SAID CORNER BEING THE INTERSECTION OF THE SOUTH LINE OF SAID BOEING PLANT 2 BOUNDARY, WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF THE DUWAMISH COMMERCIAL WATERWAY, SAID INTERSECTION BEING A POINT ON A CURVE TO THE LEFT WHEN THE CENTER BEARS SOUTH 53-50-05 WEST, A DISTANCE OF 1,969.12 FEET; THENCE ALONG SAID CURVE, AND WEST BOUNDARY, THROUGH A CENTRAL ANGLE OF 06-41-52, AN ARC LENGTH OF 230.19 FEET; THENCE NORTH 47-08-13 EAST, A DISTANCE OF 3.34 FEET; THENCE CONTINUING WITHIN SAID PROPERTY, THE FOLLOWING COURSES AND DISTANCES; SOUTH 67-56-54 EAST, 40.26 FEET; SOUTH 32-13-59 EAST, 34.32 FEET; SOUTH 67-32-00 EAST, 11.64 FEET; SOUTH 51-39-58 EAST, 14.34 FEET; SOUTH 57-41-52 EAST, 37.50 FEET; SOUTH 27-54-34 EAST, 12.49 FEET; SOUTH 54-28-45 EAST, 10.20 FEET; SOUTH 22-19-08 EAST, 41.65 FEET; SOUTH 28-54-07 EAST, 13.09 FEET; SOUTH 14-28-44 EAST, 12.65 FEET; SOUTH 30-58-46 EAST, 13.83 FEET; THENCE SOUTH 35-11-00 EAST, A DISTANCE OF 13.99 FEET TO THE SOUTH LINE OF SAID BOEING BOUNDARY; THENCE NORTH 89-12-23 WEST, ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 20.04 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 5,386 SQUARE FEET, OR ± 0.124 ACRES, MORE OR LESS.

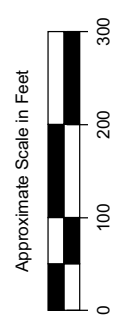
**THE BOEING COMPANY – PLANT 2 FACILITY
EASEMENT AREA #2 (LEGAL DESCRIPTION)**

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 24 NORTH, RANGE 04 EAST, W.M., CITY OF TUKWILA, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST BOUNDARY CORNER OF THE AMENDED BOEING PLANT 2 BOUNDARY SURVEY, AS RECORDED IN VOLUME 131 OF SURVEYS, PAGE 189, RECORDS OF KING COUNTY, WASHINGTON. SAID CORNER BEING THE INTERSECTION OF THE SOUTH LINE OF THE BOEING PLANT 2 BOUNDARY, WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF THE DUWAMISH COMMERCIAL WATERWAY, SAID INTERSECTION BEING A POINT ON A CURVE TO THE LEFT WHEN THE CENTER BEARS SOUTH 53-50-05 WEST, A DISTANCE OF 1,969.12 FEET; THENCE ALONG SAID CURVE, AND WEST BOUNDARY, THROUGH A CENTRAL ANGLE OF 11-22-05, AN ARC LENGTH OF 390.70 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 07-14-05 WEST, WITHIN SAID PROPERTY, A DISTANCE OF 98.89 FEET; THENCE NORTH 47-53-09 WEST, A DISTANCE OF 1,015.27 FEET; THENCE SOUTH 41-14-44 WEST, A DISTANCE OF 21.91 FEET; THENCE SOUTH 13-07-42 WEST, A DISTANCE OF 48.02 FEET TO THE INTERSECTION WITH SAID WEST BOUNDARY; THENCE SOUTH 47-51-36 EAST, ALONG SAID WEST BOUNDARY, A DISTANCE OF 1,055.47 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT WHEN THE CENTER BEARS SOUTH 42-08-24 WEST, A DISTANCE OF 1,969.12 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00-19-36, AN ARC LENGTH OF 11.22 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 67,011 SQUARE FEET, OR ± 1.538 ACRES, MORE OR LESS.



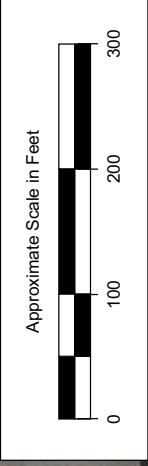


**THE BOEING COMPANY - PLANT 2 FACILITY
EASEMENT AREA #3 (LEGAL DESCRIPTION)**

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 24 NORTH, RANGE 04 EAST, W.M., CITY OF SEATTLE, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST BOUNDARY CORNER OF THE AMENDED BOEING PLANT 2 BOUNDARY SURVEY, AS RECORDED IN VOLUME 131 OF BOEING SURVEYS, PAGE 189, RECORDS OF KING COUNTY, WASHINGTON. SAID CORNER BEING THE INTERSECTION OF THE NORTH LINE OF THE BOEING PLANT 2 BOUNDARY, WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF THE DUWAMISH COMMERCIAL WATERWAY, THENCE ALONG SAID RIGHT OF WAY AND WEST BOUNDARY, SOUTH 47-51-36 EAST, A DISTANCE OF 101.65 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 47-51-36 EAST, ALONG SAID WEST BOUNDARY, A DISTANCE OF 638.24; THENCE CONTINUING WITHIN SAID PROPERTY, THE FOLLOWING COURSES AND DISTANCES; NORTH 08-33-35 WEST, 59.29 FEET; NORTH 15-53-07 WEST, 35.55 FEET; NORTH 45-52-23 WEST, 44.60 FEET; NORTH 20-34-05 EAST, 5.36 FEET; NORTH 49-24-37 WEST, 184.47 FEET; NORTH 35-10-16 WEST, 54.49 FEET; NORTH 43-17-08 WEST, 53.73 FEET; NORTH 13-44-16 WEST, 56.83 FEET; NORTH 37-28-04 WEST, 18.57 FEET; NORTH 63-14-22 WEST, 38.31 FEET; NORTH 80-17-58 WEST, 24.20 FEET; NORTH 74-24-59 WEST, 14.01 FEET; NORTH 42-17-30 WEST, 13.99 FEET; NORTH 02-40-12 EAST, 12.55 FEET; NORTH 48-19-44 WEST, 52.56 FEET; SOUTH 51-20-01 WEST, 45.72 FEET; THENCE SOUTH 51-33-59 WEST, A DISTANCE OF 46.10 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 43,592 SQUARE FEET, OR ± 1.000 ACRES, MORE OR LESS.



Preservation of Project Site property owned by the Port of Seattle

In order to ensure permanent preservation of the Project Site property for purposes of the Project, Boeing will take all necessary actions to ensure that the Port of Seattle grants a conservation easement to one or more of the Trustees for those portions of the Project Site property that are owned by the Port of Seattle. The conservation easement to be granted by the Port of Seattle shall be equivalent to the conservation easement granted by Boeing as set forth in this Appendix B. Boeing shall ensure that the Trustees review and approve the conservation easement to be granted by the Port of Seattle prior to the grant of such conservation easement.