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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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STB Docket No. AB-6 (Sub-No. 380X)

Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

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Introduction

Raymond and Lael Spencer own property burdened by a railbanked railroad right of way easement and a separate trail easement held by King County, Washington. Both the banking of the railroad easement and the creation of a new trail easement were pursuant to the Trails Act, 16 U.S.C. § 1247(d) by the Board's prior decisions in this proceeding. The Spencers have historically used their property within the borders of the 100 foot right of way before and after railbanking, off the railroad's tracks, and now off King County's trail. And not in conflict with either easement. Yet, the County has threatened them with fines and legal action to prevent them from using their property. King County asserts that its ownership of the railroad easement confers upon it effectively exclusive control over the 100-foot right of way under Federal law, regardless of the impact of the Spencers' activities on future railroad or trail uses.

Because this is an active dispute about the status of King County's railroad easement over which the Board has exclusive jurisdiction, and the status of the County's trail easement, created under the federal Trails Act which this Board implements, the Spencers file this Petition for Declaratory Orders seeking a termination of an active controversy and removal of uncertainty.

Background Facts

Petitioners Raymond Spencer and Lael Spencer own property along the East Lake Sammamish Trail (ELST), a public recreational trail operated by King County, arising from the Board's decisions previously issued in this proceeding authorizing the

banking of a railroad easement. And to be clear as to the nature of the railroad's interests in this location, a federal court has already determined that the property interest of the railroad was merely an easement for railroad purposes—nothing more. *See Beres v. United States*, 97 Fed. Cl. 757, 809 (2011).¹

The Spencers originally purchased their property in 1992. Exs. 3 (deed) and 4 (title report). In 2002, they later purchased all the right of way within their subdivision from the heir of the person who originally subdivided the property. Ex. 5. From their original purchase, the Spencers used the right of way adjacent to their property because the railroad, and next the County, only had easements. Moreover, the Spencers' use did not interfere with easement rights of the railroad or the County.

1. The Spencers' use of the right of way.

After the Spencers purchased their home in 1992, Raymond Spencer was approached by the Burlington Northern agent congratulating him on his home purchase and telling him that he needed a crossing agreement to enable him to cross the right of way to access his home, along with needing to pay a nominal fee.

¹ The Court in *Beres* was addressing the deed given to the railway by the Yonderpumps which are in the Spencers' chain of title. *Id.* at 809. Burlington Northern Santa Fe Railroad (Burlington Northern) eventually acquired the SLS&E Railway's right of way received from Yonderpump. It later transferred by quit claim deed its interests in the right of way to The Land Conservancy ("TLC"). The quit claim deed expressly stated that the deed was subject "to all existing interests." *See* Ex. 1, at second page. TLC then conveyed the right of way by quit claim deed to Defendant King County in 1998. *See* Ex. 2. Because Burlington Northern held only a railroad easement in Government Lot 2, TLC and King County in turn only obtained a railroad easement in Government Lot 2. *See Beres*, 97 Fed. Cl. at 809.

Mr. Spencer told the Burlington Northern agent that he understood that the railroad only held an easement and that, as the owner of the underlying fee interest in the property, the Spencers could use the right of way in any way that did not interfere with railroad use and that he would not be signing a crossing agreement or paying a fee. Mr. Spencer also told the Burlington Northern agent that he was intending to place a raised garden bed on the right of way and asked how far he needed to be from the railroad tracks to not interfere with railroad use. The Burlington Northern agent told him that the raised garden bed must be no closer than 11 feet from the closest rail. Thereafter, Mr. Spencer built a raised garden bed 11 feet and 1 inch from the closest rail. *See* Ex. 6 (survey shows 15.9 feet from garden to center of right of way).

The raised garden bed structure is at its highest point only two feet above ground level. Over the years, the Spencers have planted vegetables and used those vegetables for personal use. Immediately north of that area is a gravel parking lot which they (and their neighbors) have used, all of which is off the trail and was off the railroad tracks, but within the right of way. During construction of the permanent trail, King County placed bollards along the gravel parking area to prevent people from parking there as they had historically. King County representatives expressly stated to Mr. Spencer that was the purpose of the bollards.

2. King County asserts complete control over the entire right of way in response to the Spencers' use of the right of way.

King County has accused the Spencers of conducting work on the County's property even though the County could only own, at most, an easement. Ex. 7 (letter dated October 9, 2024, with enclosures). The Spencers submitted a response. Ex. 7A. And King County submitted its own response. Ex. 7B (without enclosures). In that response, it explained:

As a result [of railbanking], there is virtually no distinction between a "railroad easement" and fee ownership because the railroad easement is exclusive. As Judge Pechman held in *Hornish v. King Cty.*, 182 F. Supp. 3d 1124, 1130 (W.D. Wash. 2016), *aff'd*, 899 F.3d 680 (9th Cir. 2018): [T]he County's rights are coextensive with the railroad's and that it "is entitled to the exclusive use and possession of the area on, above, and below the surface of the Corridor for railroad purposes and incidental uses permitted by Washington law, including use as a recreational trail."

It is well settled that the ELST railroad easement has granted King County the exclusive use and control of all land within the right of way; therefore Mr. Spencer's garden beds and gravel parking lot are encroaching upon King County's property and must be removed. *Grand Trunk R. Co. v. Richardson*, 91 U.S. 454, 455, 23 L.Ed. 356 (1875).

Ex. 7B.²

² While that District Court in *Hornish* concluded that the county can exercise railroad easement right presently, the Ninth Circuit Court of Appeals did not adopt that sweeping language. *See Hornish v. King County*, 899 F.3d 680. Instead, the Ninth Circuit merely ruled that King County possessed the railroad easements and indicated nothing about whether King County was free to act upon the railroad easement without the STB's reactivation of the line. *Id.* at 696-97. At issue in this Petition, is whether King County can *currently* exercise all rights inherent in a railroad easement, such as imposing exclusivity, even though it is not a railroad company and railroad use has not been authorized by this Board.

Under King County's view, a railroad easement which is banked and not active, without regard to the historic use of the right of way by servient owners, and its trail easement received by this Board's decision under the Trails Act gives it exclusive use and possession over the entire scope of the right of way. Ex. 7B. Consequently, the County asserts it can charge fees for the Spencers' use, demand that the Spencers stop using their land, and restore the right of way to the County's specifications even for areas of the right of way where the Spencers' use do not conflict with potential future railroad or present trail use.

The County also takes the position that the County, as the easement holder, can charge arbitrary "land use fees," *i.e.* rent, from the fee owners. Exs. 7 and 8. The Spencers determined that they had no choice but to bring this petition to end the uncertainty as to the nature of the easement granted by the Trails Act and whether their actions interfere with either the Trails Act easement or the banked railroad easement to confirm their right to use the right of way for uses that do not interfere with the County's trail without payment to King County.

3. King County's earlier position and settlement of official proceedings about minor construction in the right of way.

King County previously took a much different approach to private property owner-installed minor improvements in this right of way when it was settling a dispute. A group called the Sammamish Homeowners (SHO) and other individuals challenged the County permitting process and the result was the 2014 Settlement Agreement

(SHO-KC Settlement Agreement). Ex. 9.³ The property owners wanted to obtain clarity about what was allowed or not allowed in the right of way. The SHO-KC Settlement Agreement was the result, and the County agreed that most landscaping improvements, including planting beds like the Spencers' improvements, are allowed as follows:

Landscaping Improvements and Vegetation: The County agrees that owners of real property burdened by, or adjacent to, the County right of way for the ELST may install landscaping improvements and vegetation within the County's right of way in accordance with the criteria set forth in Exhibit 1.

Ex. 9 at 2, Section 1.⁴ Exhibit 1 to the SHO-KC Settlement Agreement set forth several reasonable conditions and then defined "plantings" to mean plants, shrubs, and trees, and defined "landscaping" to mean, "other manmade features, including, but not limited to, planting beds, fences, retaining walls, etc." Ex. 9 at Exhibit 1, ¶¶ 11 and 12. Specifically, the SHO-KC Settlement Agreement provided that plantings and landscaping are allowed outside the trail footprint. Ex. 9 at Exhibit 1, ¶ 4.

The SHO-KC Settlement Agreement demonstrates two important points. First, the County implicitly found that "landscaping," to include "planting beds, fences, retaining walls," posed no conflict with potential future railroad use. Second, the same improvements outside the trail footprint posed and still pose no conflict with trail use. Therefore, King County cannot credibly assert that a gravel parking area or a raised

³ Exhibit 2 to the SHO-KC Agreement is not included in Exhibit 9. Exhibit 2 provided numerous wall styles/designs to address only the Chapman Wall provision at Section 6 and not other situations.

⁴ The Spencers were members of SHO when the SHO-KC Settlement Agreement was executed and are owners of, "real property burdened by, or adjacent to, the County right of way." *Id.*

garden bed (two feet at its greatest height) far outside the trail footprint would cause any conflict with rail or trail use.

Also, King County now asserts that it can, in the alternative to precluding the underlying fee owners uses which do not interfere with trail or rail use, charge rent, which it euphemistically calls “Land Use Fees,” but its intent is clear. The County explains that a Land Use Fee is required when: “a landowner adjacent to one of King County’s regional trails or parks proposes to use public land for their own private, non-park purposes.” Ex. 8. Of course, the Spencers’ position is that King County only has an easement, so the right of way on the Spencers’ land is not “public land” subject to rental type charges. The website goes on to state: “The Land Use Fee represents the cost of the private use or ‘rental’ of public lands,” and that, “Land Use Fees reflect market rate value and the costs associated,” with administration. Thus, it is more than clear that King County is charging rent based on, “market rate land values.” In addition, King County has specifically threatened to charge the Spencers the cost of removing the Spencers’ non-interfering improvements. Ex. 7.

The Spencers urge the Board to terminate this active controversy and remove uncertainty as to whether the Spencers’ uses interfere with potential railroad use and whether the easement given under the Trails Act is so broad that it includes far more than building, operating, and managing a public recreational trail.

Argument

I. The Board has the authority to issue declaratory orders regarding decisions made under the Trails Act.

As a general matter, federal agencies have authority to decide the interpretation of statutes under which they operate through case-by-case determinations. *See Securities and Exchange Comm’n v. Chenery Corp.* 332 U.S. 194, 203 (1947). The Board has authority to determine whether other lawful rights based on state law are preempted by federal law and its determination is typically made on an as applied basis. *See Union Pacific R. Co. v. Chicago Transit Authority*, 647 F.3d 675, 679 (7th Cir. 2011). This Board determines whether the application of state law conflicts with present or future railroad use, questions which this Board has exclusive jurisdiction. *See Tri-City Railroad Co.—Petition for Declaratory Order*, 2016 WL 5904750 (S.T.B. 2016); *see also* 49 U.S.C. § 1321 and 5 U.S.C. § 554(e). Specifically, the Board also has jurisdiction to review whether an underlying or neighboring landowner’s actions conflicts with a railbanked railroad easement. *See Jie Ao and Xin Zhou*, *Petition for Declaratory Order*, 2012 WL 2047726 (S.T.B. 2012). In short, the Board may issue a declaratory order to terminate an active controversy *or remove uncertainty*. *Id.* at *3 (citing 5 U.S.C. §554(e) and 49 U.S.C. § 721).

The controversy here is certainly active and the Spencers seek a decision removing uncertainty. The Spencers have historically used the portion of the right of way which they own and which was completely off the railroad’s tracks and off the County’ trail, yet King County has threatened to remove the Spencers’

improvements, to seek reimbursement from the Spencers, and to charge them fees for use of the road that has historically provided them and their neighbors access to their homes and their entire neighborhood along the lane.

Railbanked right of ways “are still part of a line in the national rail network and subject to the Board's exclusive jurisdiction.” *Sunflower Rails—Trails Conservancy, Inc.—Petition for Declaratory Order*, 2017 WL 721688, at *1 (S.T.B. 2017). Whether the Spencers’ actions interfere with a banked railroad easement is under this Board’s exclusive jurisdiction. Additionally, as the entity implementing the Trails Act, the Board also has jurisdiction to resolve controversies as to what that new easement created under the Trails Act entails.

And state law property rights are not necessarily preempted by the Trails Act. *See Dana R. Hodges Trust v. United States*, 111 Fed. Cl. 452, 456 (2013). By railbanking the railroad easement, the Board can determine the status of that railbanked easement. Additionally, this Board authorized and approved interim trail use under the Trails Act. “Absent a determination of abandonment, the rail property will remain within the STB’s jurisdiction.” *See e.g., Nebraska Trails Council v. Surface Transportation Bd.*, 120 F.3d 901, 904 (8th Cir.1997). In other words, the Board has the authority to determine the nature and extent of the easement that it granted by implementing the Trails Act.

Accordingly, the Board may initially determine whether the Spencers are interfering with potential railroad uses and, given the trail easement was established under a federal law which the Board implements, the Board may also

determine whether King County’s trail easement, authorized under the Trails Act, allows the County to effectively assert exclusive power over the full width of the right of way irrespective of any impact on future railroad use.

A relatively recent submission by the Office of General Counsel for the Board to the Department of Justice underscores this point:

Because the statute prohibits the Board from considering railbanked lines to be abandoned, they remain under the STB’s jurisdiction over rail lines, which is contained in the Interstate Commerce Act, as amended, at 49 U.S.C. § 10501; rather it provides that the Board’s jurisdiction remains in place over railbanked lines for the duration of the interim trail use. *Therefore, pre-existing rights of a third party to use part of the rail corridor are not impacted by railbanking and interim trail use under the Trails Act. In other words, trail use under the Trails Act should not prevent a third party from continuing to use a portion of the rail right-of-way in the same manner it was used before the interim trail use on the line, so long as it does not interfere with the potential reactivation of rail service.*

Ex. 10 (STB’s General Counsel letter dated June 29, 2020, to Chief, Natural Resources Section, Environment and Natural Resources Division, United States Department of Justice) (Emphasis added).

As explained by the Board’s Counsel:

Sometimes questions arise about the way in which particular third parties use the rail right-of-way within a Trails Act trail. The STB, which is primarily an adjudicatory body, does not, on its own initiative, actively investigate the status of any structures or improvements within a railbanked corridor. It does, however, on occasion address disputes between third parties, trail sponsors, and/or railroads that are brought to it concerning whether rights and activities with a particular railbanked corridor interfere with or are preempted by the Board’s jurisdiction over rail transportation under federal law.

...

If a dispute concerning rights or activities within a railbanked corridor, including the presence of structures or improvements, is formally brought to

it in the future, the Board could, as it has done in the past, hold a proceeding to examine the facts and circumstances in the context of its existing precedent. *At the conclusion of such a proceeding, the Board could issue a decision resolving the dispute.*

Id at 10 (emphasis added). Such a decision is exactly what this Petition seeks.

Thus, while it is beyond question that the Board can address whether the Spencers' activities and improvements within the corridor interfere with the potential reactivation of rail transportation, the Board can also determine whether the trail easement issued because of the Board's decisions under the Trails Act is or is not an exclusive easement. The Board can determine whether easements created under the Trails Act go beyond building, managing and operating a recreational trail and whether, as the County insists, the easement is exclusive. And specifically, the Board can issue a declaratory order that King County does not have authority under the Trails Act as a result of a banked railroad easement or a new federal Trails Act easement to prohibit the Spencers from doing anything within the right of way on their land, regardless of the lack of interference with trail use, without the approval of, and payment to, King County.

II. While King County may own a railbanked railroad easement, the railroad easement is not active, and asserting uses incidental to a railroad easement, as if it is a railroad company, exceeds the scope of the easement banked by the Trails Act.

King County has taken the position in other litigation that it owns a railroad easement, to which the Spencers agree, *and* that it may currently exercise any rights incidental to that railroad easement, to which the Spencers disagree. The Board did not give King County a railroad easement. While Burlington Northern

issued a quitclaim deed that transferred whatever property rights it owned on this rail line, King County is not a railroad company, and is not free to utilize that railroad easement, absent approval to a railroad company to reactivate from the Board. If it seeks to become a railroad company and if the Board approves, then and only then can King County exercise rights under a railroad easement. That easement is “banked” and is not currently usable until further action by the Board.

This basic understanding of the railroad easement does not mean the railroad easement is unimportant. In the future, King County could transfer the railroad easement to a railroad company to reopen service after approval by the Board. But King County cannot pretend the County is a railroad company utilizing the right of way for railroad purposes and thereby prohibit the fee owner from using its own property under the notion that a railroad theoretically might prohibit such uses (even though the active predecessor railroad did not in this case). The County should not be allowed to further the charade that the County has exclusive railroad easement rights that it can exercise presently when those rights can only be exercised by a railroad company under the jurisdiction of and after approval by the Board. The Spencers seek a declaration that King County holds the railroad easement in abeyance during this period that the railroad use has been discontinued such that the County cannot utilize the railroad easement as authority for controlling use of the right of way.

This conclusion is also appropriate when reviewing the statutory language. The Trails Act, 16 U.S.C. § 1247(d), provides:

[I]f such interim use is *subject to restoration or reconstruction for railroad purposes*, such interim use shall not be treated, for purposes of any law or rule of law, *as an abandonment of the use of such rights-of-way for railroad purposes*.

Id. (emphasis added). To be sure that the Trails Act is preserving from abandonment the right to use the right of way for railroad purposes, but it is tied to restoration or reconstruction for railroad purposes. King County cannot exercise railroad easement rights unless the NITU is vacated, and railroad use is restored under this Board's approval. *See Sunflower Rails—Trails Conservancy*, 2017 WL 721688 at *3. *See also* 49 U.S.C. § 10901(a) (one cannot operate a railroad without Board approval).

In all fairness, King County received a ruling from the Ninth Circuit Court of Appeals in a case not involving the Spencers or the right of way on their land—and which ruling is therefore not binding on them—indicating King County possesses a railroad easement. *See Hornish*, 899 F.3d 680 (the quitclaim deed from TLC “conveyed to King County *both* the railroad's original, unabandoned easement for railroad purposes and the new easement for recreational trail purposes that the Trails Act had created.”) (emphasis in original). Nevertheless, the Ninth Circuit in *Hornish* did not conclude that rights under the railroad easement could be acted upon presently without re-establishing railroad use. That question is presented to the Board in this Petition. The Spencers contend that King County's railroad easement is “banked” or held in abeyance, pending reactivation and restoration of the rail line.

III. The Board may rule that the Spencers' uses in the right of way do not interfere with either future railroad use or the County's easement for a trail under the Trails Act.

As addressed above, the Board has exclusive jurisdiction over whether uses by the owner of the underlying land create interference with potential future railroad use. For the reasons discussed below, the Spencers' uses do not interfere with potential future railroad use. Nor do their uses interfere with the recreational trail easement given under the Trails Act.

A. The Spencers' raised garden bed and gravel parking area do not interfere with potential future railroad use.

As addressed above, the Spencers have a raised garden bed and gravel parking area on portions of their property burdened by the banked railroad easement and the active trail easement outside the area of use by the former railroad carrier and now the trail users. Neither a gravel parking area away from the railroad tracks, nor the Spencers' raised garden bed, could interfere with future railroad use—certainly as tacitly affirmed by the railroad's approval of the same—for four reasons. *See infra* at 16-17 and Exhibits 13-15.

First, a basic understanding of the functions of railroads does not suggest that having a gravel area within the right of way prevents any rail use whatsoever. Similarly, a planting bed for flowers or vegetables does not prevent a railroad from operating or exercising its full railroad functions.

Second, King County has already signed a settlement agreement applicable along the entire trail that allows property owners adjacent to the trail to reinstall

improvements removed during trail construction. *See* Ex. 9 (addressed *supra* at 5-6). That is all the Spencers have done.

Third, the railroad had historically sold 25 feet of one side of the railroad right of way in several instances. On nearby example is demonstrated in Ex. 11.⁵ This type of sale leaves the railroad only 25 feet from the centerline which confirms the railroad determined it did not need the full 100 feet of right of way to operate the railroad.

Fourth, the Spencers' use—the gravel parking area and raised garden bed—are not permanent. If railroad use were ever reestablished and a railroad needed the gravel parking area or the garden bed to be removed, the Spencers are willing to remove either of them and removal could be quick. While potential reactivation of a rail line is an important consideration, nothing the Spencers are doing is permanent in nature and the little they have done within the 100 foot right of way can easily be removed if circumstances called for removal for a railroad to fully operate. Hence, the Spencers' gravel parking area and raised garden bed, at most two feet in height, can be removed in a day of effort. They do not interfere with potential future rail use.

When looking at interference questions, this Board makes “a factual assessment of whether that action would have the effect of preventing or unreasonably interfering with rail transportation.” *Jie Ao and Xin Zhou*, Surface Transp. Bd.

⁵ When TLC owned the right of way, it also sold 25 feet off one side of a 100 foot right of way. *See* Ex. 12.

Docket No. FD 35539, 2012 WL 2047726, at *3 (Service Date: June 6, 2012) (Petitioner wanted to pursue an adverse possession claim of a strip of railbanked land). Because the request in *Jie Ao* required a transfer of ownership impacting potential rail operations, the Board denied the request. However, the Board ruled that a prescriptive easement could be acceptable because it would “not take railroad property outright.” *Id.* at 7.⁶ Certainly, the Spencers’ use of the right of way does not take railroad property outright.

B. The Spencers’ raised garden bed and gravel parking area do not interfere with the trail easement issued under the Trails Act.

As the interim trail manager, King County has authority pursuant to the trail easement to build and operate a trail. And the trail easement provides authority to operate the trail for trail purposes. The trail easement does not, however, provide authority to treat the property as if owned in fee and exclude the underlying landowners, like the Spencers, from uses that do not interfere with trail use.

Attached as Exhibit 13 is a copy of a photograph from the 2002 to 2005 timeframe pointing toward the north showing the Spencers’ raised garden bed on the left side and the trail on the right side. This picture was taken before King County placed gravel on the trail. Attached as Exhibit 14 is a copy of a photograph from January of 2025 showing the same area and pointing in the same direction. The Spencers’ raised garden bed is in the same location now as it was originally.

⁶ The Board followed the same analysis in *14500 Limited LLC*, Surface Transp. Bd. Docket No. FD 35788, 2014 WL 2608812 (Service Date: June 5, 2014). But in that case, the Board found that the prescriptive easement claim was an exclusive use claim that would deprive the railroad of land.

Attached as Exhibit 15 is a copy of a photograph from 2025 pointing to the south showing the Spencers' gravel parking area in the foreground and their raised garden bed in the background. These are the uses which King County complains about. These uses do not interfere with the trail.

Ultimately, "trail purposes" cannot be stretched to mean that King County has authority to preclude uses and minor improvements regardless of the lack of any conflict with trail use. King County has a trail easement, but that is an easement for a trail, and it does not authorize non-trail related restrictions on the fee property owners. The trail has been constructed, and King County has finished building the trail. The gravel parking area and raised garden bed are off the trail and in no way interfere with people using the trail for walking, running or bicycling.

The easement King County possesses for trail use comes from the Trails Act, a statute creating federal trails under federal law. The Supreme Court recently in *United States Forest Service v. Cowpasture River Preservation Association*, 590 U.S. 604 (2020), described the nature of easements under the Trails Act.

A right-of-way is a type of easement. In 1968, [when the Trails Act was enacted] as now, principles of property law defined a right-of-way easement as granting a nonowner a limited privilege to "use the land of another."

Id. at 613 (citations omitted).

The Court further said that: "easements grant only nonpossessory rights of use limited to the purposes specified in the easement agreement." *Id.* (citation omitted). "Courts at the time of the Trails Act's enactment acknowledged that easement grant only nonpossessory rights of use limited to the purposes specified." *Id.* The Court

further added: “because an easement does not dispossess the original owner, a possessor and an easement holder can *simultaneously utilize the same parcel of land*.” *Id.* (citation and quotation omitted; emphasis added). “Stated more plainly, easements are not land, they merely burden land that continues to be owned by someone else.” *Id.* at 613-14 (citation omitted).

The Spencers understand, of course, that the County has authority to operate the trail for trail purposes. But here the County has overstepped its trail operator authority in seeking to preclude use by the underlying fee owner that does not interfere with trail use. The County completely ignores the *Cowpasture* decision as to the non-exclusivity of a trail easement under the Trails Act.

The key in cases before the Board on interference with potential railroad use was whether the private claim seeks to dispossess the railroad interest. In contrast, as summarized by the Board: “a property interest permitting access to portions of a railroad ROW, unless exclusive, does not typically unreasonably interfere with the present or future use of the property for activities that are part of railroad transportation.” *Jie Ao and Xin Zhou*, 2012 WL 2047726, at *3. The same analysis should apply to this trail easement under the Trails Act. Uses which do not interfere with the operation of a trail should be allowed.

The following facts provide substantial evidence of noninterference:

- The permanent paved trail was constructed without conflict with the use of the permanent trail for recreational purposes.
- The Spencers’ improvements and uses, while within the right of way, are off the trail.
- A Settlement Agreement shows that King County has agreed that minor improvements off of the trail footprint do not interfere with the trail.

- Gravel and a raised garden bed do not create conflicts with trail uses

These facts simply do not support a conclusion that the Spencers' uses conflict with the County's trail easement or railroad easement. Respectfully, the Board should issue a declaratory order accordingly to resolve the present controversy.

Declaratory relief requested

The Spencers seek a declaration that the County's banked railroad easement is held in abeyance or inactive, precluding it from asserting present rights to exercise a railroad easement and a declaration that the Spencers' described activities and improvements in the right of way do not interfere with trail use or potential future railroad use. Further, the evidence supports holding a hearing for the parties to make full presentations on all facts and arguments.

Respectfully submitted this 30th day of January 2025, by

STEPHENS & KLINGE LLP

/s/ Richard M. Stephens

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

***THE BURLINGTON NORTHERN AND SANTA FE RY. CO.—
ABANDONMENT EXEMPTION—IN KING COUNTY, WA***

STB DOCKET NO. AB-6 (Sub-No. 380X)

RAYMOND SPENCER AND LAEL SPENCER

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EXHIBITS 1 THROUGH 15 TO PETITION FOR DECLARATORY ORDERS

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*Attorneys for Petitioners Raymond Spencer
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Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 1

Name The Land Conservance of Seattle

Address 1150 19th St.

City, State, Zip Seattle, WA 98112

COMMONWEALTH
LAND TITLE INSURANCE COMPANY
OF PHILADELPHIA

CW C8021-2

21-

Document Title(s):

1. Quit Claim Deed
2. _____

Reference Number(s) of Documents assigned or released:

(Additional numbers on page _____ of document)

Grantor(s): (Last name first, then first name and initials)

1. The Burlington Northern and Santa Fe Railway Company
2. _____
3. Additional names on page _____ of document

Grantee(s): (Last name first, then first name and initials)

1. The Land Conservancy of Seattle and King County
2. _____
3. Additional names on page _____ of document

Legal Description: (abbreviated: i.e., lot, block, plat or section, township, range)

Portion of the Railway Company's 100 foot wide Branch line right of way, Section 12, Township 25, N. Range 5 East.

(Additional legal description on page _____ of document)

Assessor's Property Tax Parcel/Account Number:

172406-9007-01, 292506-9007-06, 292506-9008-005, 2925069036-01,
162406-9017-00

(Additional account numbers on page _____ of document)

9704280573

570-028-0573 09:43:00 AM KING COUNTY RECORDS 014 JWA

WHEN RECORDED MAIL TO:

**THE LAND CONSERVANCY OF
SEATTLE AND KING COUNTY**
1150 19TH Street
Seattle, Washington 98112

RECORDED AT THE REQUEST OF:

QUITCLAIM DEED

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, a Delaware corporation, Grantor, of 2650 Lou Menk Drive, Fort Worth, Texas 76131-2830, hereinafter called "Grantor", for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, in hand paid, conveys and quitclaims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to **THE LAND CONSERVANCY OF SEATTLE AND KING COUNTY**, a non-profit tax exempt corporation organized and existing under the laws of the State of Washington, of 1150 19th Street, Seattle, Washington 98112, hereinafter called "Grantee", all its right, title and interest, if any, in the rail line and rail line corridor situate between Milepost 7.30 near Redmond and Milepost 19.75 near Issaquah, King County, State of Washington, hereinafter called "Property", together with all after acquired title of Grantor therein, described as follows:

Lot, Block, Plat, or Section, Township, and Range more particularly described in Exhibit "A", consisting of eight (8) page(s), attached hereto and made a part hereof.

SUBJECT, however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise.

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

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RESERVING, unto Grantor, its successors and assigns, a non-exclusive, permanent easement for construction, reconstruction, maintenance, use and/or operation of one or more underground pipelines or fiber optic communication lines, facilities and appurtenances in, under, across, along and through all or any portion of the Property herein to be conveyed, including the right for Grantor, or any of its licensee(s), to enter, disturb the surface, and occupy the Property herein to be conveyed for purposes of constructing, reconstructing, maintaining, using and/or operating one or more pipelines or fiber optics communication lines, facilities and appurtenances, in, under, across, along and through all or any portion of the Property herein to be conveyed; provided however, that Grantor shall notify Grantee in advance of any such entry, and shall enter and occupy such Property in a manner which does not materially interfere with Grantee's use of such Property. Any entity exercising a right under this reservation shall indemnify and hold harmless (including from court costs and attorney's fees) Grantee and its assigns for personal injury or damage to property, related to such exercise and caused by such user's sole negligence. Any right exercised under this reservation shall be compatible with, and not unduly burden the use of the right-of-way for its intended purposes.

GRANTEE has been allowed to make an inspection of the Property and has knowledge as to the past use of the Property. Based upon this inspection and knowledge, **GRANTEE** is aware of the condition of the Property and **GRANTEE ACKNOWLEDGES THAT GRANTEE IS PURCHASING THE PROPERTY IN AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS AND THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM GRANTOR AS TO ANY MATTERS CONCERNING THE PROPERTY. GRANTEE SHALL BE RESPONSIBLE FOR ALL POST-CLOSING ENVIRONMENTAL CONDITIONS AND ANY PRE-EXISTING CONDITIONS THAT ARE MADE KNOWN TO GRANTEE OR THAT SHOULD HAVE BEEN DISCOVERABLE UPON CONDUCTING A PHASE I SURVEY. GRANTOR SHALL BE RESPONSIBLE FOR LATENT PRE-EXISTING CONDITIONS THAT (i) COULD NOT HAVE BEEN REASONABLY BEEN DISCOVERED UPON CONDUCTING A COMPETENT PHASE I SURVEY PRIOR TO CLOSING; OR (ii) WERE THE RESULT OF INTENTIONAL RELEASES KNOWN TO GRANTOR AND NOT DISCLOSED TO GRANTEE PRIOR TO CLOSING.**

The term "Environmental Law" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law.

The term "Hazardous Substance" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated.

By acceptance of this deed, Grantee agrees to and does hereby release Grantor from any claims for damages, costs, attorneys fees or other claims made by adjoining or underlying

landowners to the properties covered by this conveyance and indemnify Grantor pursuant to paragraph 7 of the Offer to Purchase Agreement, between Grantor and Grantee, dated April 15, 1997.

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

IN WITNESS WHEREOF, the said Grantor caused this instrument to be signed by its authorized representative, attested by its Assistant Secretary, and its corporate seal to be affixed hereto on the 23rd day of April, 1997.

**THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY**

By:

James J. O'Neil
James J. O'Neil

Vice President Property & Facility
Management

ATTEST:

By:

Margaret R. Aclin

Margaret R. Aclin
Assistant Secretary



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ACCEPTED:

THE LAND CONSERVANCY OF
SEATTLE AND KING COUNTY

By: Carol James / V.P.
Name: CAROL JAMES
Title: VICE PRESIDENT

ATTEST:

By: [Signature]
Name: Carol Hinkley
Title: LRO/Exec Dir



STATE OF WASHINGTON

§
§ ss.
§

COUNTY OF KING

On this 25 day of APRIL, 1997, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared

CAROL JAMES and Ed
to me known to be the VICE PRESIDENT and

respectively, of The Land Conservancy of Seattle and King County, a non-profit tax-exempt corporation organized and existing under the laws of the State of Washington that executed the foregoing instrument, and acknowledged the 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 they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

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

Erin Duggan
Notary Public in and for the

State of Washington

Residing at: Seattle

My appointment expires: 4-29-99

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STATE OF TEXAS

§

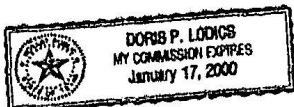
§ ss.

COUNTY OF TARRANT

§

On this 23rd day of April, 1997, before me, the undersigned, a Notary Public in and for the State of Texas, duly commissioned and sworn, personally appeared James J. O'Neil and Margaret R. Aclin, to me known to be the Vice President, Property & Facility Management and Assistant Secretary, respectively, of The Burlington Northern and Santa Fe Railway Company, the corporation that executed the foregoing instrument, and acknowledged the 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 they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

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



Doris P. Lodics
Notary Public in and for the State of Texas

Residing at: Fort Worth, Texas

My appointment expires: 1-17-2000

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FORM APPROVED BY LAW

EXHIBIT "A"

Quitclaim Deed from The Burlington Northern and Santa Fe Railway Company to The Land Conservancy of Seattle and King County, dated April 23, 1997, Pages 1 through 8.

All that portion of The Burlington Northern and Santa Fe Railway Company's (formerly Northern Pacific Railway Company) Snoqualmie Branch Line right of way, varying in width on each side of said Railway Company's Main Track centerline, as now located and constructed between Redmond (Milepost 7.3) to Issaquah (Milepost 19.75), King County Washington, more particularly described as follows, to-wit:

All that portion of said Railway Company's 100.0 foot wide Branch line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the S $\frac{1}{4}$ NE $\frac{1}{4}$ and the E $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 12, Township 25 North, Range 5 East, Government Lots 3 and 4 of Section 7, and Government Lots 1, 2, 3, and 4 of Section 18, all in Township 25 North, Range 6 East, bounded on the Northwest by the West line of said S $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12, Township 25 North, Range 5 East, and bounded on the South by the South line of said Government Lot 4 of Section 18, Township 25 North, Range 6 East, also,

All that portion of said Railway Company's 50.0 foot wide Branch Line right of way, being 25.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 5 of said Section 18, and Government Lot 1 of Section 19, all in Township 25 North, Range 6 East, bounded on the North by the North line of said Government Lot 5 of Section 18, and bounded on the South by the South line of said Government Lot 1 of Section 19, also,

All that portion of said Railway Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 2 of said Section 19, Government Lots 1, 2, 3, 4 of Section 20 and Government Lots 1 and 2 of Section 29, all in Township 25 North, Range 6 East, bounded on the North by the North line of said Government Lot 2 of Section 19, and bounded on the South by the South line of said Government Lot 2 of Section 29, **EXCEPTING THEREFROM**, that portion described in Quitclaim Deed from Burlington Northern Railroad Company to Donald and Eleanor Stahl dated April 19, 1994, being the Westerly 25.0 feet of said 100.0 foot wide right of way, lying between two lines drawn concentric with and distant, respectively, 25.0 feet and 50.0 feet Westerly, as measured radially from said Main Track centerline, bounded by two lines drawn parallel with and distant, respectively, 900.0 feet and 1,000.0 feet North, as measured at right angles from the South line of said Government Lot 2 of Section 29; also,

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All of Lots 1 through 68, inclusive, Block 9, according to the plat of the Town of Inglewood, as recorded in Volume 3 of Plat Books, page 169, records of King County, Washington, lying Westerly of a line drawn parallel with and 50.0 feet Easterly, as measured at right angles from said Main Track centerline; also,

Those portions of Lots 19, 20, 21, 22, 23 and 24, Block 6, according to the plat of the Town of Inglewood, as recorded in Volume 3 of Plat Books, page 169, records of King County, Washington, lying Westerly of a line drawn concentric with and distant 50.0 feet Easterly, as measured radially from said Main Track centerline; also,

Those portions of Lots 1 through 22, inclusive, Block 4, Lots 1 through 22, inclusive, Block 5, and Lots 11 through 22, inclusive, Block 3, all according to the plat of the Town of Inglewood, as recorded in Volume 3 of Plat Books, page 169, records of King County, Washington, lying Easterly of a line drawn parallel and concentric with and distant 50.0 feet Westerly, as measured at right angles and radially from said Main Track centerline; also,

Those portions of Lots 1, 2 and 8, Block 3, according to said plat of the Town of Inglewood, King County, Washington, lying Easterly of a line drawn parallel and concentric with and distant 50.0 feet Westerly, as measured at right angles and radially from said Main Track centerline; also,

Those portions of Lots 9, 10, 12, 13, 16, 17, 18, 19, 20, 21 and 22, Block 2, according to said plat of the Town of Inglewood, King County, Washington, lying Easterly of a line drawn parallel and concentric with and distant 50.0 feet Westerly, as measured at right angles and radially from said Main Track centerline; also,

All of Lots 1 through 41, Block 14, according to said plat of the Town of Inglewood, King County, Washington, EXCEPTING THEREFROM, those portions of said Lots 26 through 41 lying Easterly of a line drawn parallel and concentric with and distant 50.0 feet Easterly, as measured at right angles and radially from said Main Track centerline, ALSO, EXCEPTING THEREFROM, those portions of said Lots 9, 10 and 11, lying Westerly of a line drawn concentric with and distant 25.0 feet Westerly, as measured radially from said Main Track centerline, ALSO, EXCEPTING THEREFROM, those portions of Lots 18 through 27 lying Westerly of a line drawn concentric with and distant 25.0 feet Westerly, as measured radially from said Main Track centerline, ALSO, EXCEPTING THEREFROM, those portions of Lots 28 and 29 sold to John and Elizabeth Hayden by Quitclaim Deed filed for record as King County Recording No. 9212311137 in and for said County, ALSO, EXCEPTING THEREFROM, those portions of Lots 24 and 25, lying Easterly of a line drawn

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concentric with and distant 25.0 feet Easterly, as measured radially from said Main Track centerline; also,

Those portions of Lots 0 through 7, inclusive, and Lots 11 through 16, inclusive, Block 1, according to said plat of the Town of Inglewood, King County, Washington, lying Easterly of a line drawn parallel and concentric with and distant 50.0 feet Westerly, as measured at right angles and radially from said Main Track centerline; also,

That portion, if any, of said Railway Company's Branch Line right of way lying Westerly of Lots 1 through 68, Block 9, Lots 19 through 24, Block 6, and Lots 1 through 41, Block 14; and lying Easterly of Lots 1 through 22, Block 4, Lots 1 through 22, Block 5, Lots 1 through 22, Block 3, Lots 1 through 22, Block 2, and Lots 0 through 20, Block 1, Town of Inglewood, as recorded in Volume 3 of Plats, page 169, records of King County, Washington, bounded on the North and South by the North and South lines of said Town of Inglewood; also

All that portion of said Railway Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across Government Lots 1, 2, 3 and 4 and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Government Lot 2 of Section 31, all in Township 25 North, Range 6 East, and Government Lots 1, 2 and 3 and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6, Township 24 North, Range 6 East, bounded on the North by the North line of said Section 32, Township 25 North, Range 6 East, and bounded on the South by the South line of said Government Lot 3 of Section 6, Township 24 North, Range 6 East, **EXCEPTING THEREFROM**, that portion sold to Arthur and Sallyann Holmboe by Quitclaim Deed dated August 17, 1994, described as follows:

Commencing at the Northeast corner of said Government Lot 1 of Section 32; thence West along the North line of said Government Lot 1 a distance of 91.75 feet to the Westerly line of said 100.0 foot wide Branch Line right of way; thence South 06° 23' 29" West along said Westerly line 932.07 feet to the True Point of Beginning; thence continuing South 06° 23' 29" West along said Westerly line 143.20 feet; thence South 89° 17' 01" East 25.12 feet to a point being 25.0 feet Westerly, as measured at right angles from said Main Track centerline, thence North 06° 23' 29" East 143.20 feet; thence North 89° 17' 01" West 25.12 feet to the True Point of Beginning.

ALSO, EXCEPTING THEREFROM, that portion of the hereinabove described 100.0 foot wide Branch Line right of way, situated in said Government Lot 3 of Section 6, Township 24 North, Range 6 East, sold to Patrick and Vicki Burns by Quitclaim Deed filed for record September 18, 1996, as King County Recording No. 9701221277 described as follows:

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Commencing at an iron stake at the intersection of the centerline of a private road with the shoreline of Lake Sammamish as shown on blueprint filed with deed recorded under King County Recording No. 1748265, said iron stake marking the Northwest corner of a tract of land conveyed to W. C. Dahl by deed recorded under King County Recording No. 2808278; thence South $61^{\circ} 02'$ East to the Northwestern line of the hereinabove described 100.0 foot wide Branch Line right of way; thence Southwesterly along said Northwestern line on a curve concave to the Southeast having a radius of 766.78 feet a distance of 51.27 feet to the True Point of Beginning; thence continuing Southwesterly along said Northwestern line 50.39 feet; thence South $61^{\circ} 02'$ East 25 feet, more or less, to a point being 25.0 feet Northwesternly, as measured radially from said Main Track centerline; thence Northeasterly along a curve concave to the Southeast having a radius of 741.78 feet and concentric with said Main Track centerline to a point which bears South $61^{\circ} 02'$ East from the True Point of Beginning; thence North $61^{\circ} 02'$ West 25 feet, more or less, to the True Point of Beginning.

ALSO,

All that portion of said Railway Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 4 of said Section 6, Township 24 North, Range 6 East, bounded on the North and South by the North and South lines of said Government Lot 4; also,

All that portion of said Railway Company's 50.0 foot wide Branch Line right of way, being 25.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 1 of Section 7, Township 24 North, Range 6 East, bounded on the North and South by the North and South lines of said Government Lot 1; also,

All that portion of said Railway Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 2 of said Section 7, Township 24 North, Range 6 East, bounded on the North by the North line of said Government Lot 2, and bounded on the Southeast by the hereinafter described "Line A", EXCEPTING THEREFROM, the Westerly 30.0 feet of said 100.0 foot wide Branch Line right of way across Tract 6, Lake Sammamish Waterfront Tracts to Monohan, according to the plat thereof, lying between two lines drawn concentric with and distant, respectively, 20.0 feet and 50.0 feet Westerly, as measured radially from said Main Track centerline, ALSO, EXCEPTING THEREFROM, the Westerly 30.0 feet of said 100.0 foot wide Branch Line right of way across Tracts 9 and 10, Lake Sammamish Waterfront Tracts to Monohan, according to the plat thereof, lying between two lines drawn parallel with and distant, respectively, 20.0

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feet and 50.0 feet Westerly, as measured at right angles from said Main Track centerline, **ALSO, EXCEPTING THEREFROM**, the Southwesterly 25.0 feet and the Northeasterly 25.0 feet of said 100.0 foot wide Branch Line right of way, lying between lines drawn parallel and concentric with and distant, respectively, 25.0 feet and 50.0 feet from and on each side of said Main Track centerline, lying within the following described tract of land:

Commencing at the East quarter corner of said Section 7; thence South 00° 10' East along the East line of said Section 7 a distance of 74.4 feet to the present meander post on the shore of Lake Sammamish; thence North 79° 51' West 490.0 feet; thence North 68° 30' West 177.4 feet; thence North 54° 45' West 298.6 feet; thence North 52° 23' West 208.4 feet to a post set on the shore of Lake Sammamish; thence North 43° 33' West 187.68 feet; thence North 48° 00' East 40.60 feet to a point on the Southwesterly line of the hereinabove described 100.0 foot wide Branch Line right of way and the True Point of Beginning; thence continuing North 48° 00' East 102.10 feet to a point on the Northeasterly line of the hereinabove described 100.0 foot wide Branch Line right of way; thence Northwesterly along said Northeasterly right of way line on a curve concave to the Northeast having a radius of 744.27 feet, central angle of 02° 45' 57" a distance of 35.93 feet; thence North 26° 48' 39" West, tangent to said curve, 100.07 feet; thence South 48° 00' West 103.62 feet to said Southwesterly right of way line; thence South 26° 48' 39" East along said Southwesterly right of way line 72.92 feet to a point of curve; thence Southeasterly along a tangential curve concave to the Northeast having a radius of 844.27 feet a distance of 62.72 feet to the True Point of Beginning.

"Line A" Description

Commencing at the East quarter corner of said Section 7; thence South 00° 10' East along the East line of said Section 7 a distance of 74.4 feet to the present meander post on the shore of Lake Sammamish; thence North 79° 51' West 490.0 feet; thence North 68° 30' West 177.4 feet; thence North 54° 45' West 147.7 feet to the True Point of Beginning; thence North 10° 35' East to the intersection with the Southerly line of the "Issaquah to Redmond" County Road and there terminating.

ALSO,

All of said Railway Company's Branch Line right of way, varying in width on each side of said Main Track centerline upon, over and across said Government Lot 2 of Section 7, Township 24 North, Range 6 East, described as follows:

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Beginning at the intersection with a line drawn concentric with and distant 50.0 feet Northeastly, as measured radially from said Main Track centerline with the hereinabove described "Line A"; thence Southeastly along the last described concentric line 72 feet, more or less, to the intersection with a line drawn parallel with and distant 70.0 feet Easterly, as measured at right angles from said "Line A"; thence South 10° 35' West along the last described parallel line to a point being 25.0 feet Northeastly, as measured radially from said Main Track centerline; thence Southeastly along a line drawn concentric with and 25.0 feet Northeastly, as measured radially from said Main Track centerline 145 feet, more or less, to the intersection with the hereinafter described "Line B"; thence North 10° 35' East along said hereinafter described "Line B" to a point being 50.0 feet Northeastly, as measured radially from said Main Track centerline; thence Southeastly along a line drawn concentric with and 50.0 feet Northeastly, as measured radially from said Main Track centerline 19 feet, more or less, to the intersection with a line drawn parallel with and distant 54.79 feet Westerly, as measured at right angles from the hereinafter described "Line C"; thence South 12° 35' 40" West along the last described parallel line 18 feet, more or less, to a point being 36.0 feet Northeastly, as measured radially from said Main Track centerline; thence Southeastly along a line drawn concentric with and 36.0 feet Northeastly, as measured radially from said Main Track centerline 52 feet, more or less, to the intersection with the hereinafter described "Line C"; thence North 12° 35' 40" East along said "Line C" to a point being 50.0 feet Northeastly, as measured radially from said Main Track centerline; thence Southeastly along a line drawn concentric and parallel with and 50.0 feet Northeastly, as measured radially and at right angles from said Main Track centerline 490 feet, more or less, to the East line of said Section 7; thence South 00° 10' East along said East line 68 feet, more or less, to a point being 15.0 feet Southerly, as measured radially from said Main Track centerline; thence Westerly along a line drawn concentric and parallel with and 15.0 feet Southerly, as measured radially and at right angles from said Main Track centerline 221 feet, more or less, to the intersection with the hereinafter described "Line D"; thence South 10° 35' West along the hereinafter described "Line D" to a point being 50.0 feet Southerly, as measured at right angles from said Main Track centerline; thence Westerly along a line drawn parallel and concentric with and distant 50.0 feet Southerly, as measured at right angles and radially from said Main Track centerline 280 feet, more or less, to the intersection with the hereinafter described "Line C"; thence North 12° 35' 40" East along said hereinafter described "Line C" to a point being 18.0 feet Southerly, as measured radially from said Main Track centerline; thence Westerly along a line drawn concentric with said Main Track centerline 54 feet, more or less, to the intersection with a line drawn parallel with and distant 54.79 feet Westerly, as measured at right angles from the hereinafter described "Line C"; thence South 12° 35' 40" West along the last described parallel line to a point being 50.0 feet Southwesterly, as measured radially from said Main Track centerline; thence Westerly along a line drawn concentric with said Main

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Track centerline 18 feet, more or less, to the intersection with the hereinafter described "Line B"; thence North 10° 35' East along the hereinafter described "Line B" to the intersection with a line drawn concentric with and distant 15.0 feet Southwesterly, as measured radially from said Main Track centerline; thence Northwesterly along the last described concentric line 220 feet, more or less, to the intersection with the hereinabove described "Line A"; thence North 10° 35' East along said "Line A" 68 feet, more or less, to the Point of Beginning.

"Line B" Description

Commencing at the East quarter corner of said Section 7; thence South 00° 10' East along the East line of said Section 7 a distance of 74.4 feet to the present meander post on the shore of Lake Sammamish; thence North 79° 51' West 490.0 feet; thence North 68° 30' West 97.1 feet to the True Point of Beginning; thence North 10° 35' East to the intersection with the Southerly line of the "Issaquah to Redmond" County Road and there terminating.

"Line C" Description

Commencing at the East quarter corner of said Section 7; thence South 00° 10' East along the East line of said Section 7 a distance of 74.4 feet to the present meander post on the shore of Lake Sammamish; thence North 79° 51' West 490.0 feet; thence North 68° 30' West 30.81 feet to the True Point of Beginning; thence North 12° 35' 40" East 189.7 feet to the intersection with the Southerly line of the "Issaquah to Redmond" County Road and there terminating.

"Line D" Description

Commencing at the East quarter corner of said Section 7; thence South 00° 10' East along the East line of said Section 7 a distance of 74.4 feet to the present meander post on the shore of Lake Sammamish; thence North 79° 51' West 237.1 feet to the True Point of Beginning; thence North 10° 35' East 100 feet, more or less, to the intersection with the Southerly line of the "Issaquah to Redmond" County Road and there terminating.

ALSO,

All that portion of said Railway Company's 200.0 foot wide Branch line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 1 and the SW¼SW¼NW¼ of Section 8, Township 24 North, Range 6 East, bounded on the Northwest by the West lines of said Government Lot 1 and the SW¼SW¼NW¼, and bounded on the Southeast by the East line of said Government Lot 1; also,

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All that portion of said Railway Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 2 of said Section 8, Government Lots 1, 2 and 3 of Section 17, Government Lots 1 and 2 and the E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 16, the E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the E $\frac{1}{4}$ of Section 21, the E $\frac{1}{2}$ E $\frac{1}{2}$ of Section 28, the W $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 27, and the N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 34, all in Township 24 North, Range 6 East, bounded on the Northwest by the West line of said Government Lot 2 of Section 8, and bounded on the South by the South line of Mill Street in the City of Issaquah, Washington, said Main Track centerline being 404.1 feet East of the Southwest corner of said Section 27; also,

An additional parcel of land lying contiguous with and Westerly of the hereinabove described 100.0 foot wide Branch Line right of way, situated in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 27, Township 24 North, Range 6 East, described as follows:

Beginning at the point of intersection of the North line of Mill Street with the East line of Front Street in the Town of Issaquah, Washington, said point being 30.0 feet North and 30.0 feet East of the Southwest corner of said SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 27; thence South 87° 40' 12" East along the North line of Mill Street 60 feet, more or less, to a point being 50.0 feet Southeasterly, as measured radially from said Railway Company's Old Mine Track centerline (now removed), as originally located and constructed; thence Northeasterly along a line drawn concentric with said Old Mine Track centerline, along a curve concave to the Northwest having a radius of 624 feet, more or less, a distance of 150 feet, more or less, to the intersection with a line drawn parallel with and distant 150.0 feet North of the South line of said Section 27; thence South 87° 40' 12" East along the last described parallel line 135 feet, more or less, to the Westerly line of the hereinabove described 100.0 foot wide Branch Line right of way; thence North 14° 59' 12" West along said Westerly right of way line 580 feet, more or less, to a point being 50.0 feet Southwesterly, as measured at right angles from said Main Track centerline at a point being 756.4 feet Northwesterly, as measured along said Main Track centerline from the South line of said Section 27; thence Southeasterly, Southerly and Southwesterly along a line drawn concentric with and distant 50.0 feet Westerly, as measured radially from said Old Mine Track centerline, and along the Easterly lines of Lots 6 through 14, inclusive, Schmidt's 1st Addition to Issaquah, Washington, a distance of 525 feet, more or less, to the most Northerly corner of that certain parcel of land described in Quitclaim Deed from Burlington Northern Railroad Company to Nathan and Jean Thomas dated March 2, 1984; thence South 60° 15' 51" East along the Northeasterly line of said Thomas parcel 47.71 feet; thence South 32° 38' 18" West 74.0 feet; thence South 38° 03' 24" West 80 feet, more or less, to the East line of Front Street; thence South along said East line 16 feet, more or less, to the True Point of Beginning.

Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 2

King County
Water and Lands Resources Division
Office of Open Space
506 Second Avenue, Suite 708
Seattle, WA 98104

QUITCLAIM DEED

Grantor [Seller]: The Land Conservancy of Seattle and King County, a non-profit corporation

Grantee [Buyer]: King County, a political subdivision of the State of Washington

Legal Description (abbreviated): Portions of Section 12, T.25N., R.5E.; Sections 7, 18, 19, 20, 29, 31 and 32, T.25N., R.6E.; blocks 1, 2, 3, 4, 5, 6, 9 and 14, Town of Inglewood, Vol. 3, Pg. 169; Sections 6, 7, 8, 16, 17, 21 and 28, T.24N., R.6E.; Tr. 15-19, Mason's Lakeside, Vol. 37, Pg. 55

Additional legal(s) on: Pages 5 through 12

Assessor's Tax Parcel ID#: 202506-9023-05, 122505-9265-03, 292506-9007-06, 072506-9126-08, 212406-9020-08, 082406-9021-04, 272406-9203-01, 172406-9007-01, 182506-9015-09, 062406-9013-06, 322506-9015-01, 162406-9017-00.

Project [Area]: East Lake Sammamish Trail

THE LAND CONSERVANCY OF SEATTLE AND KING COUNTY, a non-profit corporation organized and existing under the laws of the State of Washington, with its principal office at 615 Second, Avenue, Suite 525, Seattle, Washington 98104, hereinafter called "Grantor," for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, in hand paid, conveys and quitclaims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors or assigns, to **KING COUNTY, WASHINGTON**, a political subdivision of the State of Washington with its principal office at 506 Second Avenue, Seattle, Washington 98104, hereinafter called "Grantee," all its right, title and interest, if any, in the rail line and rail line corridor situate between Milepost 7.30 near Redmond and Milepost 18.2 near Issaquah, King County, State of Washington, together with all after acquired title of Grantor therein, described more particularly in Exhibit "A", consisting of eight pages, attached hereto and made a part hereof.

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SUBJECT, however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise.

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

IN WITNESS WHEREOF, the said Grantor caused this instrument to be signed by its authorized representative.



THE LAND CONSERVANCY OF
SEATTLE AND KING COUNTY

By: Carol James
Carol James
President

STATE OF WASHINGTON)

) ss.

COUNTY OF KING)

On this 18th day of SEPTEMBER, 1998, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared CAROL JAMES, to me known to be the PRESIDENT of The Land Conservancy of Seattle and King County, a non-profit tax-exempt corporation organized and existing under the laws of the State of Washington that executed the foregoing instrument, and acknowledged the 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 she was authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

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

Carolyn L. Tipler
(Signature)
CAROLYN L. TIPLER
(Typed or printed name)

NOTARY PUBLIC in and for the State
of Washington, residing at SEATTLE
My appointment expires 06-09-2001

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ACCEPTED:

KING COUNTY, WASHINGTON

By: [Signature]
Name: RONALD C SIMS
Title: KING COUNTY EXECUTIVE

STATE OF WASHINGTON)
) ss.
COUNTY OF)

On this 18th day of , before me personally appeared , to me known to be the Ronald C. Sims of KING COUNTY, WASHINGTON, the political subdivision that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that _____ was authorized to execute said instrument.

In witness whereof I have hereunder set my hand and affixed my official seal the day and year first above written.



[Signature]
(Signature)
Faith A. Holsie
(Typed or printed name)
NOTARY PUBLIC in and for the State
of Washington, residing at Bellevue WA
My appointment expires Aug 19 2001

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EXHIBIT "A"

Quitclaim Deed from The Land Conservancy of Seattle & King County to King County, Washington

All that portion of The Burlington Northern and Santa Fe Railway Company's (formerly Northern Pacific Railway Company) Snoqualmie Branch Line right of way, varying in width on each side of said Railway Company's Main Track centerline, as now located and constructed between Redmond (Milepost 7.3) to Issaquah (Milepost 18.2), King County, Washington, more particularly described as follows, to-wit:

All that portion of said Railway Company's 100.0 foot wide Branch line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across the S½NE¼ and the E½SE¼ of Section 12, Township 25 North, Range 5 East, Government Lots 3 and 4 of Section 7, and Government Lots 1, 2, 3, and 4 of Section 18, all in Township 25 North, Range 6 East, bounded on the Northwest by the West line of said S½NE¼ of Section 12, Township 25 North, Range 5 East, and bounded on the South by the South line of said Government Lot 4 of Section 18, Township 25 North, Range 6 East, also,

All that portion of said Railway Company's 50.0 foot wide Branch Line right of way, being 25.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 5 of said Section 18, and Government Lot 1 of Section 19, all in Township 25 North, Range 6 East, bounded on the North by the North line of said Government Lot 5 of Section 18, and bounded on the South by the South line of said Government Lot 1 of Section 19, also,

All that portion of said Railway Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 2 of said Section 19, Government Lots 1, 2, 3, 4 of Section 20 and Government Lots 1 and 2 of Section 29, all in Township 25 North, Range 6 East, bounded on the North by the North line of said Government Lot 2 of Section 19, and bounded on the South by the South line of said Government Lot 2 of Section 29, EXCEPTING THEREFROM, that portion described in Quitclaim Deed from Burlington Northern Railroad Company to Donald and Eleanor Stahl dated April 19, 1994, being the Westerly 25.0 feet of said 100.0 foot wide right of way, lying between two lines drawn concentric with and distant, respectively, 25.0 feet and 50.0 feet Westerly, as measured radially from said Main Track centerline, bounded by two lines drawn parallel with and distant, respectively, 900.0 feet and 1,000.0 feet North, as measured at right angles from the South line of said Government Lot 2 of Section 29; ALSO EXCEPTING THEREFROM, that portion of Government Lot 4 in Section 20, Township 25 North, Range 6 East, described as follows: beginning at the northeast corner of said Government Lot 4, thence North 89°18'33" West, along the north line of said Government Lot 4, a distance of 1200.34 feet to a point of intersection with the west margin of the Northern Pacific Railroad right of way; thence South 26°23'06" east, along

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said west margin, 249.98 feet to the true point of beginning; thence continuing South 26°23'06" East, along said west margin 60 feet; thence North 63° 36' 54" east, 25 feet; thence North 26°23'06" West, 60 feet, to a point which bears North 63°36'54" east from the true point of beginning; thence South 63°36'54" west to the true point of beginning; ALSO EXCEPTING THEREFROM, that portion of Government Lot 4 in Section 20, Township 25 North, Range 6 East, described as follows: beginning at the northeast corner of said Government Lot 4, thence north 89° 18' 33" west, along the north line of said Government Lot 4, a distance of 1200.34 feet to a point of intersection with the west margin of the Northern Pacific Railroad right of way; thence South 26° 23' 06" east, along said west margin, 309.98 feet to the true point of beginning; thence continuing South 26°23'06" East, along said west margin 84.95 feet; thence North 63° 36' 54" east, 25 feet; thence North 26°23'06" West, 84.95 feet, to a point which bears North 63°36'54" east from the true point of beginning; thence South 63°36'54" west to the true point of beginning; also,

All of Lots 1 through 68, inclusive, Block 9, according to the plat of the Town of Inglewood, as recorded in Volume 3 of Plat Books, page 169, records of King County, Washington, lying Westerly of a line drawn parallel with and 50.0 feet Easterly, as measured at right angles from said Main Track centerline; also,

Those portions of Lots 19, 20, 21, 22, 23 and 24, Block 6, according to the plat of the Town of Inglewood, as recorded in Volume 3 of Plat Books, page 169, records of King County, Washington, lying Westerly of a line drawn concentric with and distant 50.0 feet Easterly, as measured radially from said Main Track centerline; also,

Those portions of Lots 1 through 22, inclusive, Block 4, Lots 1 through 22, inclusive, Block 5, and Lots 11 through 22, inclusive, Block 3, all according to the plat of the Town of Inglewood, as recorded in Volume 3 of Plat Books, page 169, records of King County, Washington, lying Easterly of a line drawn parallel and concentric with and distant 50.0 feet Westerly, as measured at right angles and radially from said Main Track centerline; also,

Those portions of Lots 1, 2 and 8, Block 3, according to said plat of the Town of Inglewood, King County, Washington, lying Easterly of a line drawn parallel and concentric with and distant 50.0 feet Westerly, as measured at right angles and radially from said Main Track centerline; also,

Those portions of Lots 9, 10, 12, 13, 16, 17, 18, 19, 20, 21 and 22, Block 2, according to said plat of the Town of Inglewood, King County, Washington, lying Easterly of a line drawn parallel and concentric with and distant 50.0 feet Westerly, as measured at right angles and radially from said Main Track centerline; also,

All of Lots 1 through 41, Block 14, according to said plat of the Town of Inglewood, King County, Washington, EXCEPTING THEREFROM, those portions of said Lots 26 through 41 lying Easterly of a line drawn parallel and concentric with and distant 50.0 feet Easterly, as measured at right angles and radially from said Main Track

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centerline, ALSO, EXCEPTING THEREFROM, those portions of said Lots 9, 10 and 11, lying Westerly of a line drawn concentric with and distant 25.0 feet Westerly, as measured radially from said Main Track centerline, ALSO, EXCEPTING THEREFROM, those portions of Lots 18 through 27 lying Westerly of a line drawn concentric with and distant 25.0 feet Westerly, as measured radially from said Main Track centerline, ALSO, EXCEPTING THEREFROM, those portions of Lots 28 and 29 sold to John and Elizabeth Hayden by Quitclaim Deed filed for record as King County Recording No. 9212311137 in and for said County, ALSO, EXCEPTING THEREFROM, those portions of Lots 24 and 25, lying Easterly of a line drawn concentric with and distant 25.0 feet Easterly, as measured radially from said Main Track centerline; also,

Those portions of Lots 0 through 7, inclusive, and Lots 11 through 16, inclusive, Block 1, according to said plat of the Town of Inglewood, King County, Washington, lying Easterly of a line drawn parallel and concentric with and distant 50.0 feet Westerly, as measured at right angles and radially from said Main Track centerline; also,

That portion, if any, of said Railway Company's Branch Line right of way lying Westerly of Lots 1 through 68, Block 9, Lots 19 through 24, Block 6, and Lots 1 through 41, Block 14; and lying Easterly of Lots 1 through 22, Block 4, Lots 1 through 22, Block 5, Lots 1 through 22, Block 3, Lots 1 through 22, Block 2, and Lots 0 through 20, Block 1, Town of Inglewood, as recorded in Volume 3 of Plats, page 169, records of King County, Washington, bounded on the North and South by the North and South lines of said Town of Inglewood; also

All that portion of said Railway Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across Government Lots 1, 2, 3 and 4 of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Government Lot 2 of Section 31, all in Township 25 North, Range 6 East, and Government Lots 1, 2 and 3 and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6, Township 24 North, Range 6 East, bounded on the North by the North line of said Section 32, Township 25 North, Range 6 East, and bounded on the South by the South line of said Government Lot 3 of Section 6, Township 24 North, Range 6 East, EXCEPTING THEREFROM, that portion sold to Arthur and Sallyann Holmboe by Quitclaim Deed dated August 17, 1994, described as follows:

Commencing at the Northeast corner of said Government Lot 1 of Section 32; thence West along the North line of said Government Lot 1 a distance of 91.75 feet to the Westerly line of said 100.0 foot wide Branch Line right of way; thence South 06°23'29" West along said Westerly line 932.07 feet to the True Point of Beginning; thence continuing South 06°23'29" West along said Westerly line 143.20 feet; thence South 89°17'01" East 25.12 feet to a point being 25.0 feet Westerly, as measured at right angles from said Main Track centerline, thence North 06°23'29" East 143.20 feet; thence North 89°17'01" West 25.12 feet to the True Point of Beginning.

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ALSO EXCEPTING THEREFROM, that portion of Government Lot 1, in Section 32, township 25 North, Range 6 East, W.M., described as follows: beginning at the Northeast corner of that portion of the South 243 feet of said Government Lot 1 lying West of the Northern Pacific Railway right of way, as measured along said west right of way line (per survey recorded under A.F. # 9002228003 in volume 71 of surveys, page 72, records of King County, Washington); thence South $89^{\circ}17'01''$ East a distance of 25.12 feet to a point which lies 25.00 feet westerly from the centerline of said Northern Pacific Railway as measured at right angles; thence South $06^{\circ}23'29''$ West parallel with the centerline of said Northern Pacific Railway a distance of 142.03 feet to the beginning of a curve tangent to said line; thence continuing southerly, parallel with said Northern Pacific Railway, 106.66 feet along a curve to the right having a radius of 1327.69 feet and a central angle of $04^{\circ}36'10''$ the chord of which bears South $08^{\circ}41'34''$ west a distance of 108.83 feet to a point on the South line of said Government Lot 1 which lies 25.00 feet westerly from the centerline of said Northern Pacific Railway as measured at right angles; thence North $89^{\circ}03'58''$ West along said South line a distance of 25.40 feet to the Southeast corner of said South 243 feet of Government Lot 1 lying West of said Northern Pacific Railway; thence Northerly 109.08 feet along a non-tangent curve to the left having a radius of 1302.69 feet and a central angle of $04^{\circ}47'52''$ the chord of which bears North $08^{\circ}47'25''$ East a distance of 109.05 feet; thence North $06^{\circ}23'29''$ East tangent to said curve a distance of 139.55 feet to the POINT OF BEGINNING.

ALSO, EXCEPTING THEREFROM, that portion of the hereinabove described 100.0 foot wide Branch Line right of way, situated in said Government Lot 3 of Section 6, Township 24 North, Range 6 East, sold to Patrick and Vicki Burns by Quitclaim Deed filed for record September 18, 1996, as King County Recording No. 9701221277 described as follows:

Commencing at an iron stake at the intersection of the centerline of a private road with the shoreline of Lake Sammamish as shown on blueprint filed with deed recorded under King County Recording No. 1748265, said iron stake marking the Northwest corner of a track of land conveyed to W.C. Dahl by deed recorded under King County Recording No. 2808278; thence South $61^{\circ}02'$ East to the Northwestern line of the hereinabove described 100.0 foot wide Branch Line right of way; thence Southwesterly along said Northwestern line on a curve concave to the Southeast having a radius of 766.78 feet a distance of 51.27 feet to the True Point of Beginning; thence continuing Southwesterly along said Northwestern line 50.59 feet; thence South $61^{\circ}02'$ East 25 feet, more or less, to a point being 25.0 feet Northwesternly, as measured radially from said Main Track centerline; thence Northeasterly along a curve concave to the Southeast having a radius of 741.78 feet and concentric with said Main Track centerline to a point which bears South $61^{\circ}02'$ East from the True Point of Beginning; thence North $61^{\circ}02'$ West 25 feet, more or less, to the True Point of Beginning.

ALSO EXCEPTING THEREFROM, that portion of Government Lot 1, in Section 6, Township 24 North, Range 6 East, W.M., adjoining the Easterly line of the below-described Parcel "A" and described as follows: Beginning at the Northeasterly corner of the below-described Parcel "A"; Thence S $69^{\circ}49'12''$ E along a radial line to a curve in

the railroad right-of-way for a distance of 25.00 feet to a point on a curve with radius of 5,754.65 feet and center point lying Southeasterly at S 69°49'12" E; Thence Southerly and Westerly along said curve, parallel to the Westerly line of said railroad right-of-way and 25.00 feet Southeasterly as measured at right angles to said Westerly line, for an arc length distance of 250.79 feet through a central angle of 2°29'49" to a point of tangency with a line bearing S 17°40'59" W; Thence S 17°40'59" W along said line for a distance of 59.90 feet; Thence N 72°19'01" W for a distance of 25.00 feet to the Southeasterly corner of said Parcel "A"; Thence along the Easterly line of said Parcel "A" through the following courses; Thence N 17°40'59" E for a distance of 59.90 feet to a point of tangency with a curve to the right having a radius of 5,779.65 feet; Thence Northerly and Easterly along said curve for an arc length distance of 251.88 feet through a central angle of 2°29'49" to the Point of Beginning.

Parcel "A" Description

A portion of tracts 15 to 19 in the replat of Mason's Lakeside, according to the plat thereof recorded in Volume 37 of plats on page 55, records of King County, Washington, lying Easterly and Southeasterly of a line described as follows:

Beginning at the Northwest corner of said Tract 19; Running thence Easterly along the North line of said tract for 42.10 feet to the True Point of Beginning; Thence S 16°14'00" W for 152.70 feet; Thence S 51°34'00" W for 108.90 feet to an iron pipe on the shoreline of Lake Sammamish and on the line between Tracts 14 and 15 in said replat.

ALSO,

All that portion of said Railway Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 4 of said Section 6, Township 24 North, Range 6 East, bounded on the North and South by the North and South lines of said Government Lot 4; also,

All that portion of said Railway Company's 50.0 foot wide Branch Line right of way, being 25.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 1 of Section 7, Township 24 North, Range 6 East, bounded on the North and South by the North and South lines of said Government Lot 1; also,

All that portion of said Railway Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 2 of said Section 7, Township 24 North, Range 6 East, bounded on the North by the North line of said Government Lot 2, and bounded on the Southeast by the hereinafter described "Line A", EXCEPTING THEREFROM, the Westerly 30.0 feet of said 100.0 foot wide Branch Line right of way across Tract 6, Lake Sammamish Waterfront Tracts to Monohan, according to the plat thereof, lying between two lines drawn concentric with and distant, respectively, 20.0 feet and 50.0 feet Westerly, as measured radially from said Main Track centerline, ALSO, EXCEPTING

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THEREFROM, the Westerly 30.0 feet of said 100.0 foot wide Branch Line right of way across Tracts 9 and 10, Lake Sammamish Waterfront Tracks to Monohan, according to the plat thereof, lying between two lines drawn parallel with and distant, respectively, 20.0 feet and 50.0 feet Westerly, as measured at right angles from said Main Track centerline, ALSO, EXCEPTING THEREFROM, the Southwesterly 25.0 feet and the Northeasterly 25.0 feet of said 100.0 foot wide Branch Line right of way, lying between lines drawn parallel and concentric with and distant, respectively, 25.0 feet and 50.0 feet from and on each side of said Main Track centerline, lying within the following described tract of land;

Commencing at the East quarter corner of said Section 7; thence South 00°10' East along the East line of said Section 7 a distance of 74.4 feet to the present meander post on the shore of Lake Sammamish; thence North 79°51' West 490.0 feet; thence North 68°30' West 177.4 feet; thence North 54°45' West 298.6 feet; thence North 52°23' West 208.4 feet to a post set on the shore of Lake Sammamish; thence North 43°33' West 187.68 feet; thence North 48°00' East 40.60 feet to a point on the Southwesterly line of the hereinabove described 100.0 foot wide Branch Line right of way and the True Point of Beginning; thence continuing North 48°00' East 102.10 feet to a point on the Northeasterly line of the hereinabove described 100.0 foot wide Branch Line right of way; thence Northwesterly along said Northeasterly right of way line on a curve concave to the Northeast having a radius of 744.27 feet, central angle of 02°45'57" a distance of 35.93 feet; thence North 26°48'39" West, tangent to said curve, 100.07 feet; thence South 48°00' West 103.62 feet to said Southwesterly right of way line; thence South 26°48'39" East along said Southwesterly right of way line 72.92 feet to a point of curve; thence Southeasterly along a tangential curve concave to the Northeast having a radius of 844.27 feet a distance of 62.72 feet to the True Point of Beginning.

"Line A" Description

Commencing at the East quarter corner of said Section 7; thence South 00°10' East along the East line of said Section 7 a distance of 74.4 feet to the present meander post on the shore of Lake Sammamish; thence North 79°51' West 490.0 feet; thence North 68°30' West 177.4 feet; thence North 54°45' West 147.7 feet to the True Point of Beginning; thence North 10°35' East to the intersection with the Southerly line of the "Issaquah to Redmond" County Road and there terminating.

ALSO,

All of said Railway Company's Branch Line right of way, varying in width on each side of said Main Track centerline upon, over and across said Government Lot 2 of Section 7, Township 24 North, Range 6 East, described as follows:

Beginning at the intersection with a line drawn concentric with and distant 50.0 feet Northeasterly, as measured radially from said Main Track centerline with the hereinabove described "Line A"; thence Southeasterly along the last described concentric line 72 feet, more or less, to the intersection with a line drawn parallel with and distant

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70.0 feet Easterly, as measured at right angles from said "Line A"; thence South $10^{\circ}35'$ West along the last described parallel line to a point being 25.0 feet Northeasterly, as measured radially from said Main Track centerline; thence Southeasterly along a line drawn concentric with and 25.0 feet Northeasterly, as measured radially from said Main Track centerline 145 feet, more or less, to the intersection with the hereinafter described "Line B"; thence North $10^{\circ}35'$ East along said hereinafter described "Line B" to a point being 50.0 feet Northeasterly, as measured radially from said Main Track centerline; thence Southeasterly along a line drawn concentric with and 50.0 feet Northeasterly, as measured radially from said Main Track centerline 19 feet, more or less, to the intersection with a line drawn parallel with and distant 54.79 feet Westerly, as measured at right angles from the hereinafter described "Line C"; thence South $12^{\circ}35'40''$ West along the last described parallel line 18 feet, more or less, to a point being 36.0 feet Northeasterly, as measured radially from said Main Track centerline; thence Southeasterly along a line drawn concentric with and 36.0 feet Northeasterly, as measured radially from said Main track centerline 52 feet, more or less, to the intersection with the hereinafter described "Line C"; thence North $12^{\circ}35'40''$ East along said "Line C" to a point being 50.0 feet Northeasterly, as measured radially from said Main Track centerline; thence Southeasterly along a line drawn concentric and parallel with and 50.0 feet Northeasterly, as measured radially and at right angles from said Main Track centerline 490 feet, more or less, to the East line of said Section 7; thence South $00^{\circ}10'$ East along said East line 68 feet, more or less, to a point being 15.0 feet Southerly, as measured radially from said Main Track centerline; thence Westerly along a line drawn concentric and parallel with and 15.0 feet Southerly, as measured radially and at right angles from said Main Track centerline 221 feet, more or less, to the intersection with the hereinafter described "Line D"; thence South $10^{\circ}35'$ West along the hereinafter described "Line D" to a point being 50.0 feet Southerly, as measured at right angles from said Main Track centerline; thence Westerly along a line drawn parallel and concentric with and distant 50.0 feet Southerly, as measured at right angles and radially from said Main Track centerline 280 feet, more or less, to the intersection with the hereinafter described "Line C"; thence North $12^{\circ}35'40''$ East along said hereinafter described "Line C" to a point being 18.0 feet Southerly, as measured radially from said Main Track centerline; thence Westerly along a line drawn concentric with said Main Track centerline 54 feet, more or less, to the intersection with a line drawn parallel with and distant 54.79 feet Westerly, as measured at right angles from the hereinafter described "Line C"; thence South $12^{\circ}35'40''$ West along the last described parallel line to a point being 50.0 feet Southwesterly, as measured radially from said Main Track centerline; thence Westerly along a line drawn concentric with said Main Track centerline 18 feet, more or less, to the intersection with the hereinafter described "Line B"; thence North $10^{\circ}35'$ East along the hereinafter described "Line B" to the intersection with a line drawn concentric with and distant 15.0 feet Southwesterly, as measured radially from said Main Track centerline; thence Northwesterly along the last described concentric line 220 feet, more or less, to the intersection with the hereinabove described "Line A"; thence North $10^{\circ}35'$ East along said "Line A" 68 feet, more or less, to the Point of Beginning.

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"Line B" Description

Commencing at the East quarter corner of said Section 7; thence South 00°10' East along the East line of said Section 7 a distance of 74.4 feet to the present meander post on the shore of Lake Sammamish; thence North 79°51' West 490.0 feet; thence North 68°30' West 97.1 feet to the True Point of Beginning; thence North 10°35' East to the intersection with the Southerly line of the "Issaquah to Redmond" County Road and there terminating.

"Line C" Description

Commencing at the East quarter corner of said Section 7; thence South 00°10' East along the East line of said Section 7 a distance of 74.4 feet to the present meander post on the shore of Lake Sammamish; thence North 79°51' West 490.0 feet; thence North 68°30' West 30.81 feet to the True Point of Beginning; thence North 12°35'40" East 189.7 feet to the intersection with the Southerly line of the "Issaquah to Redmond" County Road and there terminating.

"Line D" Description

Commencing at the East quarter corner of said Section 7; thence South 00°10' East along the East line of said Section 7 a distance of 74.4 feet to the present meander post on the shore of Lake Sammamish; thence North 79°51' West 237.1 feet to the True Point of Beginning; thence North 10°35' East 100 feet, more or less, to the intersection with the Southerly line of the "Issaquah to Redmond" County Road and there terminating.

ALSO,

All that portion of said Railway Company's 200.0 foot wide Branch line right of way, being 100.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 1 and the SW¼SW¼NW¼ of Section 8, Township 24 North, Range 6 East, bounded on the Northwest by the West lines of said Government Lot 1 and the SW¼SW¼NW¼, and bounded on the Southeast by the East line of said Government Lot 1; also,

All that portion of said Railway Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline upon, over and across Government Lot 2 of said Section 8, Government Lots 1, 2 and 3 of Section 17, Government Lots 1 and 2 and the E½SW¼ of Section 16, the E½NE¼NW¼ and the E½ of Section 21, and that portion of the E½ NE¼ of Section 28 lying Northerly of the Southerly right of way margin of Northwest Gilman Boulevard (State Road No. 2, Renton-Issaquah Road), all in Township 24 North, Range 6 East.

Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 3

This Space Reserved For Recorder's Use:

Filed for Record at Request of
Highberg-Parks Escrow, Inc.

AFTER RECORDING MAIL TO:

Name Raymond C. Spencer

Address 133 East Lake Sammamish Parkway

City, State, Zip Redmond, WA 98052

Escrow number: 21819

Statutory Warranty Deed

THE GRANTOR RAY H. PATCHIN, personal representative of the Estate of Doris R. McCarty, deceased

for and in consideration of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION
in hand paid, conveys and warrants to RAYMOND C. SPENCER and LAEL S. SPENCER, husband and wife

the following described real estate, situated in the County of King, State of Washington:
see attached legal description

SUBJECT TO:

Assessment levied by Sammamish Plateau Sewer District, L.I.D. No. S-10 which the grantor herein agrees to pay in full upon payment in full of the Deed of Trust recorded herewith.

Railroad right of way separating our property from E. Lake Sammamish Parkway NE.

Reservations contained in deed under recording number 1439890.

Easements under recording numbers 2628804 and 4712061.

Grinder Pump Service Agreement under recording number 9204150651.

Right of the general public to the unrestricted use of navigable waters and the portion of the premises subject to submergence by the waterways for navigational recreational purposes.

Any restrictions of the use of the land resulting from the rights of the public or riparian owners to use any waters which may cover or may formerly have covered the land.

Rights of the United States and State of Washington to regulate the use or occupancy of that portion of the premises lying below the line of the mean high tide.

Lateral boundary issues regarding second class tidelands and shorelands.

Dated this 22 day of July, 1992

By _____ By _____

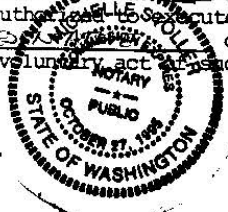
By Ray H. Patchin By _____
Ray Patchin, personal representative of the Estate of Doris Ruth McCarty

STATE OF _____) ss.

State of Washington)
County of King)

I certify that RAY H. PATCHIN is the person who appeared before me, and said person acknowledged that HE signed this instrument, on oath stated that HE was authorized to execute the instrument and acknowledged it as the PERSONAL REPRESENTATIVE of ESTATE OF DORIS MCCARTY, DECEASED to be the free and voluntary act of each party for the uses and purposes mentioned in the instrument.

Dated: 8/14/92



Michelle Stoen
Notary Public in and for the State of
Washington residing in Bellevue
My commission expires: 10/27/95

9208171392

H 706459-1

8.00

CORDS 002 JUL

202607-1272 11:47:00 AM KING COUNTY

CLTIC NO.: H706459

EXHIBIT "A-1"

That portion of Government Lot 2 in Section 32, Township 25 North, Range 6 East, in King County, Washington, described as follows:

Beginning at the intersection of a line of said Government Lot 2 with the southwesterly line of the Northern Pacific Railway right-of-way; thence north 38 degrees 00 minutes 00 seconds east along said right-of-way line 313.29 feet to the true point of beginning; thence continuing north 38 degrees 00 minutes 00 seconds east along said right-of-way line 75.00 feet; thence north 52 degrees 00 minutes 00 seconds west 230 feet more or less to the westerly line of said Government Lot 2; thence southwesterly along said westerly line to a point which bears north 52 degrees 00 minutes 00 seconds west from the true point of beginning; thence south 52 degrees 00 minutes 00 seconds east 230 feet more or less to the point of beginning;

(ALSO KNOWN AS Tract 8 and the northeasterly 25 feet of Tract 7, Connell's Subdivision of Government Lot 2, according to the unrecorded plat thereof.)

TOGETHER WITH second class shorelands fronting thereon.

END OF EXHIBIT "A-1"

9208171392

Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 4

PROPERTY HISTORY

Issued By:



Fidelity National Title
Insurance Company

Guarantee Number:

611176345

FIDELITY NATIONAL TITLE INSURANCE COMPANY
a Florida corporation, herein called the Company

GUARANTEES

the Assured named in Schedule A, against actual loss not exceeding the liability stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurances set forth in Schedule A.

LIABILITY EXCLUSIONS AND LIMITATIONS

1. No guarantee is given nor liability assumed with respect to the identity of any party named or referred to in Schedule A or with respect to the validity, legal effect, or priority of any matter shown therein.
2. The Company's liability hereunder shall be limited to the amount of actual loss sustained by the Assured because of reliance upon the assurance herein set forth, but in no event shall the Company's liability exceed the liability amount set forth above.

Fidelity National Title Company of Washington
3500 188th St. SW, Suite 300
Lynnwood, WA 98037

Countersigned By:

Authorized Officer or Agent



Fidelity National Title Insurance Company

By:

President

Attest:

Secretary

PLEASE NOTE CAREFULLY THE LIABILITY EXCLUSIONS AND LIMITATIONS AND THE SPECIFIC ASSURANCES AFFORDED BY THIS GUARANTEE. IF YOU WISH ADDITIONAL LIABILITY, OR ASSURANCES OTHER THAN AS CONTAINED HEREIN, PLEASE CONTACT THE COMPANY FOR FURTHER INFORMATION AS TO THE AVAILABILITY AND COST.

Your Property History Guarantee is enclosed.

ISSUING OFFICE:

Title Officer: Bill Fisher / Carlos Maxwell / Terry Sarver / Jason Black
 Fidelity National Title Company of Washington
 3500 188th St. SW, Suite 300
 Lynnwood, WA 98037
 Phone: (425)771-3031
 Main Phone: (425)771-3031
 Email: Unit2@fnf.com

PROPERTY HISTORY GUARANTEE

Total Liability Limited to	Fee	Tax
\$50,000.00	\$900.00	\$93.60

Date of Report: December 29, 2017 at 12:00 AM

A. Assured: Stephens & Klinge LLP

B. The land described in this Guarantee is described as follows:

For APN/Parcel ID(s): 173870-0035-01

That portion of Government Lot 2 in Section 32, Township 25 North, Range 6 East, in King County, Washington, described as follows:

Beginning at the intersection of a line of said Government Lot 2 with the southwesterly line of the Northern Pacific Railway right-of-way;

Thence North 38° 00' 00" East along said right-of-way line 313.29 feet to the true point of beginning;

Thence continuing North 38° 00' 00" East along said right-of-way line 75.00 feet;

Thence North 52° 00' 00" West 230 feet more or less to the westerly line of said Government Lot 2;

Thence southwesterly along said westerly line to a point which bears North 52°00' 00" West from the true point of beginning;

Thence South 52° 00' 00 "East 230 feet more or less to the point of beginning;

(ALSO KNOWN AS Tract 8 and the northeasterly 25 feet of Tract 7, Connell's Subdivision of Government Lot 2, according to the unrecorded plat thereof)

TOGETHER WITH second class shorelands fronting thereon.

C. At your request, Fidelity National Title Insurance Company, a Florida corporation has searched the public records of King, Washington, which by law impart constructive notice, for the documents shown below (hereinafter called "the Instruments"):

Deeds, Real Estate Contracts and Leases

D. At your request, the period of time searched is as follows:

Beginning date: May 7, 1887 at 12:00 AM

Ending date: December 29, 2017 at 12:00 AM

E. The following matters are excluded from the search provided by this guarantee:

1. Unpatented mining claims, and patents

(continued)

2. Water rights, or claims thereof
3. Instruments, proceedings or other matters which do not specifically describe said land.

This Guarantee is restricted to the use of the Assured. This Guarantee is not a Commitment nor an obligation by the Company to issue any Policy or Policies of Title Insurance insuring said land, and is not to be used as a basis for closing any transaction affecting title to said property.

F. The Instruments as defined in Paragraph C recorded during the period of time searched are:

1. Document Type: Deed
1st Party: Jim Yonderpump and Alice Yonderpump
2nd Party: Seattle Lake Shore and Eastern Railway Company
Recording Date: May 7, 1887
Recording No.: 13453
2. Document Type: Deed
1st Party: Jim Zacuse and Alice Zacuse, husband and wife (formerly Alice Yonderpump, widow of Jim Yonderpump and sole heir)
2nd Party: George Clark and Tolle Anderson
Recording Date: November 20, 1911
Recording No.: 778238
3. Document Type: Quit Claim Deed
1st Party: George Clark
2nd Party: Jessie Clark
Recording Date: July 27, 1920
Recording No.: 1437669
4. Document Type: Deed
1st Party: State of Washington
2nd Party: George Clark and Tolle Anderson
Recording Date: August 2, 1920
Recording No.: 1439890
5. Document Type: Patent
1st Party: The United States of America
2nd Party: Jim Yonderpump
Dated: December 4, 1884
Recording Date: August 25, 1920
Recording No.: 1445492
6. Document Type: Contract
1st Party: Tolle Anderson and Christine Anderson, husband and wife and Jessie Clark
2nd Party: William A. Connell
Recording Date: September 21, 1920
Recording No.: 1453305

(continued)

7. Document Type: Warranty Deed
1st Party: Tolle Anderson and Christine Anderson, husband and wife and Jessie Clark, a widow
2nd Party: William A. Connell
Recording Date: August 8, 1923
Recording No.: 1767525
8. Document Type: Warranty Deed
1st Party: Willis J. Connell, as his separate estate
2nd Party: Doris McCarty
Recording Date: July 17, 1956
Recording No.: 4712061
9. Document Type: Statutory Warranty Deed
1st Party: Ray H. Patchin, personal representative of the Estate of Doris R. McCarty, deceased
2nd Party: Raymond C. Spencer and Lael S. Spencer, husband and wife
Recording Date: August 17, 1992
Recording No.: 9208171392

*****END OF GUARANTEE LIST OF INSTRUMENTS*****

Note: Any map furnished with this Guarantee is for convenience in locating the land indicated herein with reference to streets and other land. No liability is assumed by reason of reliance thereon.

Note: This Property History Guarantee does not include unrecorded deeds, real estate contracts or leases which may be disclosed by other documents of record.

Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 5

After recording, mail to:

Harold Fardal
Keller Rohrback LLC
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052



20021205002629

KELLER QCD 23 00
PAGE 001 OF 004
12/05/2002 15.09
KING COUNTY, WA

E1926015

12/05/2002 15.09
KING COUNTY, WA
TAX \$17 80
SALE \$1,000 00

PAGE 001 OF 001

COVER SHEET

Document Title:

QUIT CLAIM DEED

**Reference Number of Documents
assigned or released:** _____

Grantor:

AGNES T. MOE, individually;
AGNES T. MOE, Personal Representative of the
Estate of Jack S. Moe, Deceased, King County
Probate No. 02-4-03835-0 KNT;
AGNES T. MOE, Personal Representative of the
Estate of Ethel J. Connell, Deceased, King County
Probate No. 02-4-05222-1 SEA

Grantee:

RAYMOND C. SPENCER and LAEL S.
SPENCER, husband and wife

Legal Description:

Government Lot 2, Section 32, Township 25 North, Range 6 East, of
W.M., EXCEPT that portion lying east of the County road known as
East Lake Sammamish Parkway AND EXCEPT that portion lying
west of the railroad right-of-way.

Tax Account No. 322506-9015

After Recording Mail To:

Raymond C and Lael S Spencer
133 East Lake Sammamish Shore Lane NE
Redmond, Washington 98053

QUIT CLAIM DEED

The Grantor, Agnes T Moe, individually and as the Personal Representative of the Estate of Jack S Moe, Deceased, and as the Personal Representative of the Estate of Ethel J Connell, Deceased, for and in consideration of \$10 and other good and valuable consideration, does hereby convey and quit claim to Raymond C Spencer and Lael S Spencer, husband and wife, that certain real property located in King County, Washington, described as

Government Lot 2, Section 32, Township 25 North, Range 6 East, of W M ,
EXCEPT that portion lying east of the County road known as East Lake Sammamish Parkway **AND EXCEPT** that portion lying west of the railroad right-of-way

DATED this 4th day of DECEMBER, 2002

Agnes T. Moe
Agnes T Moe, individually

Agnes T. Moe
Agnes T Moe, as Personal
Representative of the Estate of Jack S
Moe, Deceased

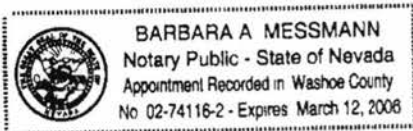
Agnes T. Moe
Agnes T Moe, as Personal
Representative of the Estate of Ethel J
Connell, Deceased

20021205002629

STATE OF NEVADA)
) ss
COUNTY OF WASHOE)

I certify that I know or have satisfactory evidence that Agnes T Moe is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it in her individual capacity to be her free and voluntary act for the uses and purposes mentioned in the instrument

DATED 12-4-02



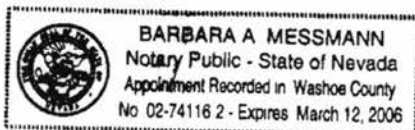
Barbara A. Messmann
Agnes T. Moe
(Signature) Barbara A. Messmann
AGNES T. MOE
(Please print name legibly)

NOTARY PUBLIC in and for the State of
Nevada, residing at Washoe County My
commission expires 12-March-2006

STATE OF NEVADA)
) ss
COUNTY OF WASHOE)

I certify that I know or have satisfactory evidence that Agnes T Moe is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Personal Representative of the Estate of Jack S Moe, Deceased, to be the free and voluntary act of such Estate for the uses and purposes mentioned in the instrument.

DATED 12-4-02



Barbara A. Messmann
Agnes T. Moe
(Signature) Barbara A. Messmann
(Please print name legibly)

NOTARY PUBLIC in and for the State of
Nevada, residing at Washoe County My
commission expires March 12-2006

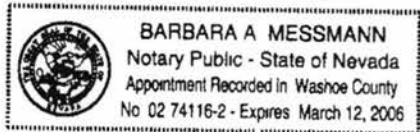
20021205002629

STATE OF NEVADA)
) ss
COUNTY OF WASHOE)

I certify that I know or have satisfactory evidence that Agnes T Moe is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Personal Representative of the Estate of Ethel J Connell, Deceased, to be the free and voluntary act of such Estate for the uses and purposes mentioned in the instrument

DATED

Barbara A. Messmann
(Signature)
Barbara A. Messmann
(Please print name legibly)



NOTARY PUBLIC in and for the State of
Nevada, residing at Washoe County
commission expires 3-12-06

20021205002629

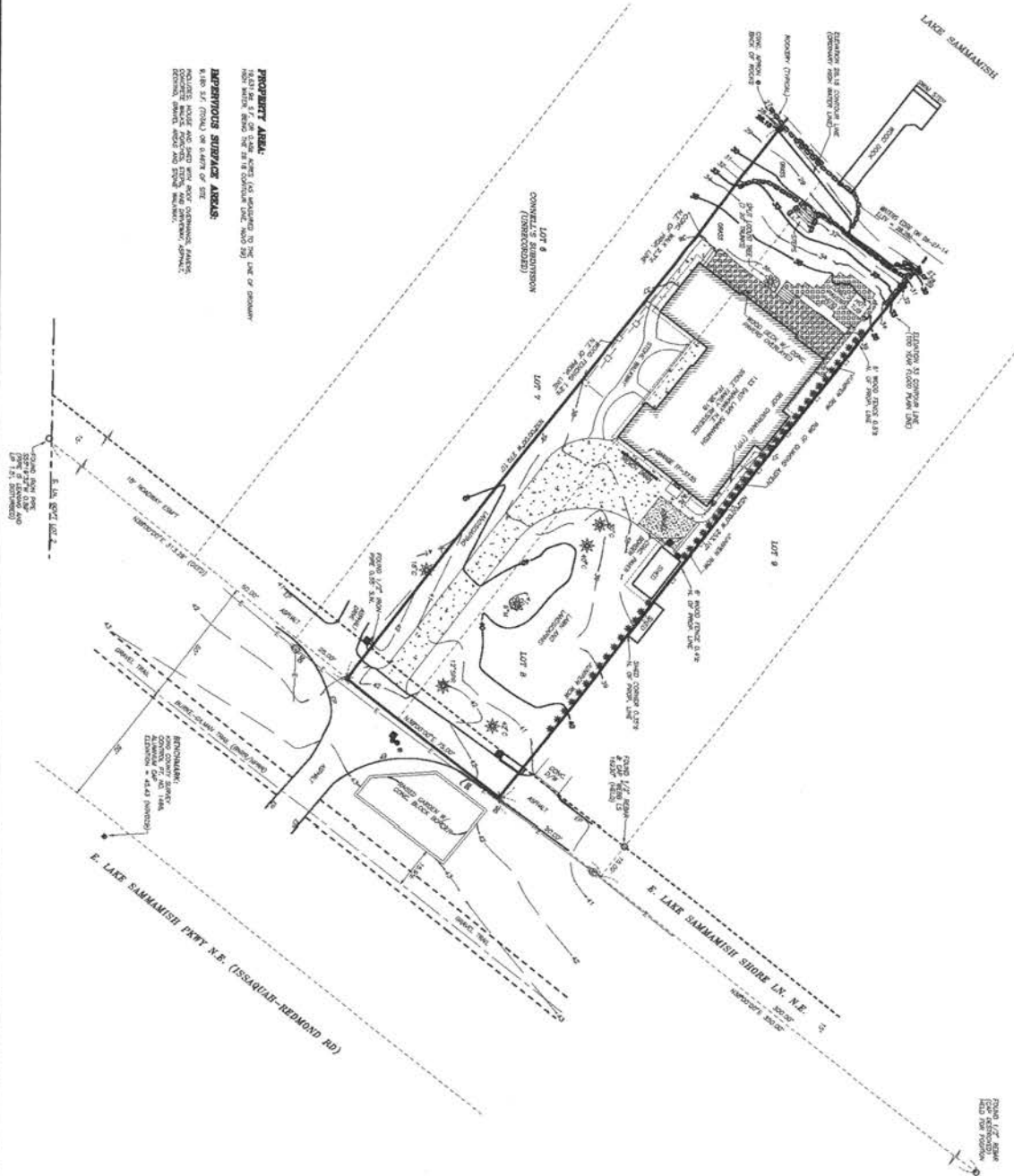
Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 6

LOCATED IN THE S.E. 1/4, OF THE N.W. 1/4,
OF SECTION 32, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M.
KING COUNTY, WASHINGTON



FORNED 1/2" ALUMINUM
(CAP PRETIGHTED)
WELD FOR PROVISION

GRAPHIC SCALE 1"=20'

A horizontal graphic scale bar with a black and white checkered pattern. It is labeled with "20", "0", and "20" from left to right, indicating a total length of 40 feet. The text "GRAPHIC SCALE 1\"=20'" is printed above the bar.

THE NORTHWESTERN LINE OF THE NORTHERN PACIFIC RAILWAY RIGHT-OF-WAY, BEING NORTH 30°00'00" EAST PER FIELD DESCRIPTION.

[illegible]

VERTICAL DATUM:

REFERENCE:
BEN-GURION, DAVYD, COHEN, PINEH, NO. 1468, ROAD A, T. ALUMIM, CAP-
TIVE OF AN ALUMIM PRISON, IN FLUSH WITH GOLD, STATED "I AM CONVINCED
I AM LOCATED SOUTH OF THE MOUNTAINS OF THE WESTERN GILAT, IN THE
MOUNTAINS OF THE WESTERN GILAT, IN THE MOUNTAINS OF THE WESTERN GILAT."
Eilat - 28010 (photo 9) (transcribed to Eilat - 28010 (photo 9))

NOTES:

[illegible]

LEGEND

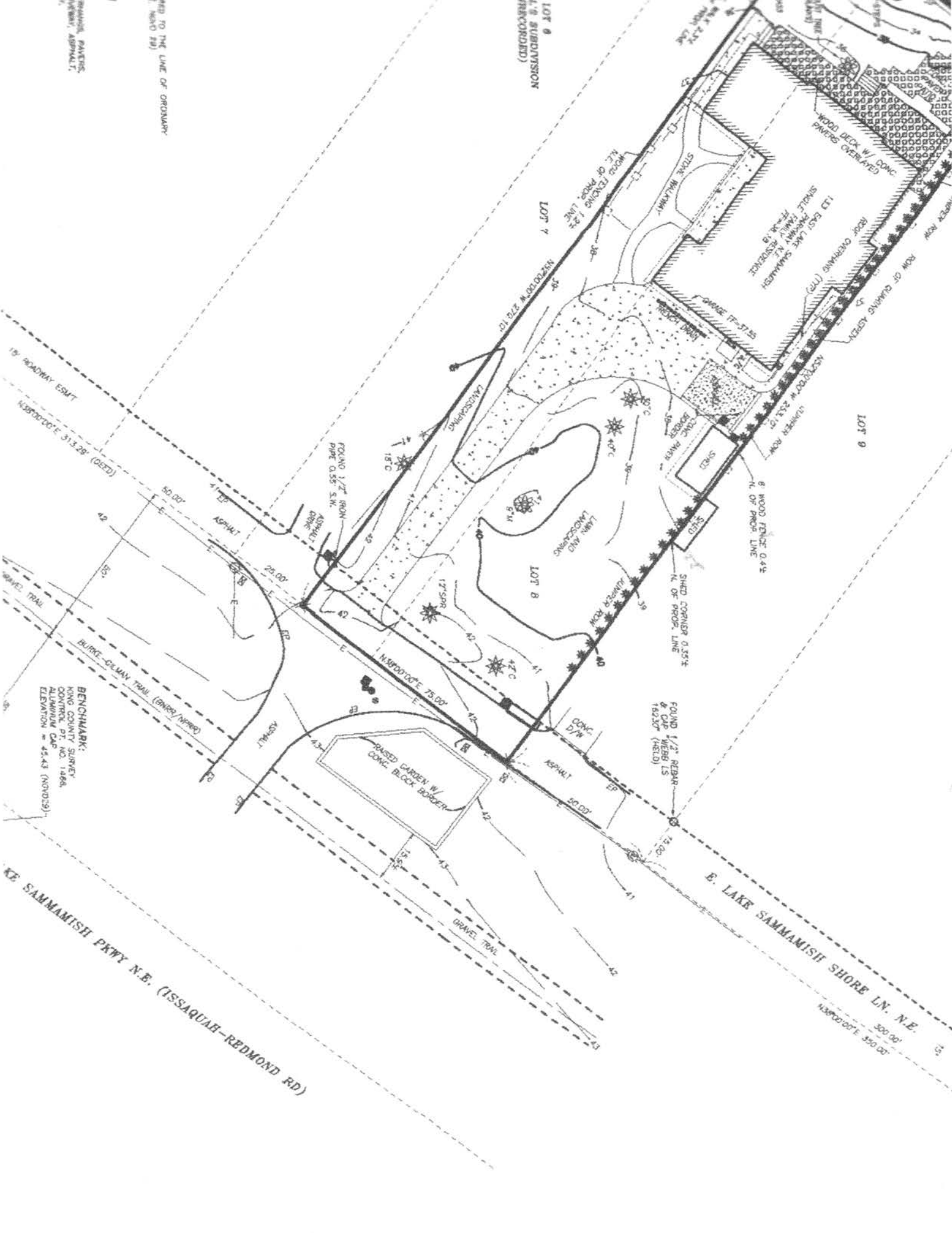
[illegible]

CASCADE LAND SURVEYING
Complete Land Surveying Services
11722 261st Ave. E., Buckley, WA., 98321
(360) 897-1017 (toll free) or 1-(800) 728-4993 (toll free)
(360) 897-1227 (fax)
K BY-JAO CHECKED BY-JAO

**TOPOGRAPHICAL SITE SURVEY
FOR RAY SPENCER
133 E. LAKE SAMMAMISH PKWY N.E.
SAMMAMISH, WA 98074**



SURVEYOR'S CERTIFICATE
THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR
UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS
OF THE SURVEY RECORDING ACT AT THE REQUEST OF
RAY SPENCER IN Jul. 2014
P.L.S. CERTIFICATE NO. 37540



ADDED TO THE LINE OF ORDINARY (1/2\"/>

ADDED TO THE LINE OF ORDINARY (1/2\"/>

ADDED TO THE LINE OF ORDINARY (1/2\"/>

ADDED TO THE LINE OF ORDINARY (1/2\"/>



FIELD MAPPING ON
AUG. 7 & OCT. 7, 2019

BERES V. USA EXHIBIT - SPENCER PARCEL 4

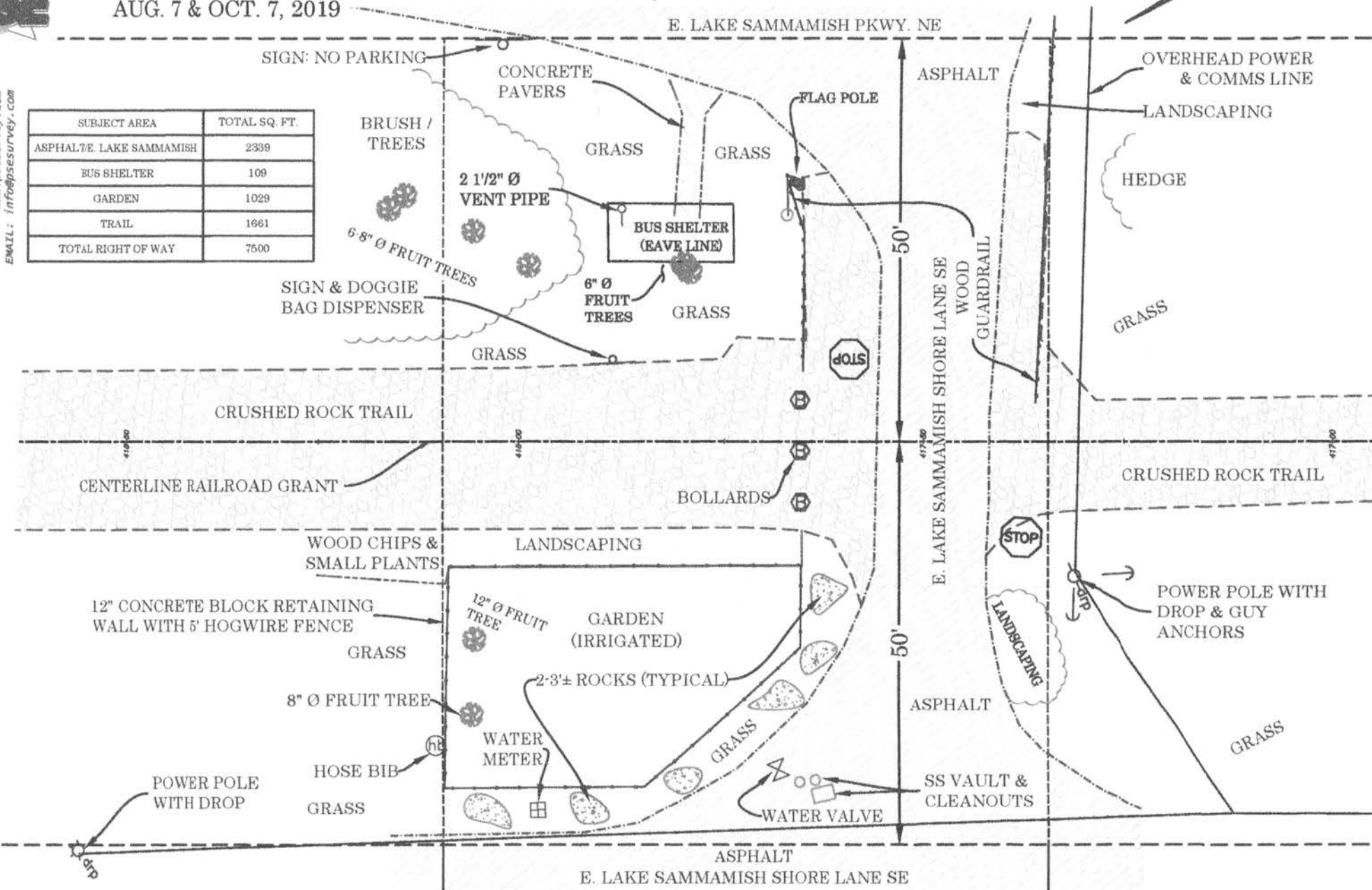
KING COUNTY TAX PARCEL #173870 - 0035

GRAPHIC SCALE
One Survey Foot
SCALE: 1"=5'

SUBJECT AREA	TOTAL SQ. FT.
ASPHALTE LAKE SAMMAMISH	2339
BUS SHELTER	109
GARDEN	1029
TRAIL	1661
TOTAL RIGHT OF WAY	7500

PACIFIC SURVEY AND ENGINEERING INC

909 SQUALCUM WAY SUITE 111 - BELLINGHAM, WA 98225 PHONE: 360.671.7387 FAX: 360.671.4685
WWW.PSESURVEY.COM EMAIL: info@pseurvey.com



Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 7

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



LEESA MANION (she/her)
PROSECUTING ATTORNEY

JUSTICE
COMPASSION
PROFESSIONALISM
INTEGRITY
LEADERSHIP

January 15, 2025

Richard M. Stephens
Stephens & Klinge LLP
10900 NE 4th Street, Suite 2300
Bellevue, WA 98004

RE: ER 408 Settlement Demand for Ray Spencer for Unauthorized Work on and Damage to Parks Property, Parcel# 3225069015

Dear Mr. Stephens:

Thank you for your letter regarding Ray Spencer's concerns with King County's settlement demand; however, as was stated in previous correspondence to Mr. Spencer's prior attorney in 2019, we disagree with his assertions.

King County's Exclusive Use Rights

Your client's claim of fee ownership to land within the ELST Corridor (Parcel Number 3225069015) is not without significant limitations, namely any right to use the ELST Corridor. Regardless of whether the railroad company originally obtained the land through an easement or in fee does not make a difference for the purposes of your client and his interests, because the ELST Corridor has been railbanked pursuant to the Rails to Trails Act, 16 U.S.C. §1247(d) and King County has been appointed as the trail sponsor. The Act specifies that the conversion from rails to trails "shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of such rights-of-way for railroad purposes." Therefore, even if the railroad only possessed an easement, once the corridor was railbanked, the railroad easement was preserved and a new easement for trail use was created. See *Hornish v. King County*, 899 F. 680, 695-697 (9th Cir. 2018). As a result, there is virtually no distinction between a "railroad easement" and fee ownership because the railroad easement is exclusive. As Judge Pechman held in *Hornish v. King Cty.*, 182 F. Supp. 3d 1124, 1130 (W.D. Wash. 2016), aff'd, 899 F.3d 680 (9th Cir. 2018):

[T]he County's rights are coextensive with the railroad's and that it "is entitled to the exclusive use and possession of the area on, above, and below the surface of the Corridor for railroad purposes and incidental uses permitted by Washington law, including use as a recreational trail."

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701 FIFTH AVENUE • SEATTLE, WASHINGTON 98104
Tel: (206) 477-1120 • www.kingcounty.gov/prosecutor

It is well settled that the ELST railroad easement has granted King County the exclusive use and control of all land within the right of way; therefore Mr. Spencer's garden beds and gravel parking lot are encroaching upon King County's property and must be removed. *Grand Trunk R. Co. v. Richardson*, 91 U.S. 454, 455, 23 L.Ed. 356 (1875).

King County, as the appointed trail sponsor, currently possesses both the railroad and trail easements and was authorized to construct the East Lake Sammamish Trail in the corridor. Any remedy regarding extinguishment of your client's reversionary interest as a result of the Rails-to-Trails Act would be available as a takings claim filed with the Federal Court of Claims. Mr. Spencer has already taken advantage of this remedy and he has been fairly compensated as part of his settlement in the *Beres* matter.

With King County holding an exclusive easement over the ELST Corridor adjacent to your client's property, Mr. Spencer lacks any right to use the land without express permission from the County through a Special Use Permit.

Zackuse Creek Culvert Replacement & Temporary Construction Easement

The construction on the trail adjacent to Mr. Spencer's home was performed in support of the Zackuse Creek Culvert Replacement project, and the City of Sammamish approved that permit. See **Attachment A**. Your client asserts that he granted a temporary construction easement (TCE) to the City of Sammamish in order to facilitate the City's Zackuse Creek culvert replacement project, with the understanding that the City would "...restore the area to its pre-construction condition after the culverts were replaced." This TCE was transferred to King County by the City on July 25, 2018, and the County as part of the County's concurrent construction of the ELST, who agreed to complete the Shore Lane culvert project for the City of Sammamish. See **Attachment B**, TCE Transfer Notification Letter. It is worth noting that since this culvert project was completed, the number of kokanee salmon that has returned to Lake Sammamish has reached record highs as a direct result of this and other similar projects along Lake Sammamish: <https://kingcounty.gov/en/dept/dnrp/about-king-county/about-dnrp/newsroom/news-releases/10-18-kokanee-release>

That said, Section 7 of the TCE, Repair of Damage, states the Shore Lane easement area will be restored to its original condition, except for the constructed project improvements. See **Attachment A** (emphasis added). Since this work was done concurrent with ELST trail construction, King County has met the requirements in the TCE, which your client promptly damaged with new encroaching structures. No term or provision of the TCE can modify or invalidate King County's exclusive right to use and control all land within the right of way. Neither the City nor the County is obligated to restore Mr. Spencer's encroaching garden beds and gravel parking lot and these encroachments must be removed. The South Sammamish B segment of the ELST was designed to the City of Sammamish Department of Public Works Site Obstruction's standard, updated in 2016. The sight triangle is 14.5 feet wide and 295 feet long for the 20-mph design speed. Your client's garden (which previously contained corn plants well over 9' tall), its fence, and the fruit trees were and are again now encroachments on King County property, which limit the sight distance to 35 feet for oncoming trail traffic. They must be

Richard Stephens
January 15, 2025
Page 3

removed, and King County's property improvements restored. Your client's "pre-existing gravel parking area" was an encroachment on King County property and removed as part of ELST construction. There is no inherent right to park on King County property. Vehicles, including trucks and boats, stored on this land blocked the sight line from driveways looking north. Therefore, the gravel parking lot must also be removed and King County's property improvements, constructed as part of the ELST Corridor project, be restored.

With regard to your client's allegations related to design violations and final construction plans, Mr. Spencer was previously notified by David Pyle, Director of the Sammamish Department of Community Development, on January 9, 2019, that Condition #6 of the permit for the Zackuse Creek culvert replacement project was amended to allow for the fill and other improvements to remain in accordance with an agreement between King County and the City. Your client was provided with a copy of the amended permit as well as the letter of agreement between King County and the City. Copies of both are attached again here as **Attachment C**.

All of these issues and claims have been addressed with Mr. Spencer and his prior counsel. He has pursued a Takings Clause action against the Federal Government for the non-reversion of the railroad easement and has been fairly compensated. All of his claims have been litigated or are barred from litigation due to *res judicata*.

It is King County's obligation, as a public entity and as the appointed trail sponsor, to manage the ELST Corridor as a public asset and preserve the integrity of the Corridor. Limitations in the state constitution prohibit King County from allowing private use of the ELST unless there is an identifiable public benefit, which can include rental payments made under a revocable Special Use Permit (pursuant to King County Code §14.30). Mr. Spencer is encroaching on King County property, knows he is doing so as he has previously applied for a Special Use Permit for these unpermitted land uses (see **Attachment D**), and continues to disregard King County Code, King County's exclusive railroad easement, permit requirements, and the conditions he agreed to when approving the TCE with the City of Sammamish, which was assigned to King County.

Encroachment Removal Notice

King County reiterates its notice and demand to your client to accept King County's demand outlined in my November 6, 2024 letter by **January 31, 2025**. Absent your client accepting King County's demand by January 31, 2025 for encroachment removal, King County will remove his encroachments, store his encroaching property at his expense until retrieval or expiration of necessary storage requirements, and restore Parks' property to ELST design specifications at Mr. Spencer's sole expense.

Sincerely,



Elisa J. Wood
Senior Deputy Prosecuting Attorney

King County Prosecuting Attorney

Richard Stephens

January 15, 2025

Page 4

Enclosures (4)

cc : Doug Hodson, Deputy Director, King County Department of Natural Resources and
 Parks
 Ben Gossett, Land Management Supervisor, King County Department of Natural
 Resources and Parks

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



LEESA MANION (she/her)
PROSECUTING ATTORNEY

JUSTICE
COMPASSION
PROFESSIONALISM
INTEGRITY
LEADERSHIP

October 9, 2024

SENT VIA EMAIL AND US MAIL

Ray Spencer
133 East Lake Sammamish Shore Lane NE
Sammamish, WA 98074

RE: Cease and Desist Unauthorized Work on Parks Property, Parcel# 3225069015 and Demand for Damages

Dear Mr. Spencer:

The undersigned represents King County's Department of Natural Resources, Parks Division ("King County"). Please direct all communications regarding the above-referenced matter to the contact information found at the signature line below.

It has come to King County's attention that as of September 17, 2024, you, or parties acting under your direction, have removed and damaged Parks' property, specifically bollards, boulders, habitat logs, and landscaping plants located within Parcel Number 3225069015 ("Parks' Property"). See Enclosure 1, Aerial Map with property boundary lines. After destroying and removing Parks' property, you have also reinstalled unpermitted raised garden beds and a gravel parking lot, again on Parks' Property. Parks trail infrastructure was installed in 2023, but the bollards predate construction as being in place since 2018. You are also well-aware from past correspondence with Parks, of the special use permit process being required for any work you wished to perform on Parks' property. The costs to restore the damage you have done to trail infrastructure are significant.

You have been on notice of encroachments on Parks' Property since January 6, 2020, when Parks sent their first notice letter to you prior to when trail construction began. See Enclosure 2, January 6, 2020 Notice Letter. During Parks' past interactions, you claimed to have ownership of Parks' property, but neither you, nor your attorney at the time, presented any evidence of your ownership of this property. My predecessor, Kim Fredrick, worked with you to resolve these issues, and Raul Martinez met with you and your former attorney on site on March 4, 2021. During that meeting, Parks staff and Raul Martinez explained that this parcel was Parks' property, that you were required to have a special use permit for any work performed on Parks' property, and explained to you about the overall prohibition of removing trail infrastructure.

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701 FIFTH AVENUE • SEATTLE, WASHINGTON 98104
Tel: (206) 477-1120 • www.kingcounty.gov/prosecutor

Ray Spencer
October 9, 2024
Page 2

Despite this, once trail construction came near a close, you have taken it upon yourself to remove and damage Parks' property.

As stated above, Parks discovered these violations on September 17, 2024 and immediately contacted you about the work he was doing on Parks' Property without a permit. See Enclosure 3, Correspondence from Angie Schmidt. Despite this notice and correspondence, you or contractors acting under your direction, continued to work on Parks' property, removing more trail infrastructure, and as of October 1, 2024, you have had additional wall blocks delivered to the site. Parks representative Peter Huie spoke with your contractor on October 1, 2024, and advised them that you did not own the property they were working on, that they did not have a permit for the work being performed, and that they were trespassing on Parks' property. The contractor stated the unfounded belief that you owned the property and continued to work. See Enclosure 4, Photos of Unauthorized Work.

Given the history makes your new violations here especially egregious. These actions are or may be in violation of the following County codes, noting this is not an exhaustive list:

1. King County's Damage to Property or Wildlife code (KCC 7.12.550)
2. King County's Removal of Property code (KCC 7.12.560)
3. King County's Unauthorized Use of Parks Property code (KCC 14.30.020)
4. King County's Environmentally Critical Area code (KCC 21A.24)

King County's investigation has confirmed that this activity was conducted without permission or legal right, resulting in significant damage and loss to property.

King County is seeking full reimbursement from you for the full amount of the County's damages, as well as all costs incurred by the County to assess, repair, and restore Parks' Property. Please contact me immediately so that we may discuss settlement of the County's claim against you. Parks is in the process of compiling information related to these repair costs and will provide this information to you as soon as it is available, but the value of damage exceeds \$10,000.00 as of October 1, 2024.

If you intend to tender this demand to your insurer, please do so promptly and provide me with the name of your insurer, the name of your claims agent or officer, and your policy number. It will benefit both sides to resolve this claim without litigation. This demand is non-negotiable and **expires at midnight on Wednesday, October 23, 2024**. You may email me at: elwood@kingcounty.gov to respond to this settlement demand. If this settlement demand is not accepted by this deadline, it will be deemed to have been rejected.

Please note that failure to agree to this settlement demand will result in King County pursuing all available legal remedies, including filing a lawsuit to recover damages, costs, and attorney's fees, as well as seeking injunctive relief under RCW 7.40.20 to prevent further trespass and damage. Further, if the settlement is deemed rejected, Parks will remove the encroaching structures from the location noted above and restore the site solely at your expense.

King County Prosecuting Attorney

Ray Spencer
October 9, 2024
Page 3

King County hopes to resolve this matter promptly and without further legal action. Your immediate attention to and compliance with these demands will be appreciated.

Sincerely,

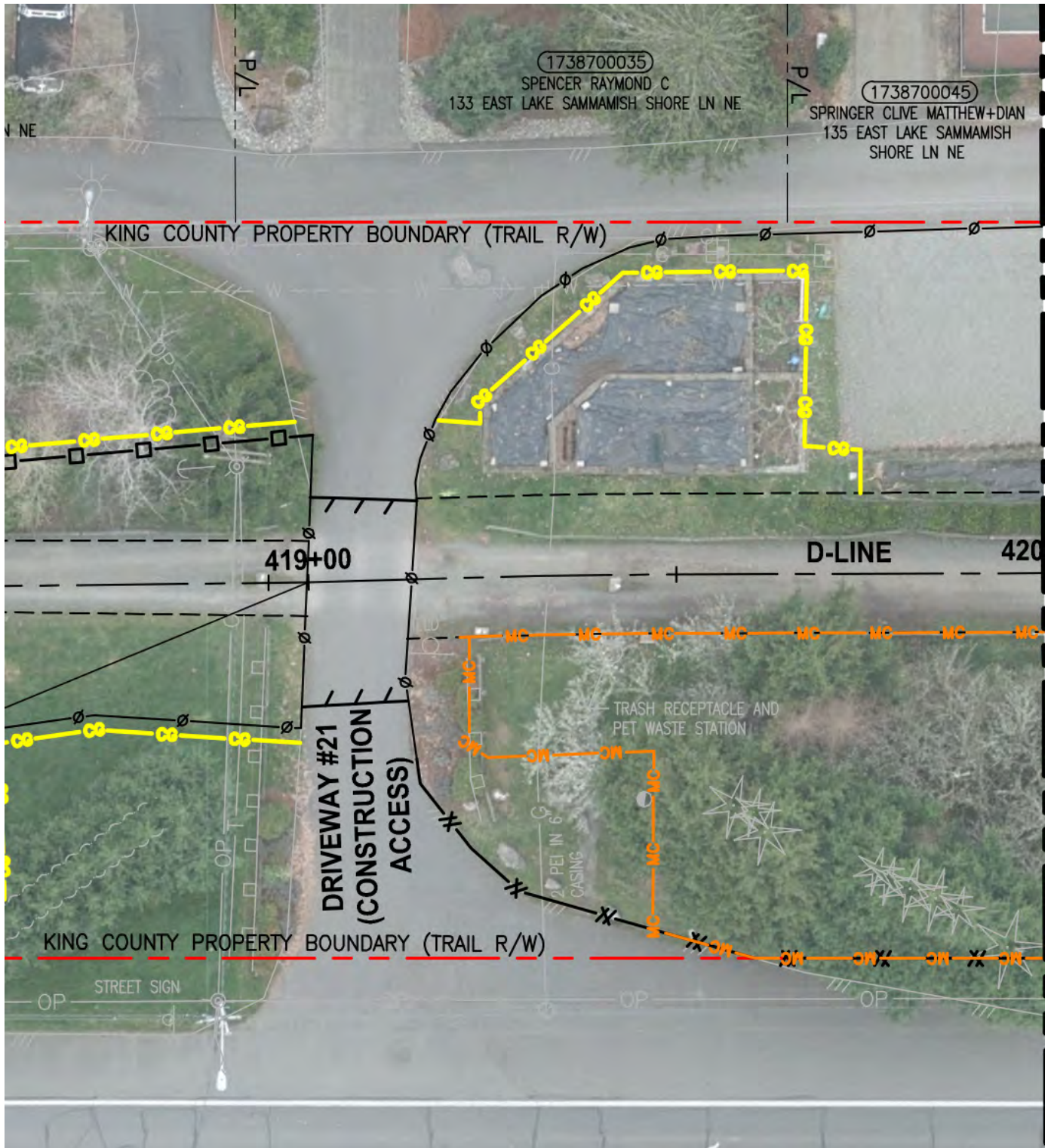
For LEESA MANION
King County Prosecuting Attorney



Elisa J. Wood
Senior Deputy Prosecuting Attorney

cc: Doug Hodson, Deputy Division Director, King County Parks
Courtney Brown, Property Management & Business Revenue Section Manager, King
County Parks
Ben Gossett, Land Management Supervisor, King County Parks

Enclosure 1. Aerial map of parcel with King County and the ELST construction boundaries highlighted.



LEGEND:

- KING COUNTY PROPERTY BOUNDARY (TRAIL R/W)
- PRIVATE PROPERTY LINE
- CLEARING AND GRUBBING LIMITS
- MITIGATION CLEARING
- / / / / / SAWCUT LIMITS
- GRAVEL REMOVAL





King County

Department of Natural Resources and Parks
Parks and Recreation Division
King Street Center, KSC-NR-0700
201 South Jackson, Room 700
Seattle, WA 98104

Raymond Spencer
133 E. Lake Sammamish Shore Lane NE
Sammamish, WA 98074

Sent via Regular and Certified Mail

January 6, 2020

RE: 133 East Lake Sammamish Shore Lane NE – **Notice of Required Encroachment Removal**

Dear Raymond Spencer:

You are receiving this letter as the owner of the property noted above adjacent to the East Lake Sammamish Trail (ELST) Corridor that appears to be utilizing public property within the construction limits of a King County Capital Project.

The East Lake Sammamish Trail (“ELST”) is an 11-mile regional trail located in the cities of Sammamish, Issaquah, and Redmond. After years of planning, public comment, and environmental permit review, King County is now preparing to construct the final trail segment that extends from SE 33rd Street to Inglewood Hill Road in Sammamish. On November 6, 2019, the City of Sammamish issued the required permits to begin construction.

In preparation for construction, the ELST Project Team has conducted extensive field surveys by licensed professionals to document current conditions within the ELST Corridor. The surveys have identified the following encroachments within the boundaries of construction that appear to be associated with your property at 133 East Lake Sammamish Shore Lane NE, Sammamish, WA:

Major Structures:

Safety or Access Structures:

Landscaping and Minor Structures: Fenced garden, water line, two fruit trees

This letter is to provide you notice that major and minor structures, and landscaping must be removed no later than September 30, 2020, because they are located within the boundaries of construction and will impede construction of the trail. For safety reasons, safety and access structures will need to remain in place until trail construction or an alternative measure are put in place. If you chose to remove safety and access structures, you must notify us prior to their removal.

You have two options:

Option 1. Self-Removal: You elect to remove major and minor structures, and landscaping by September 30, 2020. Under this option, you will need an Encroachment Removal Agreement to perform work within the East Lake Sammamish Trail Corridor. If you chose this option a copy of a draft agreement will be sent to you and we will work with you to complete this agreement.

Option 2. County Removal: You elect not to remove major and minor structures or landscaping by September 30, 2020. If you select this option, King County will remove and dispose of your encroachments during trail construction. Landscaping within the construction limits will be removed at no cost to you. King County may seek to recover all costs associated with removing other items.

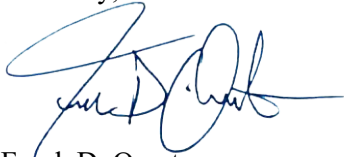
Please indicate your preferred option on the enclosed **Encroachment Removal Form** and return it in the self-addressed, stamped envelope by **March 30, 2020**.

If you wish to contest King County's authority to remove your encroachments, please provide an explanation and any supporting documentation to the design team by March 30, 2020 at ELST@KingCounty.gov.

Important Note: This letter does not address any encroachments on King County property that may be located outside of the boundaries of construction. These items will be addressed at a later time. To assist you in identifying your encroachments, enclosed you will find an aerial map that identifies your property, King County's property boundary, and the ELST construction limits.

If you have any questions regarding removal of your encroachments or construction of the ELST, please do not hesitate to contact our project team at ELST@KingCounty.gov or call the ELST project hotline at **(888) 668-4886**.

Sincerely,

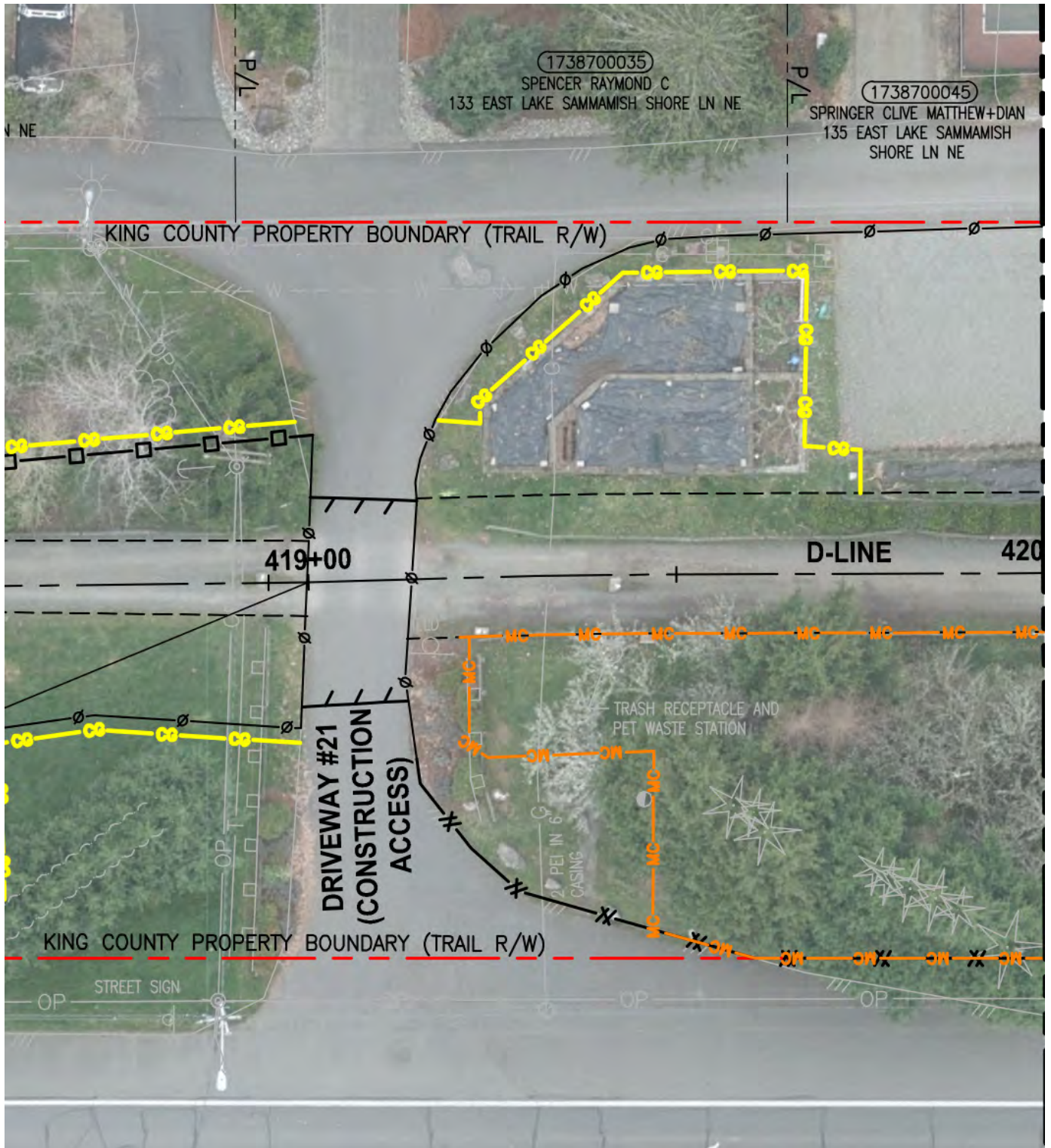
A handwritten signature in blue ink, appearing to read 'Frank D. Overton', with a stylized flourish at the end.

Frank D. Overton
Capital Project Managing Supervisor

Enclosures (2):

Aerial map
Encroachment Removal Form
Self-addressed Stamped Envelop

Enclosure 1. Aerial map of parcel with King County and the ELST construction boundaries highlighted.



LEGEND:

-  KING COUNTY PROPERTY BOUNDARY (TRAIL R/W)
-  PRIVATE PROPERTY LINE
-  CLEARING AND GRUBBING LIMITS
-  MITIGATION CLEARING
-  SAWCUT LIMITS
-  GRAVEL REMOVAL





Department of Natural Resources and Parks
Parks and Recreation Division
King Street Center, KSC-NR-0700
201 South Jackson, Room 700
Seattle, WA 98104

Encroachment Removal Form

East Lake Sammamish Trail Project

Purpose: To notify King County Parks about your preference for removal of the encroachments listed below:

Parcel Number: 1738700035

Site Address: 133 East Lake Sammamish Shore Lane NE, Sammamish, WA:

Encroachments:

Major Structures:

Safety or Access Structures:

Landscaping and Minor Structures: Fenced garden, water line, two fruit trees

Please check your preferred option for removal of personal items on King County Property:

- ☐ **Option 1. Self-Removal:** You elect to remove major and minor structures, and landscaping by September 30, 2020. Under this option, you will need an Encroachment Removal Agreement to perform work within the East Lake Sammamish Trail Corridor. If you chose this option a copy of a draft agreement will be sent to you and we will work with you to complete this agreement.
- ☐ **Option 2. County Removal:** You elect not to remove major and minor structures or landscaping by September 30, 2020. If you select this option, King County will remove and dispose of your encroachments during trail construction. Landscaping within the construction limits will be removed at no cost to you. King County may seek to recover all costs associated with removing other items.

Please indicate your preferred option and return it in the self-addressed, stamped envelope by **March 30, 2020.**

If you wish to contest King County's authority to remove your encroachments, please provide an explanation and any supporting documentation by March 30, 2020, to the project team at ELST@KingCounty.gov.

Signature: _____ Date: _____

Printed Name: _____

Contact Phone
and/or email: _____

Huie, Peter

From: Schmidt, Angie
Sent: Tuesday, September 17, 2024 4:37 PM
To: rayspencr@gmail.com
Cc: Huie, Peter; Permits, RES
Subject: Unauthorized landscaping - Spencer ELST
Attachments: IMG_7550.jpeg; IMG_7549.jpeg; IMG_7548.jpeg; IMG_7547.jpeg

Importance: High

Mr. Spencer,

It has come to the attention of King County Parks that unauthorized landscaping and blocks are in the process of being installed adjacent to your residence at 133 East Lake Sammamish Pkwy NE, PIN 1738700035 within the East Lake Sammamish Trail (ELST) corridor, PIN 3225069015. The attached photos taken today, September 17th, 2024 depict the unauthorized work and indicate damage and alterations to KC Parks ELST landscaping, which is not an allowable use. If the improvements are found to be inadequate or in conflict with ELST's infrastructure or landscaping, removal and restoration will be required.

This email serves as notification that a Special Use Permit (SUP) is required for any use of Parks property. Per King County Code 14.30.020, Special Use Permits shall be required for any use of County property. Information regarding Special Use Permits, allowable uses, and land use fees can be found at the following link: <https://kingcounty.gov/en/dept/dnrp/nature-recreation/parks-recreation/king-county-parks/about-us/land-management>. Engineered plans of proposed uses including any utilities and/or drainage or irrigation lines will be required with your SUP submittal. As part of the SUP process, Parks will review these plans and condition the permit accordingly.

Please discontinue use **immediately** of ELST until a special use permit is applied for, reviewed and issued. King County Real Estate Services website can be found [here](#) for SUP application and payment portal.

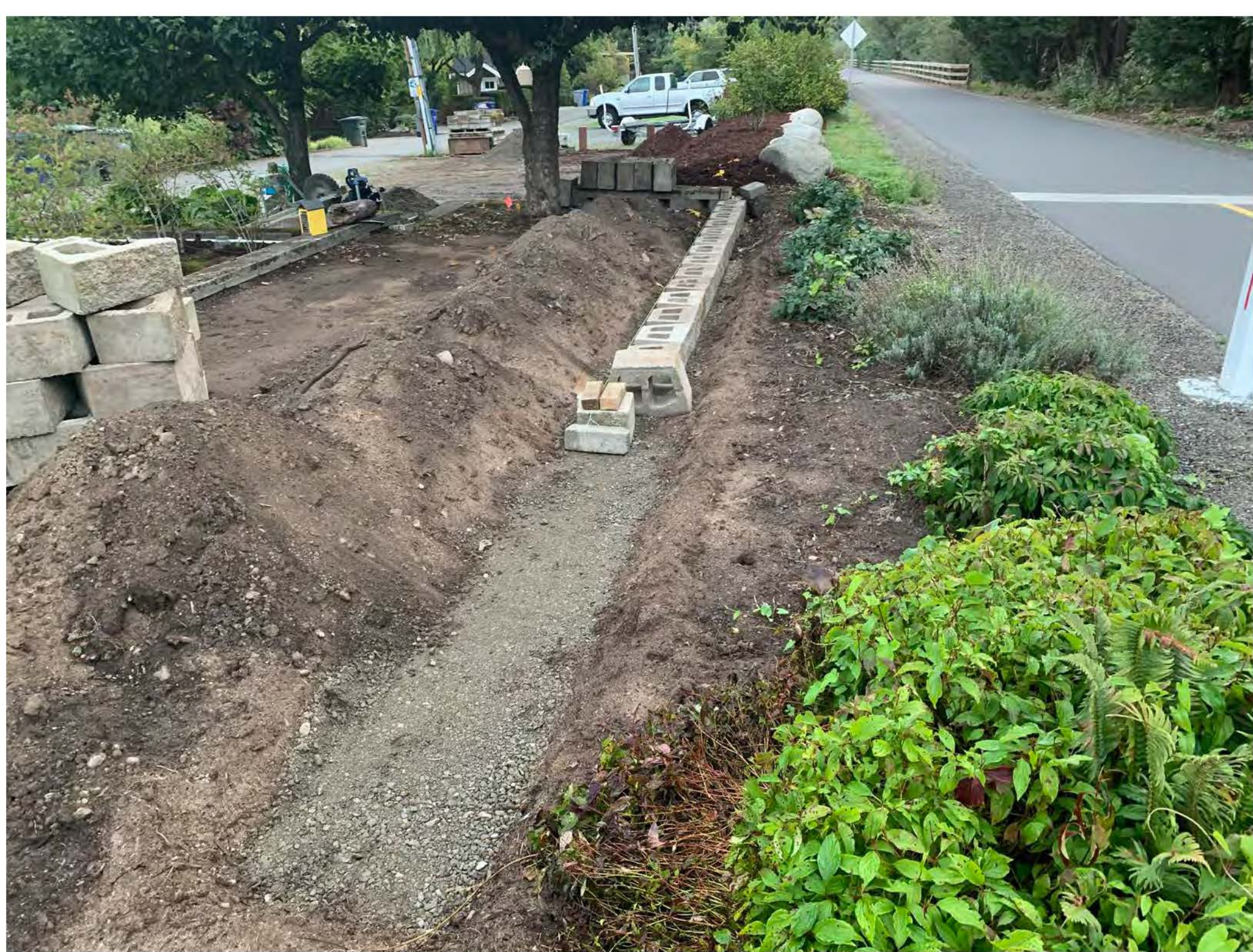
Thank you,



Angie Schmidt (she/her/hers)
Real Property Agent
King County Department of Natural Resources and Parks
E: angie.schmidt@kingcounty.gov
T: 206-477-4923 |    

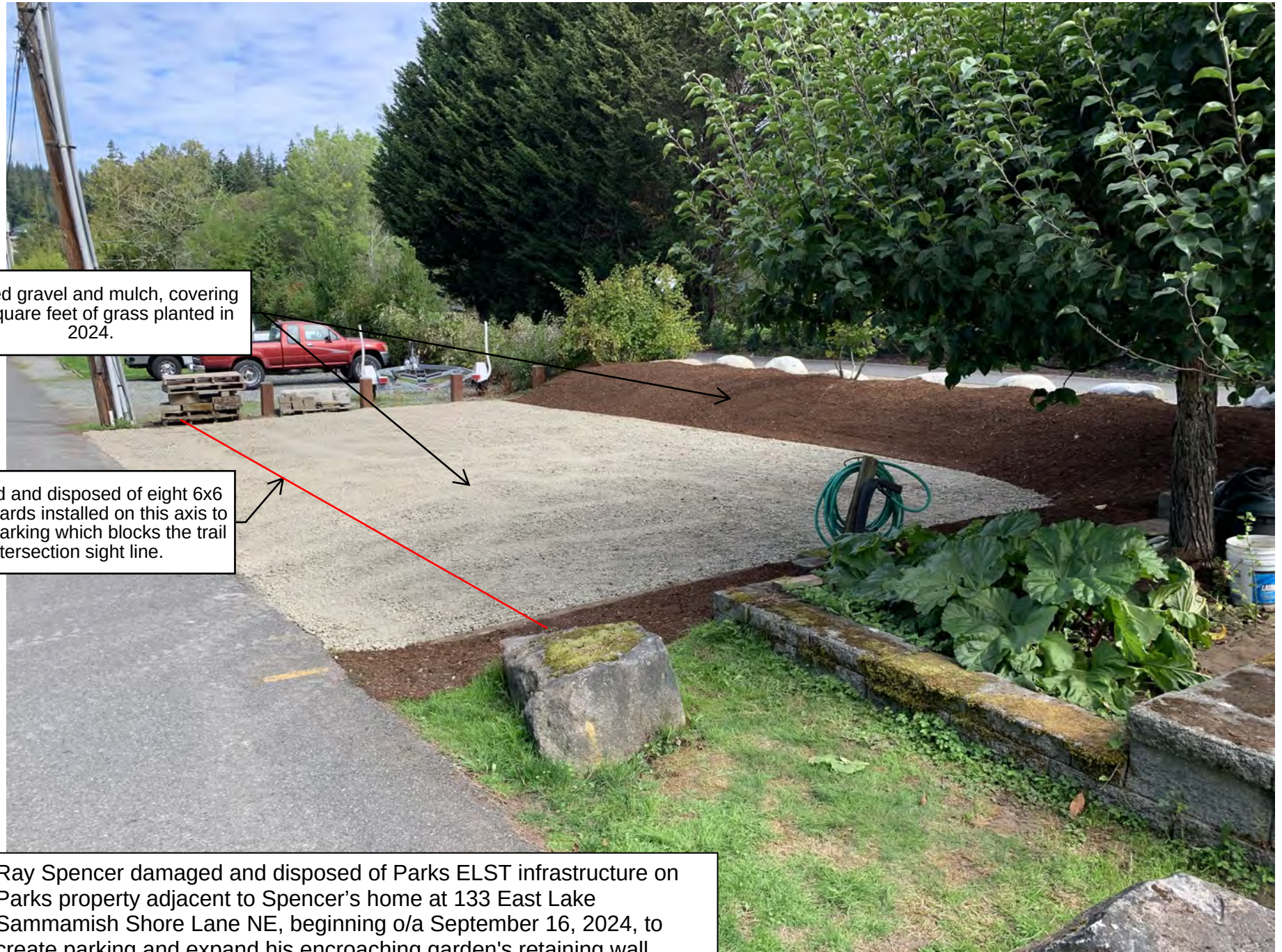
PRIVATE
LANE
NO
PARKING
OR
STOPPING







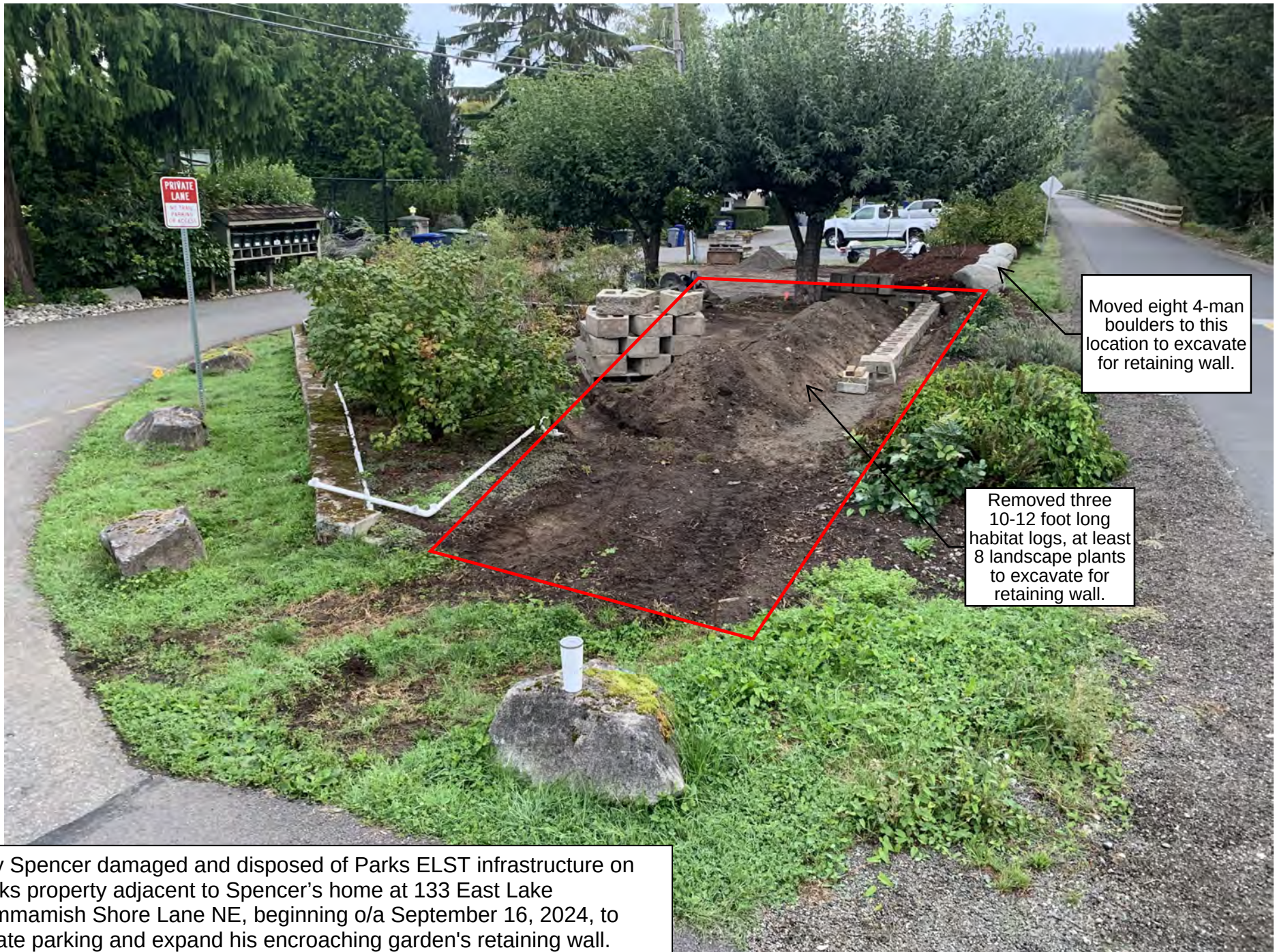




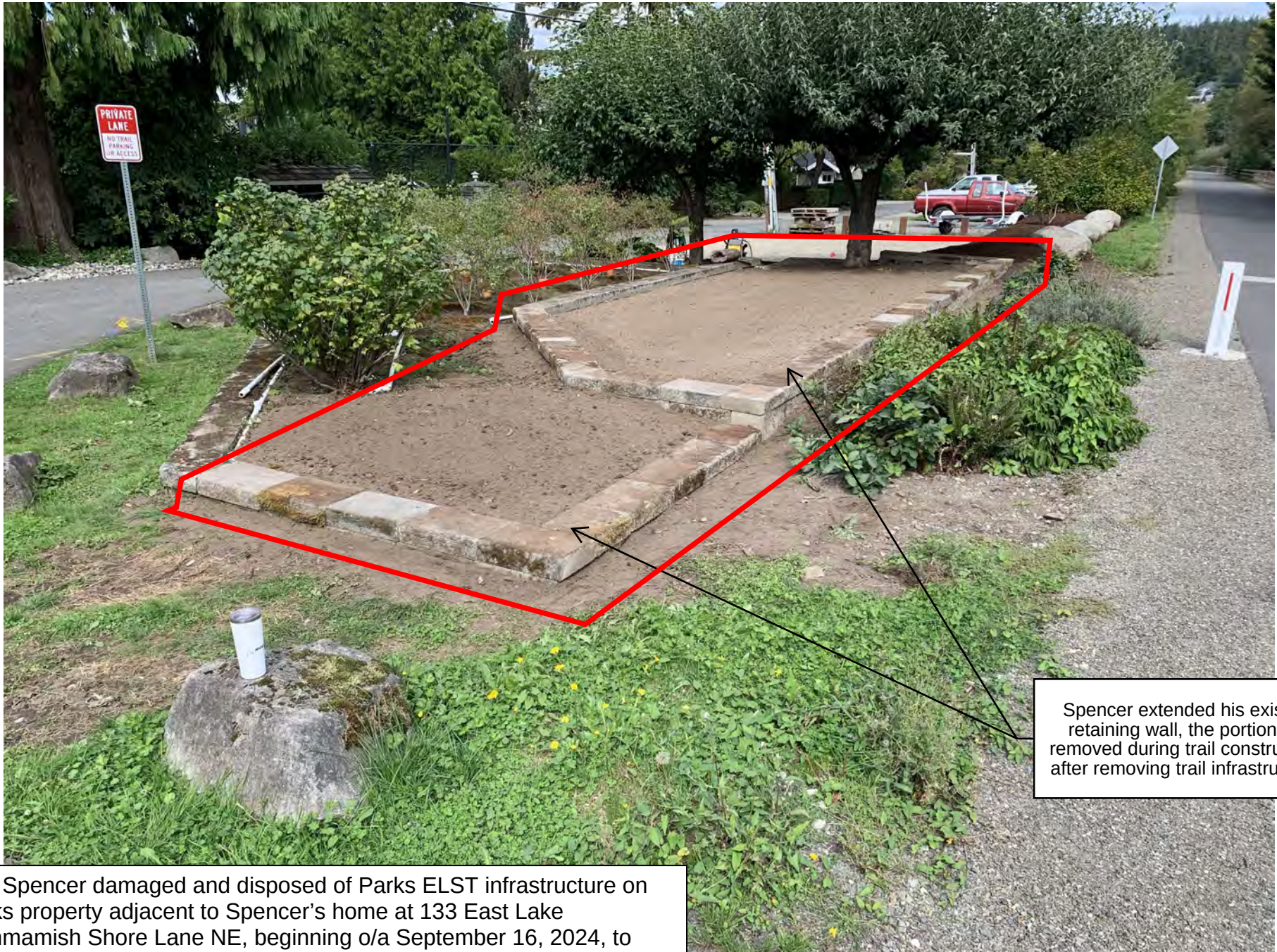
Installed gravel and mulch, covering 180-square feet of grass planted in 2024.

Removed and disposed of eight 6x6 wood bollards installed on this axis to prevent parking which blocks the trail intersection sight line.

Ray Spencer damaged and disposed of Parks ELST infrastructure on Parks property adjacent to Spencer's home at 133 East Lake Sammamish Shore Lane NE, beginning o/a September 16, 2024, to create parking and expand his encroaching garden's retaining wall.



Ray Spencer damaged and disposed of Parks ELST infrastructure on Parks property adjacent to Spencer's home at 133 East Lake Sammamish Shore Lane NE, beginning o/a September 16, 2024, to create parking and expand his encroaching garden's retaining wall.



Ray Spencer damaged and disposed of Parks ELST infrastructure on Parks property adjacent to Spencer's home at 133 East Lake Sammamish Shore Lane NE, beginning o/a September 16, 2024, to create parking and expand his encroaching garden's retaining wall.

Spencer extended his existing retaining wall, the portion not removed during trail construction, after removing trail infrastructure.

Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 7A



STEPHENS & KLINGE LLP
ATTORNEYS AT LAW

10900 NE 4TH STREET, SUITE 2300
BELLEVUE, WA 98004

RICHARD M. STEPHENS
CHARLES A. KLINGE

TELEPHONE (425) 453-6206

November 26, 2024

Via email
elwood@kingcounty.gov

Elisa J. Wood
Senior Deputy Prosecuting Attorney
701 Fifth Avenue, Suite 600
Seattle, WA 98104

Re: confidential settlement proposal under ER 408 regarding Ray Spencer

Dear Ms. Wood:

As you know, this firm represents Ray Spencer regarding your letter to him dated October 9, 2024. I want to take this time to address in more detail the issues in your letter. While we intended to get this response to you by November 22, 2024, the Spencers were without power into the weekend. Nevertheless, here is his response.

Perhaps the issue which underlies the parties' dispute is the nature of the County's ownership of the right of way and the Spencers' ownership. Mr. Spencer has repeatedly communicated to Parks supporting his position that he owns the fee interest underlying the right of way in Government Lot 2 of this Section. For instance, on June 7, 2022, he sent the email attached hereto as Attachment 1 to Peter Huie and others. Attachment 2 is the quitclaim deed he received for the fee interest underlying the right of way. Attached hereto as Attachment 3 is a copy of Mr. Spencer's April 14, 2022, email to Pete Huie.

In short, the Spencers' ownership vis-à-vis King County's ownership can be explained as follows: King County received a quitclaim deed in 1998 from The Land Conservancy of Seattle and King County (TLC) which previously had received a similar quitclaim deed from Burlington Northern Santa Fe Railway Company (BNSF). Quitclaim deeds do not warrant ownership of anything but merely transfer the ownership of whatever property interests, if any, the railroad had in the described property to TLC, which then transferred whatever those interests, if any,

are to King County. The BNSF Deed expressly declared that the conveyance was subject to all existing interests: "SUBJECT, however, to all interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise." The TLC Deed contains the same exclusion.

The railroad possessed a variety of property interests in the right of way. In some places, the railroad had a deed to the property. In others, it had an easement to operate a railroad. In other places, the railroad acquired its interests by virtue of a federal statute, such as the 1875 Act. Still in other places the railroad had no documentation of the receipt of a property interest and whatever interests it had were by virtue of the railroad's adverse possession of private property.

In the location where the Spencer property is located, the railroad acquired its interest from Jim and Alice Yonderpump. That deed provided that the Yonderpumps

hereby donate, grant and convey unto said Seattle, Lake Shore and Eastern Railway Company a right of way one hundred (100) feet in width through our lands in said County described as follows, to wit:

[specific description of lot and section]

Such right of way strip to be fifty (50) feet in width on each side of the center line of the railway track as located across our said lands by the Engineer of said Railway Company, which location is described as follows, to wit:
[description of the metes and bounds]

And the said Seattle, Lake Shore and Eastern Railway Company shall have the right to go upon the land adjacent to said line for a distance of two hundred (200) feet on each side of and cut down all trees dangerous to the operation of said road.

See Beres v. United States, 104 Fed.Cl. 408, 414 (2012).

That deed bears all the markings of granting an easement rather than a fee interest. It is described as a right of way. It is a 100-foot strip of land. It is measured by the railway track. The question as to whether the right of way in Government Lot 2 given to the railroad was a fee interest or an easement was

adjudicated in the Court of Federal Claims. Judge Horn, in a very complete and detailed lengthy decision, concluded that the right of way obtained by the railroad in Government Lot 2 is an easement. *See Attachment 4.* While various courts have determined that other portions of the right of way underlying the East Lake Sammamish Trail are held by King County in fee, rather than an easement, no court other than the Court of Federal Claims has addressed the nature of the right of way in Government Lot 2 in this Section.

The entire right of way has been railbanked, meaning the railroad easement still exists but is banked for future reactivation of rail service to an operating railroad. This is accomplished via the decisions of the Surface Transportation Board. Federal law prevents termination of the railroad easement and allows the temporary use of railbanked right of way for recreational trail use.

The position of the Surface Transportation Board regarding railbanking is as follows:

pre-existing rights of a third party to use part of the rail corridor are not impacted by railbanking and interim trail use under the Trails Act. In other words, trail use under the Trails Act should not prevent a third party from continuing to use a portion of the trail right of way in the same manner it was used before the interim trail use on the line, as long as it does not interfere with the potential reactivation of rail service.

See Attachment 5.

As explained in his prior communications with Parks, the Spencers own property within an unrecorded plat made by Willis J. Connell, in 1927. That plat shows distances of the lots from Lake Sammamish to the western edge of the railroad right of way. The plat created lots with metes and bounds descriptions that excluded the railroad right of way from the lots.

Prior to 1998, Connell never deeded the fee interest underlying the right of way to anyone else which means he retained that interest. Therefore, having never transferred his retained interest, his fee interest to which the easement attached would have passed to Connell's heirs. While Mr. Spencer thought he and his wife owned the fee underlying the right of way adjacent to his lot, upon considering that he might not because it was retained by Connell, the Spencers obtained a quitclaim

deed from Connell's heirs and properly recorded it. See Attachment 2. The deed covers the entire approximately 1500 feet of right of way that exists contiguous to the lots in the Connell plat, and not just the portion of the right of way adjacent to the Spencers' home.

Moreover, when the City of Sammamish was doing the Zackuse Creek restoration project, the City acquired a Temporary Construction Easement (TCE) from the Spencers to access all the ROW contiguous to the lots within the Connell plat. That TCE was transferred to King County when King County took over the Zackuse Creek restoration project. King County is subject to the restoration requirements contained in the TCE from the Spencers.

Under the TCE issued by the Spencers, King County was obligated to restore the gravel parking area and remove the bollards. Because it did not do so, Mr. Spencer had the right to restore the area at King County's expense.

Because King County has an easement on land owned by the Spencers, Washington law recognizes—like everywhere else in this country—that the servient estate holder, here, the Spencers, can use the property in any way that does not unreasonably interfere with the dominant estate holder's easement rights. *See United States Forest Service v. Cowpasture River Preservation Association*, 590 U.S. 604, 613 (2020) (a right of way easement is a grant of a right to use the land of another).

Even in the context of railroad right of ways, the Washington Supreme Court has recognized that the underlying landowner—the servient estate owner—retains the right to use his land in any way that does not interfere with the use granted by the easement. *See Veach v. Culp*, 92 Wn.2d 570 (1979).

As holders of the subservient estate, the plaintiffs are entitled to use the right-of-way in such a manner as does not materially interfere with the railroad's use thereof.

Id. at 575. The Court in *Veach* notes that the notion that a railroad is entitled to exclusive possession of a right of way is merely *dicta* and not a proper statement of the law. *Id.* at 574-75.

Because the Spencers may use their fee interests in any way that doesn't unreasonably interfere with the County's trail and railroad easements, his actions in the right of way were legal. He did nothing that interfered with trail use. Nor did he do anything to interfere with railroad use if such railroad use were existent. In fact, when the Spencers first acquired their property, Mr. Spencer asked BNSF how close he could build a raised bed to the railroad tracks and then he built the bed consistent with what BNSF told him. In fact, the recent work your letter accuses him of is in the exact location of his original raised garden bed, built with the approval of the railroad. There is no possibility that his garden interferes with railroad use, even if the railroad easement were active. And, if for any reason a future railroad operator (under the jurisdiction of the Surface Transportation Board) believed that his improvements interfered with the reasonable use of the railroad easement, those improvements could easily be removed or relocated.

Nor does the work Mr. Spencer is accused of doing unreasonably interfere with the trail easement. People can traverse the trail as they always have since the trail was originally constructed. Nor is anything built by him within the site triangle and there has been a long history of discussion with Parks about the site triangle in this location. *See, e.g., Attachment 6.*

The Spencers assert their rights to use the right of way in any way that does not interfere with the trail. However, the Spencers are very supportive of having the East Lake Sammamish Trail. They consider it an asset to the entire community, and they do not now—nor ever have—opposed the existence of the trail on the former railroad bed.

However, even if the Spencers were wrong about their ownership of the underlying right of way, everything done about which your letter complains are authorized by a settlement agreement King County entered into with Sammamish Homeowners and others to settle litigation before the Shoreline Hearings Board. The first part of the agreement states:

The County agrees that owners of real property burdened by, or adjacent to, the County right of way for the ELST may install landscaping improvements and vegetation within the County's right of way in accordance with the criteria set forth in Exhibit 1.

Attachment 7. That exhibit defines “landscaping” to include “manmade features, including, but not limited to, planting beds, fences, retaining walls, etc.” All of the features of the work in the right of way which you claim was done by Mr. Spencer meets this definition.

Furthermore, the Settlement Agreement provides:

10. Plantings/landscaping removed as a result of the County’s forthcoming construction of the ELST may be replaced in-kind if consistent with the above criteria.

Mr. Spencer’s plantings and landscaping are all consistent with the criteria in the settlement agreement. I am not aware of any basis on which Parks could refuse to honor the Settlement Agreement. Please let me know if you believe anything Mr. Spencer has planted or installed is inconsistent with the criteria in the Settlement Agreement.

The Spencers believe they own the fee underlying the right of way and they have the right to use the right of way in any way which does not unreasonably interfere with the trail easement. But regardless of their position, everything about which your letter complains is authorized by the Settlement Agreement signed by King County even if for any reason the Spencers do not own the fee. The County cannot renege on a settlement agreement.

It should be noted that Parks has a history of hostility, and a lack of cooperation directed at Mr. Spencer and other residents living on the lane, starting more than two decades ago. This may be result of those residents’ involvement as Board Members of Sammamish Homeowners, which was a party of the Settlement Agreement of the proceeding before the Shoreline Hearings Board, and Mr. Spencer’s status of president of Citizens for Safe and Legal Trails, an organization which sued King County over rail demolition with a permit and a suit over the adequacy of the King County’s environmental impact statement.

An example of Parks’ hostility is this. After the City of Sammamish Hearing Examiner ruled in favor of Sammamish Homeowners that King County had to comply with the 60% construction plan for the trail, King County waited to establish plans adversely to Spencer and without notice or opportunity to comment. The 60% plan, the 90% plan and 95% plan showed no trail improvements for the

Spencers' property. In fact, the 95% plan showed the Spencers' garden intact. Yet, when the 100% plan was revealed, adverse changes were shown and the Spencers were told by Parks that Parks would not consider changes in the plan. The nature of the "changes" the Spencers wanted were actually to make no changes to the area where their garden is located. Based on the last-minute disclosure of Parks' plans for this area, the Spencers and others in their neighborhood had no meaningful opportunity comment as was supposed to be provided according to paragraph 10 of the Settlement Agreement.

Additional evidence of Park's hostility relates to Parks' estimate of costs to restore the area addressed in your October 9, 2024, letter of approximately \$60,000 when actual cost would be closer to \$15,000.

Considering this, Mr. Spencer does not plan to restore the land as your letter has demanded or agree to reimburse the County for such costs, unless you can show it is inconsistent with the Settlement Agreement or inconsistent with his rights as a servient estate owner. However, Mr. Spencer does recognize that litigation of these issues poses a risk for Parks. There are multiple other related issues that would come to light if this dispute had to go to litigation. Not the least of this is the County's failure to comply with the TCE, asserting that unnecessary construction during the Zackuse Creek restoration project at additional taxpayer expense and the circumvention of promises made in the permitting process that resulted in trail construction under the guise of Zackuse Creek restoration. *See Attachment 8.*

While Mr. Spencer is willing to go to litigation on these issues, he is not insistent on doing so. He has no interest in trying to set a precedent. If King County would simply back off and allow the neighborhood to continue their legal, historical use, there is no reason for pursuing litigation. Also, we would be more than happy to meet with you or Parks staff if you believe that would be helpful to resolve these issues.

Sincerely,

Richard M. Stephens

Richard M. Stephens
Attorney
stephens@sklegal.pro

Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 7B

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



LEESA MANION (she/her)
PROSECUTING ATTORNEY

JUSTICE
COMPASSION
PROFESSIONALISM
INTEGRITY
LEADERSHIP

January 15, 2025

Richard M. Stephens
Stephens & Klinge LLP
10900 NE 4th Street, Suite 2300
Bellevue, WA 98004

RE: ER 408 Settlement Demand for Ray Spencer for Unauthorized Work on and Damage to Parks Property, Parcel# 3225069015

Dear Mr. Stephens:

Thank you for your letter regarding Ray Spencer's concerns with King County's settlement demand; however, as was stated in previous correspondence to Mr. Spencer's prior attorney in 2019, we disagree with his assertions.

King County's Exclusive Use Rights

Your client's claim of fee ownership to land within the ELST Corridor (Parcel Number 3225069015) is not without significant limitations, namely any right to use the ELST Corridor. Regardless of whether the railroad company originally obtained the land through an easement or in fee does not make a difference for the purposes of your client and his interests, because the ELST Corridor has been railbanked pursuant to the Rails to Trails Act, 16 U.S.C. §1247(d) and King County has been appointed as the trail sponsor. The Act specifies that the conversion from rails to trails "shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of such rights-of-way for railroad purposes." Therefore, even if the railroad only possessed an easement, once the corridor was railbanked, the railroad easement was preserved and a new easement for trail use was created. See *Hornish v. King County*, 899 F. 680, 695-697 (9th Cir. 2018). As a result, there is virtually no distinction between a "railroad easement" and fee ownership because the railroad easement is exclusive. As Judge Pechman held in *Hornish v. King Cty.*, 182 F. Supp. 3d 1124, 1130 (W.D. Wash. 2016), aff'd, 899 F.3d 680 (9th Cir. 2018):

[T]he County's rights are coextensive with the railroad's and that it "is entitled to the exclusive use and possession of the area on, above, and below the surface of the Corridor for railroad purposes and incidental uses permitted by Washington law, including use as a recreational trail."

CIVIL DIVISION • COLUMBIA CENTER, SUITE 600
701 FIFTH AVENUE • SEATTLE, WASHINGTON 98104
Tel: (206) 477-1120 • www.kingcounty.gov/prosecutor

It is well settled that the ELST railroad easement has granted King County the exclusive use and control of all land within the right of way; therefore Mr. Spencer's garden beds and gravel parking lot are encroaching upon King County's property and must be removed. *Grand Trunk R. Co. v. Richardson*, 91 U.S. 454, 455, 23 L.Ed. 356 (1875).

King County, as the appointed trail sponsor, currently possesses both the railroad and trail easements and was authorized to construct the East Lake Sammamish Trail in the corridor. Any remedy regarding extinguishment of your client's reversionary interest as a result of the Rails-to-Trails Act would be available as a takings claim filed with the Federal Court of Claims. Mr. Spencer has already taken advantage of this remedy and he has been fairly compensated as part of his settlement in the *Beres* matter.

With King County holding an exclusive easement over the ELST Corridor adjacent to your client's property, Mr. Spencer lacks any right to use the land without express permission from the County through a Special Use Permit.

Zackuse Creek Culvert Replacement & Temporary Construction Easement

The construction on the trail adjacent to Mr. Spencer's home was performed in support of the Zackuse Creek Culvert Replacement project, and the City of Sammamish approved that permit. See **Attachment A**. Your client asserts that he granted a temporary construction easement (TCE) to the City of Sammamish in order to facilitate the City's Zackuse Creek culvert replacement project, with the understanding that the City would "...restore the area to its pre-construction condition after the culverts were replaced." This TCE was transferred to King County by the City on July 25, 2018, and the County as part of the County's concurrent construction of the ELST, who agreed to complete the Shore Lane culvert project for the City of Sammamish. See **Attachment B**, TCE Transfer Notification Letter. It is worth noting that since this culvert project was completed, the number of kokanee salmon that has returned to Lake Sammamish has reached record highs as a direct result of this and other similar projects along Lake Sammamish: <https://kingcounty.gov/en/dept/dnrp/about-king-county/about-dnrp/newsroom/news-releases/10-18-kokanee-release>

That said, Section 7 of the TCE, Repair of Damage, states the Shore Lane easement area will be restored to its original condition, except for the constructed project improvements. See **Attachment A** (emphasis added). Since this work was done concurrent with ELST trail construction, King County has met the requirements in the TCE, which your client promptly damaged with new encroaching structures. No term or provision of the TCE can modify or invalidate King County's exclusive right to use and control all land within the right of way. Neither the City nor the County is obligated to restore Mr. Spencer's encroaching garden beds and gravel parking lot and these encroachments must be removed. The South Sammamish B segment of the ELST was designed to the City of Sammamish Department of Public Works Site Obstruction's standard, updated in 2016. The sight triangle is 14.5 feet wide and 295 feet long for the 20-mph design speed. Your client's garden (which previously contained corn plants well over 9' tall), its fence, and the fruit trees were and are again now encroachments on King County property, which limit the sight distance to 35 feet for oncoming trail traffic. They must be

Richard Stephens
January 15, 2025
Page 3

removed, and King County's property improvements restored. Your client's "pre-existing gravel parking area" was an encroachment on King County property and removed as part of ELST construction. There is no inherent right to park on King County property. Vehicles, including trucks and boats, stored on this land blocked the sight line from driveways looking north. Therefore, the gravel parking lot must also be removed and King County's property improvements, constructed as part of the ELST Corridor project, be restored.

With regard to your client's allegations related to design violations and final construction plans, Mr. Spencer was previously notified by David Pyle, Director of the Sammamish Department of Community Development, on January 9, 2019, that Condition #6 of the permit for the Zackuse Creek culvert replacement project was amended to allow for the fill and other improvements to remain in accordance with an agreement between King County and the City. Your client was provided with a copy of the amended permit as well as the letter of agreement between King County and the City. Copies of both are attached again here as **Attachment C**.

All of these issues and claims have been addressed with Mr. Spencer and his prior counsel. He has pursued a Takings Clause action against the Federal Government for the non-reversion of the railroad easement and has been fairly compensated. All of his claims have been litigated or are barred from litigation due to *res judicata*.

It is King County's obligation, as a public entity and as the appointed trail sponsor, to manage the ELST Corridor as a public asset and preserve the integrity of the Corridor. Limitations in the state constitution prohibit King County from allowing private use of the ELST unless there is an identifiable public benefit, which can include rental payments made under a revocable Special Use Permit (pursuant to King County Code §14.30). Mr. Spencer is encroaching on King County property, knows he is doing so as he has previously applied for a Special Use Permit for these unpermitted land uses (see **Attachment D**), and continues to disregard King County Code, King County's exclusive railroad easement, permit requirements, and the conditions he agreed to when approving the TCE with the City of Sammamish, which was assigned to King County.

Encroachment Removal Notice

King County reiterates its notice and demand to your client to accept King County's demand outlined in my November 6, 2024 letter by **January 31, 2025**. Absent your client accepting King County's demand by January 31, 2025 for encroachment removal, King County will remove his encroachments, store his encroaching property at his expense until retrieval or expiration of necessary storage requirements, and restore Parks' property to ELST design specifications at Mr. Spencer's sole expense.

Sincerely,



Elisa J. Wood
Senior Deputy Prosecuting Attorney

King County Prosecuting Attorney

Richard Stephens

January 15, 2025

Page 4

Enclosures (4)

cc : Doug Hodson, Deputy Director, King County Department of Natural Resources and
 Parks
 Ben Gossett, Land Management Supervisor, King County Department of Natural
 Resources and Parks

Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 8



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Page 1 of 2



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LAND USE FEES OVERVIEW



King County

PARKS**Your Big Backyard**

Land Use Guidelines

The Land Use Guidelines give King County Parks a framework for transparent, fair, and consistent decision-making when considering requests for private, non-park uses of Parks-owned property. The guidelines provide direction as to where, how, and when limited, private uses of Parks-owned property will be allowed.

These guidelines help Parks to:

- Ensure public lands are available for public benefit and use
- Protect taxpayer investment
- Recover costs associated with issuing and monitoring Special Use Permits so that no Parks Levy funds or King County general funds are needed for this purpose

Special Use Permits

When a landowner adjacent to one of King County's regional trails or parks proposes to use public land for their own private, non-park purposes, Parks reviews their request. If the proposed use aligns with the Land Use Guidelines and is approved by King County Parks, the landowner must pay associated fees in order to have their Special Use Permit issued.

Fees associated with Special Use Permits

The Land Use Fee represents the cost of the private use or "rental" of public lands. Land Use Fees reflect market rate land values and the costs associated with administering and monitoring Special Use Permits, so that no Parks Levy funds or King County general funds are needed for this purpose.

Land Use Fees will vary depending upon the type of use, impact, and property location.

Fees include:

- Application fee
- Land use fee

Additional fees may include:

- Technical review or inspection fee
- Leasehold Excise Tax
- Financial guarantees (bonds)

The application fee is a standard, non-refundable fee set by King County Code 4A.675.040. The application fee is \$500 and paid to King County Real Estate Services Section.

Questions?

Email: ParksProperty@kingcounty.gov
Land Management Hotline: 206-477-9770



King County

PARKS



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Page 2 of 2



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LAND USE FEE CALCULATION

The Land Use Fee is based on King County's overall land valuation methodology and include the following elements:

$$\begin{aligned}
 &\text{Average land value (\$/sf)} \\
 &\quad \times \\
 &\text{Square footage (sf)} \\
 &\quad \times \\
 &\text{Usage factor (\%)} \\
 &\quad \times \\
 &\text{Rate of return (\%)} \\
 &= \text{Annual Land Use Fee}
 \end{aligned}$$

The **average land value** is determined by King County's Real Estate Services Section using established real estate valuation methods, such as appraisals and comparable properties.

The **square footage** is the amount of Parks property that will be impacted by the private use.

The **usage factor** is the extent to which the private use encumbers public land and reduces availability for public benefit and use.

The **rate of return** is similar to an interest rate and set by King County's Finance and Business Operations Division.

Understanding the usage factor

King County Parks defines the usage factor as follows:

- 1% = Surface crossing or sub-surface use that does not prohibit use or benefit by the public constitutes a use of Parks' public parkland. This is the most common type of Special Use for example, ingress/egress or utilities.
- 50% = Surface, non-exclusive use that may create a perceptual barrier or actions that can reduce public parkland for private use. This will only be allowed in special circumstances per the Land Use Guidelines, Section 4.B.iii.
- 100% = Surface, exclusive use that occupies public parkland or creates a physical barrier preventing the benefit and use of public parkland. This will only be allowed in extremely rare circumstances per the Land Use Guidelines, Section 4.B.iii.

www.kingcounty.gov/parks/landmanagement

Questions?

Email: ParksProperty@kingcounty.gov
Land Management Hotline: 206-477-9770



King County



Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 9

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims (“Agreement”) is entered into by and between King County (“County”) and Shorelines Hearings Board Petitioners James T. Stenson, Greg & Karma Chapman, and Sammamish Homeowners (collectively “Petitioners”). The County and Petitioners are collectively referred to herein as the “Parties.” The Parties enter into this Agreement to resolve (1) an appeal filed with the Shorelines Hearings Board on January 17, 2014, namely *Stenson, et al. v. King County, et al.*, SHB No. 14-001, and (2) other disputes associated with the construction of the North Sammamish segment of the East Lake Sammamish Trail, among other issues.

RECITALS

1. James T. Stenson (“Stenson”) owns residential real property commonly known as 2029 E. Lk. Sammamish Pkwy. NE, Sammamish, WA 98074, also known as King County Parcel No. 7525900080.
2. Greg & Karma Chapman (“Chapman”) own residential real property commonly known as 2831 E. Lk. Sammamish Pkwy. NE, Sammamish, WA 98074, also known as King County Parcel No. 2025069119.
3. Sammamish Homeowners is a Washington non-profit corporation that advocates regarding property issues affecting individuals who own residential real property within the City of Sammamish (“City”), including owners on Lake Sammamish in the vicinity of the East Lake Sammamish Trail (“ELST”).
4. On July 31, 2012, King County Parks applied for a Shoreline Substantial Development Permit to widen and make other improvements to the northern portion of the ELST within the City, also known as the North Sammamish segment. This application was assigned permit no. SSDP 2013-00145 (“Application”). On September 3, 2013, the City conditionally approved the Application. In addition to the North Sammamish segment, the County is currently in the planning process for the South Sammamish segment.
5. On September 26, 2013, Stenson and Chapman filed a timely appeal of the Application to the City’s Hearing Examiner (“Appeal”). Thereafter, King County filed a Motion to Dismiss Appeal of Shoreline Substantial Development Permit (SSDP), seeking dismissal of the Appeal on various grounds. On December 12, 2013, the Hearing Examiner issued a Dispositive Order on Motions, dismissing the Appeal in its entirety. On January 17, 2014, Stenson, Chapman, and Sammamish Homeowners filed a Petition for Review (“Petition”) with the Shorelines Hearings Board.
6. The Parties now desire to fully and finally dismiss the pending appeal of the SSDP and resolve other disputes associated with the construction of the North Sammamish segment of the ELST, among other issues.

AGREEMENT

In consideration for the mutual covenants set forth below, the sufficiency of which is acknowledged, the Parties hereby agree as follows:

1. Landscaping Improvements and Vegetation: The County agrees that owners of real property burdened by, or adjacent to, the County right of way for the ELST may install landscaping improvements and vegetation within the County's right of way in accordance with the criteria set forth in **Exhibit 1**.
2. Special Use Permits: The Parties agree that those property owners who have already obtained a Special Use Permit ("SUP") for their landscaping improvements and/or vegetation, will not be required to obtain a new one for new landscaping improvements or vegetation necessitated or desired as a result of the County's forthcoming construction of the ELST. Those property owners with an SUP who seek to establish new landscaping improvements or vegetation must amend their SUP. No fee will be charged for such amendments.

The County further agrees to establish a pre-approval/screening process whereby property owners can present planting/landscaping plans to the County and obtain guidance and pre-approval from the County without risking the loss of the fee for a SUP, if applicable. If the SUP application is consistent with the criteria in Exhibit 1, the County shall approve the SUP.

The County acknowledges that it has performed a survey of the right of way for the ELST, and the County agrees that property owners will not be required to submit a survey or perform additional survey work as a condition of applying for a SUP to utilize the right of way for the ELST.

3. Notification re Commencement of Construction: Following dismissal of the Appeal to the SHB as set forth in Paragraph 11 below, the County agrees to mail a letter to all owners of real property burdened by, or adjacent to, the County right of way for the North Sammamish segment of the ELST, informing them of the anticipated schedule for construction and offering a new deadline to remove any improvements that will interfere with construction. To the extent any of these property owners seek individualized direction from the County regarding which improvements or vegetation will need to be removed as a result of construction, the County will provide this consultation by means of the pre-screening/consultation process referred to in Paragraph 2 above. The County shall also mail a similar notification prior to construction of the South Sammamish segment.
4. Liability/Indemnity: In addition to the letters to property owners required by Paragraph 3 above, the County shall also mail those property owners a letter

acknowledging that the ELST is a County facility, designed, developed and maintained by the County.

5. Signage: In addition to the signage included in the ELST design and construction plans, the County agrees to install the following additional signage on the north segment of the ELST:
 - (i) Sign pairs stating “narrow bridge” to warn trail users that the ELST narrows to eight feet in the vicinity of Stenson’s residence.
 - (ii) Sign pairs stating “congested area/reduced speed” in the vicinity of Stenson’s residence.
 - (iii) A total of four additional sign pairs of the existing “multiple driveway” signs currently on the design and development plans will be modified to say “congested area” and “reduce speed” instead of “multiple driveway.” In addition, sign pairs stating “congested area/reduce speed” will be placed at the following locations, Audett property, 2813 E. Lk. Sammamish Pkwy. NE; Woodin property, 2927 E. Lk. Sammamish Pkwy. NE.
6. Chapman Wall: The County agrees to construct the proposed County wall in front of the Chapman residence (Wall 13A on plan sheet AL 10) on the same alignment as the wall in the existing construction plans for the adjoining property to the immediate south (Wall 13 on plan sheet AL 10). The County agrees to temporarily remove the driveway retaining wall constructed by Chapman. Chapman shall obtain three competitive bids from licensed and bonded contractors for rebuilding the wall. Chapman shall either accept the lowest bid, or if a higher bid is accepted, Chapman must agree to pay out-of-pocket the different between the higher bid and the lowest bid. The County agrees to pay Chapman a sum equal to the lowest bid, with the County’s obligation capped at a maximum of \$7,500, to compensate Chapman for the costs of rebuilding the wall following construction of the North Sammamish segment of the ELST. Payment shall be received by counsel for Chapman within 45 days of the County’s receipt of the competitive bids. With respect to construction of the County’s proposed retaining wall adjacent to the Chapman residence, the County shall give Chapman the option of choosing one of the styles/designs attached as **Exhibit 2**.
7. Mirrors: Stenson has requested a mirror in the vicinity of the driveway serving Stenson’s residence to increase the safety of crossing the ELST. The County agrees to install a mirror at this location to assist with this purpose. The County will not be obligated to maintain the mirror. The County also agrees to consider requests to retain existing mirrors, and/or install new mirrors, by other property owners concerned about the safety of crossings. Approval for the retention or installation of mirrors will be performed on a case-by-case basis, and such approval will not be unreasonably withheld.

8. Pet stations: The County agrees to install up to four additional pet stations along the north segment of the ELST at locations agreed upon the Petitioners and counsel for Petitioners. These pet stations shall include signage setting forth the rules for the ELST. These pet stations shall be in addition to those included in the ELST design and construction plans at pre-determined locations.
9. Copying Costs: Stenson and Chapman received an invoice from the County, dated November 26, 2013, in the amount of \$1,014.85 for copying costs and legal messenger fees allegedly incurred in response to a requested by counsel for Stenson and Chapman. The County agrees to pay these costs and fees.
10. Process: Petitioners have expressed a concern that the County's engineering plans are simply too difficult for laypersons to interpret in order to determine what effect the County's anticipated construction of the ELST will have on their existing improvements. Accordingly, the County agrees to provide additional information to property owners to assist in the interpretation of the plans. Such additional information shall include a "how to" guides explaining how to determine the location of sight lines and grub lines for the anticipated construction. In addition, the County will offer property owners group and individual meetings for those individuals who have questions about the County's plans and their effect on their existing improvements. The County also agrees that, regardless of the existence of formal comment periods required by applicable law, the County will make the 60% and 90% plans available to the public with sufficient time to allow for public review, consideration, and feedback. The County further agrees to provide Sammamish Homeowners with the notifications, letters, and guides set forth in Paragraphs 3 and 10 herein at the same time they are provided to the public.
11. Dismissal and Waiver: Petitioners agree to file a Motion to Dismiss with prejudice the Petition for Review in *Stenson, et al. v. King County, et al.*, SHB No. 14-001. The Motion to Dismiss shall be filed no later than Friday, February 7, 2014. Stenson, Chapman and Sammamish Homeowners agree not to file any additional legal or administrative appeals of SSDP 2013-00145, and shall not otherwise interfere with any permits for construction of the North Sammamish segment of the ELST.
12. Entire Agreement: This Agreement and the exhibits attached hereto contain the entire agreement between the Parties with respect to the subject matter hereof and shall not be modified or amended in any way except in a writing signed by duly authorized representatives of the respective Parties or their successors in interest or assigns.
13. Enforcement: This Agreement may be enforced by filing an action in King County Superior Court. The Parties agree that damages are not an adequate remedy for any breach of this Agreement, and that a party alleging breach may seek specific performance and/or injunctive relief. The prevailing Party in such an action shall be entitled to recover its reasonable costs and attorney's fees, including those

reasonable costs and attorneys' fees incurred in any appeal from the judgment of a lower court.

14. Notice: Any notice or other communication of any sort required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if personally delivered or three days after being mailed by certified mail as follows:

For Petitioners:

Samuel A. Rodabough, Esq.
Law Office of Samuel A. Rodabough PLLC
10900 N.E. 4th St., Ste. 2300
Bellevue, WA 98004

For the County:

Barbara A. Flemming, Esq.
Senior Deputy Prosecuting Attorney
Civil Division
King County Prosecuting Attorney
516 3rd Ave., Rm. W400
Seattle, WA 98104-2388

15. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.
16. Headings/Interpretation: The headings and subheadings contained in this instrument are solely for the convenience of the Parties and are not to be used in construing this Agreement. Nothing in this Agreement shall be construed as a waiver or otherwise have any affect upon, the ongoing dispute between the Parties regarding the nature of the property interests owned by the Parties, respectively.
17. Authority: The persons executing this Agreement on behalf of the respective Parties hereby represent and warrant that they are authorized to enter into this Agreement on the terms and conditions herein stated.
18. Effective Date: The "Effective Date" of this Agreement shall be that latest date identified below when any party has executed this Agreement.
19. Counterparts: This Settlement Agreement may be executed in counterparts, all of which shall be deemed an original as if signed by all Parties.
20. Binding Effect: This Settlement Agreement shall be binding upon the respective successors and assigns of the Parties hereto, shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns.

For King County:

Monica Leers

Monica Leers, Program Manager
King County Parks

2/7/2014

Dated

For James T. Stenson:

James T. Stenson

James T. Stenson

2/6/2014

Dated

For Greg & Karma Chapman:

Greg Chapman

Greg Chapman

2/6/2014

Dated

Karma Chapman

Karma Chapman

2/6/2014

Dated

For Sammamish Homeowners:

Dwight Martin

Dwight Martin, President

2/6/2014

Dated

EXHIBIT 1

LANDSCAPING/PLANTINGS ON COUNTY RIGHT OF WAY EAST LAKE SAMMAMISH TRAIL

- 1) Plantings/landscaping in the County's right of way must not impact sight lines along the trail. Plantings/landscaping less than 3 feet in height do not impact sight lines, unless steep topography requires otherwise (slopes may dictate less than 3 feet). Plantings/landscaping outside of the sight lines may exceed 3 feet in height if the other criteria set forth below are met.
- 2) Plantings/landscaping in the County's right of way must not cause damage to the trail or trail infrastructure (including drainage facilities, infiltration, retaining walls, pavement etc).
- 3) Plantings/landscaping in the County's right of way must not result in additional maintenance costs for the County.
- 4) Plantings/landscaping in the County's right of way must not encroach onto the trail footprint.
- 5) Plantings/landscaping in the County's right of way must not adversely impact the health of other plantings on the trail or irrigation/mitigation projects on the trail.
- 6) Plantings/landscaping in the County's right of way must not be placed in critical areas, unless part of an approved restoration project.
- 7) Plantings/landscaping in the County's right of way must be consistent with City code requirements
- 8) Any proposed irrigation systems must be approved in advance to ensure compliance with the landscaping guidelines.
- 9) Plantings/landscaping in the County's right of way may be native or non-native, if consistent with the above criteria.
- 10) Plantings/landscaping removed as a result of the County's forthcoming construction of the ELST may be replaced in-kind if consistent with the above criteria.
- 11) All references to "plantings" in these criteria mean the mature height and width of the plants, shrubs and trees.
- 12) All references to "landscaping" in these criteria mean other manmade features, including, but not limited to, planting beds, fences, retaining walls, etc.
- 13) All references to "trail" in these criteria means the paved portion of the trail and trail infrastructure, including its 2-foot shoulder.

Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 10



Surface Transportation Board
Washington, D.C. 20423-0001

Office of the General Counsel

202-245-0260
FAX 202-245-0460

June 29, 2020

Lisa L. Russell
Chief, Natural Resources Section
Environment and Natural Resources Division
United States Department of Justice
150 M St. NE
Washington, DC 20002

Re: Surface Transportation Board authority over railbanked rail lines

Dear Ms. Russell,

This letter describes the general authority of the Surface Transportation Board (the “STB” or “Board”) over rail lines that have been railbanked under the National Trails System Act (the “Trails Act”), and in particular, the Board’s authority to address the impact of railbanking on structures or other improvements that may have been placed in the rail corridor by third parties before the line was railbanked. The STB is sometimes required to decide disputes concerning such structures or improvements. Please note that this letter does not provide the Board’s views concerning any specific matter, including the appropriate disposition of any particular structure or improvement.

Under the Trails Act, railroads may agree to allow qualified trail sponsors to utilize underused rail lines as interim trails. 16 U.S.C. § 1247(d). When the railroad and trail sponsor reach an agreement that meets the statutory requirements, the rail line is considered to be “railbanked,” which means that it may be used as an interim trail while being held in reserve (banked) in case future rail service is required. *Id.* Because the statute prohibits the Board from considering railbanked lines to be abandoned, they remain under the STB’s jurisdiction as part of the interstate rail system and subject to potential reactivation for rail service. *Id.* The Trails Act does not expand the STB’s jurisdiction over rail lines, which is contained in the Interstate Commerce Act, as amended, at 49 U.S.C. § 10501; rather, it provides that the Board’s jurisdiction remains in place over railbanked lines for the duration of the interim trail use. Therefore, pre-existing rights of a third party to use part of the rail corridor are not impacted by railbanking and interim trail use under the Trails Act. In other words, trail use under the Trails Act should not prevent a third party from continuing to use a portion of the rail right-of-way in the same manner it was used before the interim trail use on the line, so long as it does not interfere with the potential reactivation of rail service.

Sometimes questions arise about the way in which particular third parties use the rail right-of-way within a Trails Act trail. The STB, which is primarily an adjudicatory body, does not, on its own initiative, actively investigate the status of any structures or

improvements within a railbanked corridor. It does, however, on occasion address disputes between third parties, trail sponsors, and/or railroads that are brought to it concerning whether rights and activities within a particular railbanked corridor interfere with or are preempted by the Board's jurisdiction over rail transportation under federal law. When the Board addresses such disputes, its primary focus is on ensuring that the potential reactivation of rail service on the rail corridor remains possible. As the Board has stated, "[o]ur chief concern, once a trail condition has been imposed, is that the statutory rail banking condition not be compromised, and that nothing occur that would preclude a railroad's right to reassert control over the right-of-way at some future time to revive active service." Idaho N. & Pac. R.R.—Aban. & Discontinuance Exemption—in Wash. & Adams Ctys., Idaho, AB 433 (Sub-No. 2X) et al., slip op. at 9 (STB served Apr. 1, 1998); see also Jie Ao & Xin Zhou—Pet. for Declaratory Order, FD 35539 (STB served June 6, 2012) (determining whether certain state law property claims are preempted as unreasonably interfering with potential reactivation of rail service on a railbanked corridor). If a dispute concerning rights or activities within a railbanked corridor, including the presence of structures or improvements, is formally brought to it in the future, the Board could, as it has done in the past, hold a proceeding to examine the facts and circumstances in the context of its existing precedent. At the conclusion of such a proceeding, the Board could issue a decision resolving the dispute. As discussed above, STB does not, on its own initiative, institute such proceedings.

Please let us know if we can provide you with any additional information or further assistance.

Sincerely,

A handwritten signature in black ink that reads "Craig M. Keats". The signature is written in a cursive, slightly slanted style.

Craig M. Keats
General Counsel

Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 11

AFTER RECORDING, PLEASE RETURN TO: JTL
HANSEN, BAKER, LUDLOW & DRUMHELLER, P.S.
10777 Main Street, Suite 300
Bellevue, Washington 98004

QUITCLAIM DEED

BURLINGTON NORTHERN RAILROAD COMPANY (formerly named Burlington Northern Inc.), a Delaware corporation, Grantor, for Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, conveys and quitclaims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to **ARTHUR H. HOLMBOE and SALLYANN HOLMBOE, Husband and Wife**, of 800 Pollard Road, Los Gatos, California 95030, Grantees, all its right, title and interest, if any, in real estate situated in the County of King, State of Washington, together with all after acquired title of grantor therein, more particularly described as follows:

The Westerly 25.0 feet of Burlington Northern Railroad Company's (formerly Northern Pacific Railway Company) 100.0 foot wide Snoqualmie Branch right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline as now located and constructed upon, over and across Government Lot 1 of Section 32, Township 25 North, Range 6 East of the Willamette Meridian, King County, Washington described as follows, to-wit:

Commencing at the Northeast corner of said Government Lot 1; thence North 89 degrees 17 minutes 01 seconds West along the North line of said Government Lot 1 a distance of 91.75 feet to a point being 50.0 feet Westerly, measured at right angles, from said Main Track centerline; thence South 06 degrees 23 minutes 29 seconds West parallel with said Main Track centerline 932.07 feet to the True Point of Beginning; thence continuing South 06 degrees 23 minutes 29 seconds West parallel with said Main Track centerline 143.20 feet; thence South 89 degrees 17 minutes 01 seconds East 25.12 feet to a point being 25.0 feet Westerly, measured at right angles from said Main Track centerline; thence North 06 degrees 23 minutes 29 seconds East parallel with said Main Track centerline 143.20 feet; thence North 89 degrees 17 minutes 01 seconds West 25.12 feet to the True Point of Beginning.

SUBJECT, however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise.

3400319 10/20/1994 196.14 10000.00

9410200685

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SALT

941020-0685 11:02:00 AM KING COUNTY RECORDS 004 RTO 10-22

By acceptance of this deed, Grantees acknowledge that a material consideration for this conveyance, without which it would not be made, is the agreement by the Grantees for themselves and for their heirs and assigns that the Grantor, its predecessors, successors, and assigns shall be in no manner responsible to the Grantees, any subsequent owner, purchaser, or any person interested therein for any and all claims, demands, damages, causes of action including loss of access, or suits regarding the quiet and peaceable possession of such premises, title thereto, or condition thereof.

IN WITNESS WHEREOF, Burlington Northern Railroad Company has caused its corporate name to be hereunto signed by its authorized officers, and the corporate seal to be hereto affixed this 17th day of August, 1994.

9410200685

ACCEPTED:

By

Arthur H. Holmboe
ARTHUR H. HOLMBOE

By

Sallyann Holmboe
SALLYANN HOLMBOE

BURLINGTON NORTHERN
RAILROAD COMPANY

BY

D. P. Schneider
D. P. Schneider, Director
Title Services & Field Support

ATTEST:

BY

Victoria H. Vasquez
Victoria H. Vasquez
Assistant Secretary

File No. BN 10878 Redmond, WA

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 5th day of August, 1994, before me personally appeared Arthur H. Holmboe and Sallyann Holmboe, to me known to be the persons that executed the foregoing instrument and acknowledged said instrument to be their free and voluntary act and deed for the uses and purposes therein mentioned.

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

JOHN T. LUDLOW
STATE OF WASHINGTON
NOTARY -- PUBLIC
My Commission Expires 5-25-97

John T. Ludlow
Notary Public in and for the State of Washington

Residing at: Belleme

My commission expires: 5/25/97

John T. Ludlow

9410200685

File No. BN 10878 Redmond, WA

STATE OF TEXAS

COUNTY OF TARRANT

)
) ss.
)

On this 17th day of August, 1994, before me, the undersigned, a Notary Public in and for the State of Texas, duly commissioned and sworn, personally appeared D. P. Schneider and Victoria H. Vasquez, to me known to be the Director, Title Services & Field Support, and Assistant Secretary, respectively, of Burlington Northern Railroad Company, the corporation that executed the foregoing instrument, and acknowledged the 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 they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

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

Arline Nichols
Notary Public in and for the State of Texas

Residing at: Fort Worth, Texas

My appointment expires: December 20, 1996



File No. BN 10878 Redmond, WA

APPROVED	[Signature]
LEGAL	
APPROVED	[Signature]
FORM	
APPROVED	[Signature]

9410200685

Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 12

COMMONWEALTH
LAND TITLE INSURANCE COMPANY
OF PHILADELPHIA

QUIT CLAIM DEED

RE. Escrow No : C8361, Title Order No : H779578-2

Legal Description: GOVT Lot 1, STR 21-25-6

Assessor's Tax Parcel I D No 322506-9015-01

THE GRANTOR The Land Conservancy of Seattle and King County, a non-profit tax exempt corporation organized and existing under the laws of the State of Washington

for and in consideration of Valuable consideration conveys and quit claims to

Geary Epperson and Jody Epperson, husband and wife

the following described real estate, situated in the County of KING, State of Washington, together with all after acquired title of the grantor(s)

See "EXHIBIT A" attached hereto and by this reference made a part hereof.

Dated January 18, 1999

The Land Conservancy of Seattle and King
County, a non-profit tax exempt
corporation
BY Carol James President
Name/Title

State of Washington)

County of KING) ss

I certify that I know or have satisfactory evidence that Carol James is the person who appeared before me, and said person(s) acknowledged that he/she signed this instrument, on oath stated that he/she is authorized to execute the instrument and acknowledged it as the President of The Land Conservancy of Seattle and King County to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: 2-10-99

[Signature]
Notary Public in and for the State of Washington

Residing at Seattle

My appointment expires 7-29-99

LPB - 12

(Form 573)

Quit Claim Deed
Escrow No.. C8361, Title No.. R779578

EXHIBIT A:

Beginning at the northeast corner of that portion of the south 243 feet of Government Lot 1 in Section 32, Township 25 North, Range 6 East, W.M., in King County, Washington, lying west of the Northern Pacific Railway right of way, as measured along said west right of way line (per survey recorded under King County Recording No. 9002229003 in Volume 71 of surveys, page 72, records of King County, Washington); thence south 89°17'01" east a distance of 25.12 feet to a point which lies 25.00 feet westerly from the centerline of said Northern Pacific Railway as measured at right angles; thence south 06°23'29" west parallel with the centerline of said Northern Pacific Railway a distance of 134.85 feet; thence north 83°36'31" west a distance of 12.00 feet to a point which lies 37.00 feet from the centerline of said Northern Pacific Railway as measured at right angles; thence south 06°23'29" west parallel to the centerline of said Northern Pacific Railway a distance of 7.18 feet to the beginning of a curve to the right; thence continuing southerly, parallel with the centerline of said Northern Pacific Railway, 107.82 feet along said curve to the right having a radius of 1,315.69 feet and a central angle of 04°41'43" the chord of which bears south 08°44'21" west a distance of 107.79 feet to a point on the south line of said Government Lot 1; thence north 89°03'59" west along said south line a distance of 13.21 feet to the southeast corner of said south 243 feet of Government Lot 1 lying west of the Northern Pacific Railway; thence northerly, along the westerly right of way of said Northern Pacific Railway 109.08 feet along a non-tangent curve to the left having a radius of 1,302.69 feet and a central angle of 04°47'52" the chord of which bears north 08°47'25" east a distance of 109.05 feet; thence north 06°23'29" east along said westerly right of way, tangent to said curve a distance of 139.55 feet to the point of beginning.

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NOTICE OF TAP OR CONNECTION CHARGES WHICH HAVE BEEN OR WILL BE DUE IN CONNECTION WITH DEVELOPMENT OR RE-DEVELOPMENT OF THE LAND AS DISCLOSED BY RECORDED INSTRUMENT. INQUIRIES REGARDING THE SPECIFIC AMOUNT OF THE CHARGES SHOULD BE MADE TO THE CITY/COUNTY/AGENCY.

City/County/Agency: Sammamish Plateau Water and
Sewer District
Recorded: November 15, 1990
Recording No.: 9011150805

NOTICE OF TAP OR CONNECTION CHARGES WHICH HAVE BEEN OR WILL BE DUE IN CONNECTION WITH DEVELOPMENT OR RE-DEVELOPMENT OF THE LAND AS DISCLOSED BY RECORDED INSTRUMENT. INQUIRIES REGARDING THE SPECIFIC AMOUNT OF THE CHARGES SHOULD BE MADE TO THE CITY/COUNTY/AGENCY.

City/County/Agency: Sammamish Plateau Water and
Sewer District
Recorded: July 30, 1993
Recording No.: 9307301617

NOTICE OF TAP OR CONNECTION CHARGES WHICH HAVE BEEN OR WILL BE DUE IN CONNECTION WITH DEVELOPMENT OR RE-DEVELOPMENT OF THE LAND AS DISCLOSED BY RECORDED INSTRUMENT. INQUIRIES REGARDING THE SPECIFIC AMOUNT OF THE CHARGES SHOULD BE MADE TO THE CITY/COUNTY/AGENCY.

City/County/Agency: Sammamish Plateau Water and
Sewer District
Recorded: November 5, 1998
Recording No.: 9811051362

NOTICE OF TAP OR CONNECTION CHARGES WHICH HAVE BEEN OR WILL BE DUE IN CONNECTION WITH DEVELOPMENT OR RE-DEVELOPMENT OF THE LAND AS DISCLOSED BY RECORDED INSTRUMENT. INQUIRIES REGARDING THE SPECIFIC AMOUNT OF THE CHARGES SHOULD BE MADE TO THE CITY/COUNTY/AGENCY.

City/County/Agency: Sammamish Plateau Water and
Sewer District
Recorded: November 5, 1998
Recording No.: 9811051363

TRUST DEED OR MORTGAGE dated November 10, 1896, executed by Northern Pacific Railway Company, a Wisconsin corporation, to The Farmers Loan and Trust Company, a corporation, to secure payment of bonds in the aggregate principal sum of \$190,000,000.00 and interest, recorded December 28, 1896, as a real estate mortgage in Volume 137 of Mortgages, page 92, and as a Chattel Mortgage in Volume 33 of Chattel Mortgages, page 1, under Recording No. 153717 and supplemental indentures thereto, if any.

The following are partial releases of said lien or conveyances of portion of property encumbered as recorded under King County Recording Nos. 7112280355, 7404040415, 9212311137, 9402181712, 9409280762, 9410200685, 9502150795, 9505021576, 9505180630, 9507240854, 9602270426, 9603221963, 9612030256 and 9805052075

Said partial releases of liens or partial conveyances do not affect property under search.

TRUST DEED OR MORTGAGE dated July 1, 1914, and Supplementals thereto, executed by Northern Pacific Railway Company, a Wisconsin corporation, to Guaranty Trust Company of New York, a New York corporation, and William S. Tod, as Trustees.

The effect of the following Mortgage (and supplemental indentures thereto):

A Trust Deed or Mortgage dated January 1, 1921, executed by Great Northern Railway Company, a Minnesota corporation, to First National Bank of the City of New York, as Trustee, to secure the payment of bonds to be issued, recorded May 10, 1921 under Recording No. 1517101, by reason of Burlington Northern, Inc. succeeding to the interest of Great Northern Railway Company.

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CONSOLIDATED MORTGAGE (and supplemental indentures thereto) dated March 2, 1970, recorded March 3, 1970, under Recording No. 6625578, records of King County, Washington, reference to which is made for full particulars.

MORTGAGOR: Burlington Northern, Inc.
MORTGAGEE: Morgan Guaranty Investment
Company of New York and Jacob M.
Ford, II, Investor

The following are partial releases of said lien or conveyances to a portion of property encumbered:

Recorded under King County Recording Nos. 7112280355, 7404040415, 9212311137, 9402181712, 9409280762, 9410200685, 9502150795, 9505021576, 9505180630, 9507240854, 9602270426, 9603221963, 9612030256 and 9805052075

Said partial releases of liens or partial conveyances do not affect property under search.

Evidence and authority of the officers of THE LAND CONSERVANCY OF SEATTLE AND KING COUNTY, a non-profit tax exempt corporation organized and existing under the laws of the State of Washington, to execute the forthcoming instrument should be submitted.

Terms and conditions of an Act of Congress approved July 2, 1864 (the Northern Pacific Land Grant Act of 1864) providing for the construction and maintenance of a continuous railroad from Lake Superior to Puget Sound.

Question of compliance with R.C.W. 58.17 and local subdivision ordinances.

This Company assumes no liability relative to the location of the right of way described herein which may be disclosed by an accurate survey of said premises.

Encroachments and rights of parties in possession, and any unrecorded permits, licenses, easements and agreements entered into by Burlington Northern Railway Company, or its predecessors in interest, pertaining to the use of the right of way by other parties for water, sewer and electric lines, private and public roads and railroad crossings.

ENCROACHMENTS, AND/OR RIGHTS of parties in possession of a portion of said premises, which a search of the adjoining parcels might disclose; no search of said adjoining parcels having been made.

Possible reversionary rights of present or previous owners and/or rights of adjoining property owners, dependant upon the intent and/or purpose of the instruments under which title to the rights herein described are vested.

LOSS DUE TO a final determination by a court of competent jurisdiction which divests, in whole or in part, the title held through Burlington Northern and Santa Fe Railway Company and/or their successors, the proposed insureds.

RECHARACTERIZATION, or claim thereof, of the nature of the estate or interest in the land insured herein as the result of any alleged ambiguity in the conveyance language contained in instrument(s) recorded under Recording No.(s) 13455.

COVENANTS, CONDITIONS AND RESTRICTIONS imposed by instrument recorded under Recording No. 13455.

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TERMS AND CONDITIONS AS SET FORTH IN AGREEMENT BETWEEN
NORTHERN PACIFIC RAILROAD COMPANY AND KING COUNTY imposed by
instrument recorded on August 25, 1954, under Recording No.
4479194.

AFFECTS: Said premises and other property

PRIVATE ROADWAY AND CROSSING AGREEMENT imposed by instrument
recorded on December 1, 1986, under Recording No. 8612010112.

AFFECTS: Said premises and other property

MATTERS SET FORTH BY SURVEY:

Recorded: February 22, 1990
Recording No.: 9002229003
Discloses: Possible fence encroachment

RESERVATIONS CONTAINED IN DOCUMENT imposed by instrument
recorded on April 14, 1993, under Recording No. 9304142480.

The description contained therein is not sufficient to
determine its exact location within the property herein
described.

COVENANTS, CONDITIONS AND RESTRICTIONS imposed by instrument
recorded on April 28, 1997, under Recording No. 9704280575.

AFFECTS: Said premises and other property

EASEMENT AND THE TERMS AND CONDITIONS THEREOF.

Purpose: Underground pipelines or fiber
optic communications lines and
appurtenances thereto
Affects: Said premises and other property
as located
Disclosed by: Instrument recorded under King
County Recording No. 9704280575

FIRST AMENDMENT TO AGREEMENT AND THE TERMS AND CONDITIONS
THEREOF:

RECORDED: August 18, 1998
RECORDING NO.: 9808182328
REGARDING: Interim trails use and
railbanking of the rail corridor

LACK OF A RECORDED MEANS OF INGRESS AND EGRESS TO A PUBLIC
ROAD DUE TO THE LOCATION OF A RAILROAD RIGHT-OF-WAY BETWEEN
THE LAND AND A PUBLIC ROAD.

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Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 13



Raymond Spencer and Lael Spencer

Petition for Declaratory Orders

Docket No. AB-6 (Sub-No. 380X)

Exhibit 14



RAY SPENCER AND LAEL SPENCER
PETITION FOR DECLARATORY ORDER
DOCKET NO. AB-6 (SUB-NO. 380X)

EXHIBIT 15



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

***THE BURLINGTON NORTHERN AND SANTA FE RY. CO.—
ABANDONMENT EXEMPTION—IN KING COUNTY, WA***

STB DOCKET NO. AB-6 (Sub-No. 380X)

RAYMOND SPENCER and LAEL SPENCER

VERIFICATION OF PETITION BY RAYMOND SPENCER

STEPHENS & KLINGE LLP

Richard M. Stephens, WSBA #21776
Charles A. Klinge, WSBA #26093
10900 NE 4th Street, Suite 2300
Bellevue, WA 98004
(425) 453-6206
Email: stephens@sklegal.pro
Email: klinge@sklegal.pro

Attorneys for Petitioners

VERIFICATION OF PETITION BY RAYMOND SPENCER

I, Raymond Spencer, verify under penalty of perjury that the facts stated in the “Raymond Spencer and Lael Spencer--- Petition For Declaratory Orders” are true and correct. I further verify that I am competent to testify under Washington to law and to execute filed this Verification of Petition.

Executed on this 30th day of January 2025, at Sammamish, Washington.

/s/ Raymond Spencer

Raymond Spencer

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

***THE BURLINGTON NORTHERN AND SANTA FE RY. CO.—
ABANDONMENT EXEMPTION—IN KING COUNTY, WA***

STB DOCKET NO. AB-6 (Sub-No. 380X)

RAYMOND SPENCER AND LAEL SPENCER

—

DECLARATION OF SERVICE ON KING COUNTY, WA

STEPHENS & KLINGE LLP

Richard M. Stephens, WSBA #21776
Charles A. Klinge, WSBA #26093
10900 NE 4th Street, Suite 2300
Bellevue, WA 98004
(425) 453-6206
Email: klinge@sklegal.pro
Email: stephens@sklegal.pro

*Attorneys for Petitioners Raymond Spencer
and Lael Spencer*



STEPHENS & KLINGE LLP
ATTORNEYS AT LAW

10900 NE 4TH STREET, SUITE 2300
BELLEVUE, WA 98004

RICHARD M. STEPHENS
CHARLES A. KLINGE

TELEPHONE (425) 453-6206

January 30, 2025

Name from Service List

**RE: Surface Transportation Board-STB Dkt. No. AB-6 (Sub-No. 380X)
THE BURLINGTON NORTHERN AND SANTA FE RY. CO.—
ABANDONMENT EXEMPTION—IN KING COUNTY, WA
RAYMOND SPENCER AND LAEL SPENCER - PETITION FOR
DECLARATORY ORDERS**

To the above named:

The above name and address are on the service list for the above docket number at the Surface Transportation Board. The purpose of this letter and the enclosed documents is to effect service of a new Petition we filed on behalf of Petitioner Waverly Hills Club, Incorporated. However, recognizing that the service list is 20+ years old and that there will be many returns which is highly wasteful, I did not include the 136 pages of exhibits in this package. If you would like a copy of the exhibits, then please contact me and I will immediately provide the exhibits to you presumably via email or cloud transfer.

Please contact me if you have any questions about this matter.

Sincerely,

STEPHENS & KLINGE LLP

Richard M. Stephens

Richard M. Stephens
stephens@sklegal.pro

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

***THE BURLINGTON NORTHERN AND SANTA FE RY. CO.—
ABANDONMENT EXEMPTION—IN KING COUNTY, WA***

STB DOCKET NO. AB-6 (Sub-No. 380X)

RAYMOND SPENCER AND LAEL SPENCER

—

DECLARATION OF SERVICE OF PETITION ON SERVICE LIST

STEPHENS & KLINGE LLP

Richard M. Stephens, WSBA #21776

Charles A. Klinge, WSBA #26093

10900 NE 4th Street, Suite 2300

Bellevue, WA 98004

(425) 453-6206

Email: stephens@sklegal.pro

Email: klinge@sklegal.pro

*Attorneys for Petitioners
Raymond Spencer and
Lael Spencer*

DECLARATION OF SERVICE OF PETITION ON SERVICE LIST

I, Charlene Stephens, declare:

I prepared the following documents for service:

- RAYMOND SPENCER AND LAEL SPENCER --- PETITION FOR DECLARATORY ORDERS
- VERIFICATION OF PETITION BY RAYMOND SPENCER
- COVER PAGE TO EXHIBITS 1-15 to PETITION FOR DECLARATORY ORDERS
- DECLARATION OF SERVICE OF PETITION ON SERVICE LIST
- DECLARATION OF SERVICE OF PETITION ON KING COUNTY, WA

On January 30, 2025, I caused the referenced documents to be served on the following persons or entities identified in the service list for the above referenced matter and said service was by first class mail (except no service was attempted on deceased former Senator Slade Gorton):

Washington Department of
Transportation
310 Maple Park Avenue SE
P.O. Box 47300
Olympia, WA 98504-7300

Natural Resources
Conservation Service
316 West Boone Avenue
Spokane, WA 99201-2348

Washington Utilities and
Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Craig Larsen
Department of Parks and
Recreation for King County
2040 84th Avenue SE
Mercer Island, WA 98040

Eugene Duvernoy
P.O. Box 1307
Issaquah, WA 98027

Office of the Governor
State Capitol Building
Olympia, WA 98504

Calvin & Beverly Bugbee
3503 E Lk Samm Sh Ln SE
Issaquah, WA 98029

Sarah Whitley Bailiff
Burlington Northern and
Santa Fe Railway
2500 Lou Menk Drive 3rd Floor
P.O. Box 961039
Fort Worth, TX 76131-2828

U.S. Fish and Wildlife
Service 215 Melody Lane,
#119
Wenatchee, WA 98801-5933

U.S. Fish and Wildlife Service
14852 Northeast 95th Street
Redmond, WA 98052

U.S. Fish and Wildlife Service
600 Capitol Way North
Olympia, WA 98501

U.S. Army Corps of Engineers
201 N. Third Avenue
Walla Walla, WA 99362-1876

Charles H. Montange Land
Conservancy of Seattle and
King County 426 NW 162nd
Street Seattle, WA 98177

Mayor Rosemarie Ives
City of Redmond
15670 NE 85th Street
P.O. Box 97010
Redmond, WA 98073-9710

James Aiken
2025 First Avenue Suite 700
Seattle, WA 98121

Washington Office of Archeology and
Historic Preservation
P.O. Box 48343
Olympia, WA 98504-8343

Thomas H. Grimm
777-108th Ave NE
Suite 1900
Bellevue, WA 98004

Douglas Marshall
Darigold, Inc.
P.O. Box 79007
Seattle, WA 98119

Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504

Ken Berg
510 Desmond Drive SE
Lacey, WA 98503

Mayor Ava Frisinger
City of Issaquah
P.O. Box 1307
Issaquah, WA 98027

David G. Burwell
Rails to Trails Conservancy
1100 17th Street N.W., Suite 10th
Floor
Washington D.C., 20036

I declare under penalty of perjury that the foregoing is true and correct and that I am
qualified and authorized to prepare this DECLARATION OF SERVICE OF PETITION
ON SERVICE LIST.

Executed this 30th day of January, 2025, at Woodinville, Washington.

/s/ Charlene Stephens

Charlene Stephens