COMMENT SHEET
September 16, 2014

2015-2020 Six-Year Transportation Improvement Program

Name Connie Munsey

Address 2411 Skyline Way Anacortes 98221

Phone 360-873-8886

E-mail munsandconnie02@comcast.net

- I participated in an online survey re: ranking of these projects and would like to know the results. I understand because very few participated - the results were not included in the latest ranking because not many people responded. Everyone's voice needs to be heard.

- Trails are recreational. Transportation funds need to be spent for necessity, not hobby. Please remove phase I & II of Cascade Trail.

- If safety is #1 priority, why do we insist on luring bicyclists on to main arterials?

RECEIVED

SEP 22 2014

SKAGIT COUNTY
PUBLIC WORKS ADMIN

COMMENT SHEET
September 16, 2014

2015-2020 Six-Year Transportation Improvement Program

Name Carol Ehlers

Address 3558 Wind Crest Ln, Anacortes

Phone 360-293-7108

E-mail —

The Bay View Plan process & industrial use requires the 4 phases of Josh Wilson Road improvement. That plan also borders on Farm-To-Market Road. (FM Rd) FM Rd was improved to modern safety standards for the heavy industrial zone from SR 20 to & beyond Avenell. It must be on the TIP to plan for the extension of FM Rd to at least Josh Wilson.

The FM Rd & Best Rd route is the major N-S road west of I-5. The intersection of Best & SR 20 is the only road south of 20 that intersects with 20 that has no right hand turn lane. I have seen traffic there backed up to Young Rd when a train blocks FM Rd. It will take a long time to plan these 2 improvements! since planning can only take place after they are on the TIP, good judgement implies starting to plan now. The problem has existed for many years while traffic & plans change. Please think ahead.

Washington State Department of Transportation

Lynn Peterson
Secretary of Transportation

Northwest Region/Mount Baker Area
Skagit, Island, San Juan, & Whatcom Counties
1043 Goldenrod Road, Ste. 101
Burlington, WA 98233-3415
360-757-5999
TTY: 1-800-833-6388
www.wsdot.wa.gov

September 23, 2014

Planning Commission
c/o Skagit County Public Works
1800 Continental Place
Mount Vernon, WA 98273

Re: 2015 CFP and TIP, Cascade Trail and Centennial Trail Projects

Dear Skagit County Planning Commissioners,

Skagit County, Skagit Council of Governments (SCOG) and Washington State Department of Transportation have been working together to improve access to all modes of transportation in our region. SCOG has been developing a draft Skagit County Regional Non-Motorized Plan to identify regional connections, policies, and programs to make Skagit County a better place to walk and bike. Through this, and other planning we have identified some obvious gaps in the linkages between communities, and have been developing strategic connections that will encourage active transportation to these areas.

The Centennial Trail from SR 538, along SR 9 to Clear Lake is one of these gaps. This trail will provide an important 3 mile long corridor that would serve an area that currently has no non-motorized facilities. We support this plan, and will partner with the county on the next steps of getting this route designed.

We hope that the Planning Commission will recognize the importance of this facility to the non-motorized connections in our community.

Sincerely,

Todd Harrison, P.E.
Assistant Regional Administrator
Northwest Region/ Mount Baker Area

From: Erbstoeszer
To: PDS comments
Subject: Comments regarding the Skagit County TIP and CFP
Date: Tuesday, September 23, 2014 5:52:47 PM

Unfortunately, I am unable to attend the Skagit County Planning Commission's meeting this evening, September 23, 2014. However, I would like to provide these written comments to the Skagit County Planning Commission regarding the 6 year (2015- 2020) Skagit County Transportation Improvement Plan (TIP) and the 6 year (2015- 2020) Skagit County Capital Facilities Plan (CFP). Both of these Plans include important items which are most beneficial to the future of Skagit County. I would like to go on record asking the Skagit County Planning Commission to recommend approval of the 6 year (2015- 2020) Skagit County Transportation Improvement Plan and the 6 year (2015-2020) Skagit County Capital Facilities Plan to the Skagit County Board of Commissioners.

Thank you,

Marie J. Erbstoeszer, MHA
Consultant
Health Care Strategic Development and
Management Advisory Services

217 East Division Street
Mount Vernon, WA 98274

Phone 360-336-5896
Email erbst@cnw.com

From: John & Sylvia Matterand
To: PDS comments
Subject: six-year Transportation Improvement Program
Date: Wednesday, September 24, 2014 9:49:51 AM

I'm Sylvia Matterand, residing at 13294 State Route 9, Mount Vernon WA 98273

I attended the Skagit County Planning Commission Hearing last night on the 6 year TIP. I gave spoken testimony in support of including the Centennial Trail in this program. Some background on me - I've been involved with Clear Lake Historical Association for many years, as well as the group, Clear Lake Community Connection. Both organizations have had communication with the parks department about this potential trail and the Clear Lake Beach Park for many, many years. I also have been involved with area concerns about flooding. Here is a written copy of my support:

I support The Centennial trail expansion into Skagit county. Trails like this encourage more exercise, recreation and tourism. It can even be a safe alternative for people wanting to ditch their cars. So much better to bike or walk on a trail than along the side of the road. I see too much of that happening now along highway 9 where it is not safe at all. I understand some of the trail will parallel Highway 9 eventually and I want careful planning to help ensure trail users and highway users safety.

I live along Highway 9 and a portion of this trail will be next to some of our property. I look forward to having some great recreational infrastructure so close to my home and readily available for my use and the use of others. Infrastructure like this can be such an asset for generations to come. The portion you are looking at developing first, from Big Rock to Clear Lake is exciting to me. My father in-law sold his portion of the railroad bed years ago to the county. I'm not worried about crime or vandalism. In fact, I hope it helps cut down on that, with more eyes on our property down by the highway. Recreating bikers, horse back riders and walkers tend to be nice people, so I think it will be a good thing.

If this trail had been done when my daughter was in high school, we talked about how she would have been able to ride her horse to school! The only problem would have been, where would the horse go while she was in school? But more practically, it could mean kids riding their bikes or walking to school, including to Clear Lake Elementary and Big Lake Elementary.

During the summertime, I see kids ride their bikes to Clear Lake beach, and crossing Hwy 9 bridge with all that traffic is downright scary! The old railroad bridge would be part of this trail eventually and be much safer for kids wanting to enjoy Clear Lake Beach in the summertime.

Having this trail should also encourage the parks department to complete the rest room at Clear Lake beach - a nice resting place for trail users.

I really see this project as a potential benefit to Clear Lake and the county. Having a great trail available like this encourages getting outside, exercising, recreational tourism and non-motorized transportation.

From: John & Sylvia Matterand
To: PDS comments
Subject: six-year Transportation Improvement Program
Date: Wednesday, September 24, 2014 9:39:26 AM

I'm Sylvia Matterand, residing at 13294 State Route 9, Mount Vernon WA 98273

I attended the Skagit County Planning Commission Hearing last night on the 6 year TIP. I noticed several projects that were collaborative with Federal and State highways, roads and funding. Because of that, I would like you to add replacement of the bridge on Highway 9 over the Nookachamps, just North of the roundabout at the Big Rock location.

This bridge is used a lot now, and saw a great deal more use during the I-5 bridge collapse in 2013. Large loads continue to use this route, over a bridge that is not wide enough, even for most regular traffic.

During meetings with the county regarding flood planning, Highway 9 is considered an alternate route, in case of flooding the I-5 corridor through Skagit County. Based on this alone, this bridge needs to be upgraded and updated.

Please add this bridge to your list and please make it a HIGH priority.

Thank you.

September 23, 2014

Skagit County Planning Commission
1800 Continental Place
Mt Vernon, WA 98273

Re: 2015-2020 6 Year TIP

Dear Commissioners:

I encourage the Planning Commission to recommend the removal of the two Cascade Trail projects from the 6 year TIP.

RCW 47.30.040 – Establishing paths and trails – Factors to be considered. Before establishing paths and trails, the following factors shall be considered. (1) Public Safety: (2) The cost of such paths and trails as compared to the need or probable use: (3) Inclusion of the trail in a plan for a comprehensive trail system adopted by a city or county in a state or federal trails plan.

Skagit County has no adopted comprehensive trail improvement plan to address or consider the factors outlined in RCW 47.30.040. How can the county spend tax dollars to pave these two Cascade Trail projects when not one of the RCW factors has been complied with?

1. Public Safety – There's no plan to address theft of homes along the trail and criminal violations by trail users. As an example, within the last six months, Sedro-Woolley police have filed reports of drug overdose, arson, sexual assault/rape, vagrant camping and trespass and nuisance calls on county parks land associated with the Centennial Trail. There's no plan on how to get to problems on these secluded tails. And there's no plan or county effort to protect citizens from the Skagit River washing out portions of the Cascade Trail along with many homes and farmland and Highway 20. Regardless, apparently some county official wants the trail paved so asphalt can be scattered across farm fields in such an event.

2. Costs to pave compared to probable use – Approving the paving projects of the two segments of the Cascade Trail could make county leaders the laughing stock of the state with the little use the trails gets and the waste of tax dollars. It could become another "Bridge to Nowhere." Another cost consideration is that the County Parks Department is hard pressed to take care of existing parks. How do they plan to take care of more?

3. An adopted comprehensive trail plan – Again, the county does not have an adopted comprehensive trail plan.

Let's leave the trail in its existing condition as there is a real possibility that it might be used again as a rail line. Prior to the economic downturn, there was serious consideration being given to reestablishing it. The economically depressed Concrete area has 100 years

of mineable limestone. That area will receive significant benefit through the availability of economical rail transportation.

Skagit County must abide by RCW 47.30.040. I encourage the Planning Commissioners to strongly recommend the removal of the two Cascade Trail paving projects from this TIP.

Thank you,

Gary Hagland
Citizens Alliance for Property Rights – Skagit Chapter
360 800-5656
haglandg@toriitraining.com

http://proprights.org/SKAGIT

Attachments:
RCW 47.30.040
Code Enforcement Issues – Sedro-Woolley Police Department

RCW 47.30.040
Establishing paths and trails — Factors to be considered.

Before establishing paths and trails, the following factors shall be considered:

(1) Public safety;

(2) The cost of such paths and trails as compared to the need or probable use;

(3) Inclusion of the trail in a plan for a comprehensive trail system adopted by a city or county in a state or federal trails plan.

[1972 ex.s. c 103 § 3.]

Notes:

Severability -- 1972 ex.s. c 103: See note following RCW 47.30.030.

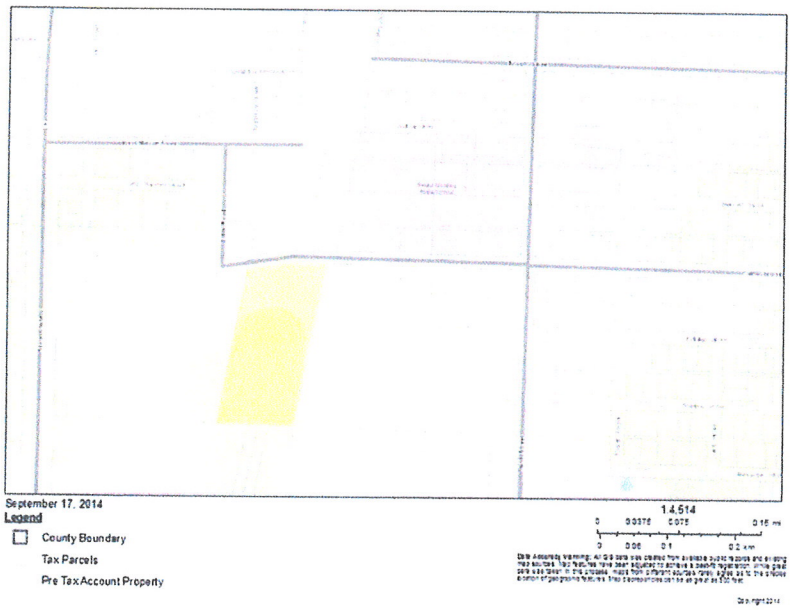
CODE ENFORCEMENT ISSUES

Site Address: 105 Jameson Street, Sedro-Woolley

Owner: Skagit County Parks Centennial Trail

Lot Size: 7.28 acres

Location: In yellow/immediately across from the Sedro-Woolley High School.



History: Old mill, Skagit County land predominately covered by mill pond (see iridescent green below). North to right of photo, Jameson runs east to west. Note trestle in SW corner.

Current use: Vacant, used for garbage dumping & other criminal activities.

Recent law enforcement/fire/medical issues: Including drug overdose calls, fire calls for brush/arson/vehicle type fires, Sexual assault/rape, Numerous vagrant camping calls; and Trespass/nuisance calls. Specific calls for the past five months from the SWPD:

09-16-14 Recovery- Recovered stolen vehicle

09-16-14 Drug Problem- Report to officers of subject dealing Meth out of the area.

09-11-14 Noise- complaint of glass being broken in area.

08-01-14 Suspicious- subjects fled from vehicle into woods. Claimed to being chased by separate subjects while they were trying to sleep.

06-23-14 Juvenile- complaint of subjects running in the woods and possibly drinking.

06-09-14 Welfare Check- subject laying on ground. Had been seen coming out of woods near rail road tracks. Possible OD.

05-18-14 Public Health- Garbage Dumping

05-12-14 Juvenile- female went with other juveniles to the 420. She ingested drugs with others and was then sexually assaulted when she passed out

04-16-14 Traffic Enforce- Vehicle seen peeling out on the dirt road along rail road tracks.

04-11-14 Information- Possible Runaway staying in a tent in area.

City Objectives: Clean site of debris, clear overgrown brush to improve site visibility from street. Develop usable playfields or in the alternative post site "no trespassing" to allow the SWPD to exclude people from site while long-term plan for redevelopment takes shape.

From:	McNett Crowl, Elizabeth
To:	PDS comments
Cc:	ForrestJones
Subject:	Planning Commission Hearing Comments for TIP
Date:	Thursday, September 25, 2014 2:49:29 PM
Attachments:	Planning Commission Comments.docx

Liz McNett Crowl
13797 Trumpeter Lane
Mount Vernon, WA 98273

Re: Transportation Improvement Program, 2015-2020
Cascade Trail Asphalt Paving Phase 1
Cascade Trail Asphalt Paving Phase 2
Centennial Trail (Big Rock to Clear Lake)
Non-Motorized Emergent Projects

Attached is a copy of my spoken comments given at the September 23, 2014 Planning Commission meeting and additional written comments and links to resources that I referenced in my spoken comments and resources that I believe would be valuable for the Planning Commission to review.

Raising the bar for health in Skagit County.

Liz McNett Crowl, Coordinator
Skagit Valley Hospital
Outreach and Development
Healthy Communities
PO Box 1376
Mount Vernon, WA 98273
Phone: 360-428-2331
Email: LCrowl@skagitvalleyhospital.org

Skagit Healthy Communities is a leader in developing and implementing innovative programs in partnership with our community to improve the quality of life and health of our residents by reducing the risk and impact of chronic disease and obesity.

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Liz McNett Crowl
13797 Trumpeter Lane
Mount Vernon, WA 98273

Public Comment regarding the Skagit County Six Year Transportation Improvement Program

Cascade Trail Phase 1
Cascade Trail Phase 2
Centennial – Big Rock to Clear Lake
Non-Motorized Emergent Projects

The following are my spoken comments for the Planning Commission Meeting on September 23, 2014 followed by additional written information and resources.

Comments for Public Hearing:

I am here to voice my support for the non-motorized facilities that have been proposed in the TIP. As a bicyclist and pedestrian as well as a driver I believe that a vibrant and complete transportation network must consider the needs of all users. Many people would agree with me but suggest that this should be limited to the urban areas of the County. The problem with this thinking is that the network would not be complete until we are able to safely travel between the urban areas and these areas outside of the urban areas are within the County's transportation system.

Planning for non motorized travel can benefit our County in many ways.

Individual Benefits of Non-motorized Transportation options include:

- Mobility, particularly important for non-drivers (including children, people with disabilities and the elderly).
- Financial savings.
- Increased access to facilities for physical activity, leading to increased health and well being (reduced heart disease, stroke, hypertension, obesity, diabetes, colon cancer, osteoporosis, stress, and depression).
- Increased social interaction and enjoyment

Community Benefits of Non-motorized Transportation options includes:

- Reduced traffic congestion.
- Road and parking facility savings.
- Reduced motor vehicle air, water, and noise pollution.
- Improved public health.
- More livable communities.
- Increased community interaction, which can result in safer streets.
- Increased appeal and access for tourists.
- More efficient land use.

It is important for planning documents such as these that you are reviewing tonight to support other planning activities so that there are consistencies between plans. These facilities are included in the newly adopted Parks and Recreation Comprehensive Plan element, and they are included in the draft Skagit County Non-Motorized Regional Transportation Plan. Our residents have repeated supported and requested trails and non-motorized facilities; this is demonstrated in local surveys, results of public comment during planning activities and planning documents such as the Skagit County Open Space Plan, and many local cities and town plans that request connections between urban centers and non-motorized options for accessing destinations in the rural portions of our county.

I urge you to recommend adoption of the CFP and TIP to the Board of Commissioners. Improved pedestrian and cycling conditions benefits everybody in community regardless of whether an individual uses non motorized travel modes or not.

Additional Written Comments and Resources:

I referenced the Skagit County Open Space Plan as one example of public comment and a planning process that demonstrates support trails and non-motorized transportation.
http://www.skagitcounty.net/Departments/PlanningAndPermit/openspace.htm

I referenced the Skagit Council of Governments Draft Regional Non-Motorized Plan, which includes the Cascade and Centennial Trails as being significant regional non-motorized transportation facilities in the plan. The draft plan has had some public meetings and other sessions to draw public comment, which I believe demonstrate that residents in Skagit County want non-motorized or trail facilities. http://www.skagitnonmotorized.org/

I referenced the Skagit County Parks and Recreation Comprehensive Plan update that was adopted earlier this year as a source to see that trails and public access are top priorities of residents of Skagit County.
http://www.skagitcounty.net/ParksAndRecreation/Documents/misc/2012%20comp%20plan.pdf

But would also recommend looking at Mount Vernon's newly adopted Parks and Recreation Comprehenisve Plan, which used one of the best public planning processes I've ever participated in and clearly acknowledges that resident want non-motorized facilities and trails and they want them to connect to other urban and County networks.
http://www.mountvernonwa.gov/Index.aspx?NID=218

I referenced health of individuals and community as being important benefits. I would urge Planning Commission members to read the American Planning Association's Healthy Plan Making: Integrating Health Into the Comprehensive Planning Process: An analysis of seven case studies and recommendations for change

Other sources of information on health benefits of trails and non-motorized transportation:
http://www.americantrails.org/resources/benefits/

http://www.leadershipforhealthycommunities.org/action-strategies-toolkitmenu-122/active-transportation-toolkitmenu-127

http://www.railstotrails.org/resources/documents/magazine/2012_Fall_Third%20Feature.pdf

Resources about the economic impact of trails and non-motorized facilities:
http://www.americantrails.org/resources/economics/index.html

http://www.railstotrails.org/resources/documents/resource_docs/tgc_economic.pdf

Tourism and Trails: I believe that active transportation tourism is an under developed economic resource for our region that could provide badly needed economic stimulus for our County.
http://atfiles.org/files/pdf/Economic-Benefits-American-Trails.pdf

http://conservationtools.org/guides/show/97-Economic-Benefits-of-Trails

I believe that it is important to state that while I am an advocate for non-motorized and recreational trails, I also believe that Skagit County works with property owners to gain easements and properties for public access.

> An example of partnerships that have worked on purchasing easements from property owners are a few of the sections of right-of-way that are in Centennial Trail Phase 1. This year the County purchased a small easement near Clear Lake from the Brister Family. A few years ago the County purchased an easement from the Verdoes Family who approached the County with their interest in selling their right-of-way.

Trails and public access are not appropriate at all locations but I don't believe that supporting trails and active transportation is saying the public should have access everywhere and I don't believe that the County works that way as well. There were five or six speakers, property owners along the Cascade Trail, who all spoke against the TIP inclusion of Cascade Trail improvements. Rail banking is a Federal Program. These property owners should take their comments and concerns to the Federal Government regarding the easement to the County. If they would be due any compensation for the easement banking I would think they would have to address it at that level but since 1992 they have yet to take action in what I think is an appropriate way for their issue to be addressed.

Thank you for your time and service to our County.

Liz McNett Crowl

30816 Lyman, Hamilton
Hwy Sedro-Woolley Wash
98284

Ed Lipsey 9-22-14

Has any of you Looked at the Trail East of Robinson Rd Along River.

From the small Bridge East 300 ft + The Large Protective Rocks used to Protect The Rail Road or Cascade trail Are Has slide into The River. The River to day at 15 ft to left At Concrete. Flood Stage 25 ft 32 Puts the River Into The Sand & small Gravel under the Trail.

These Pictures Do Not do the Justice of what Really is There In several Places if you step one ft off the Trail you would Find your self Rolling Down a step Bank into the River. The River current is Strong there Are most Likly would not Survive. No Signs Have been posted This Danger As of yet

If A Flood Should Happen an a wash out Happings in This Area several Homes will get water an Highway 20 Most Likly will be Affected.

Paving This Area Means, More Speed, for Bycycles, Motor cycles, 4 wheelers, Horses, any one that goes in the River in this Area Most Likly won't be coming out.

With I Recomend 4 Things

1: That you Look at This Area.
2 Re Rock This Area with Large Protective Rock
3 Post an Sign the Area
4 A cement Truck won't Service this Area

I am Available to Show any of you this Area
Ed Lipsey 360. 826-5656

Submitted by Ed Lipsey

Submitted by Ed Lipsey

Wiseman Creek

Creek bed
same elevation as
top of trail.

Submitted by Ivan Bacus

Wiseman Creek

Creek bed
same elevation as
top of trail.

From:	Judy Olson
To:	PDS comments
Subject:	Nookachamps Bridge project
Date:	Wednesday, September 24, 2014 12:30:33 PM

I enthusiastically support the County pursuing funding resources to replace the Nookachamps bridge by Big Rock. I have seen many close calls as cars are over the line because they are afraid they will hit the bridge.

Please add this to your list of projects. Thank you.

Skagit County Planning Commission
Mount Vernon WA. 98284

Sept. 19, 2014

Two Cascade Trail projects must be eliminated from the 6yr. TIP.

October 1992 -County attorney tells county commissioners several ways to take railroad easement lands from property owners by adverse possession. One way, by quit claim deed, or the county could post signs indicating the trail is county property and proceed to treat it as county property. (copy attached)

The county enrolls in voluntary rail banking scam from Sedro Woolley to Concrete. Then places a quit claim deed on railroad corridor in 1993. (attached)

Title research by Pacific Legal Foundation shows eighty percent of corridor from Sedro Woolley to Concrete is owned by underlying landowners by reversionary easements. 40 Class action court cases throughout the U.S. have been awarded compensation and legal fees for their reversionary easements. With 60 more class action cases pending. Just this May 2014 property owners near Bellevue received settlement of 137 million, plus another 30 million for attorney fees, with another bigger case near Bellevue in the works. (attached)

This trail has no Master Plan, or comprehensive trail improvement plan which is required.

No environmental review was ever done.

No safety issues for property owners ever addressed.

Almost all homes and businesses along Path of Corruption have had to deal with one or more criminal violations against their property with little or no help from our sheriff Dept. and it still is that way today. Now property owners have to carry liability insurance because of county actions.

The following is a short, partial list of criminal violations on this trail;

Attempted rape
Theft
Suicide
Accidental Death by motor bike
Trespass
Vandalism
Fires
Complaints against normal farming activities
Complaints against landowners watch dogs

From my personal experience we had a male biker come into my mom's house and stole money in broad daylight.

A unleashed dog and young child entered our farm field, filled with protective mother cows and bull.

Trail users even steal flowers from my flower bed

Planning Commissioners I ask you tonight to question the two Cascade trail projects and why they are on the TIP. Do the right thing, stop this court proven land theft of your fellow county citizens. Skagit County has proven it will not financially protect the safety and welfare of it's citizens.

Planning commissioners, there are no adopted plans for this Path of Corruption.

Please eliminate the two Cascade trail projects from the TIP.

Thank you.

Aileen Good

Aileen Good 35482 SR 20 Sedro Woolley WA. 98284 360-856-1199

Attachments ;

1. Moffat letter to county commissioners
2. Quit claim deed
3. Latest news Haggart vs. United States

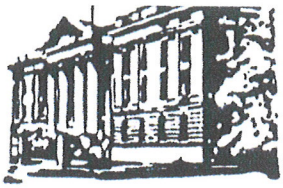
JOHN MOFFAT
CHIEF CIVIL DEPUTY

DAVE NEEDY
CHIEF CRIMINAL DEPUTY

K. GARL LONG
SENIOR DEPUTY

CORBIN VOLLUZ
THOMAS SEGUINE
MORGAN WITT
DIONNE CLASEN
KIMBERLY WOODSON
DEPUTIES

MICHAEL RICKERT
SKAGIT COUNTY PROSECUTING ATTORNEY
COURTHOUSE ANNEX · 605 S. 3rd St.
MOUNT VERNON, WASHINGTON 98273
(206) 336-9460 SCAN 554-9460
FAX 336-9347



MAVIS McLAVERTY, PLS
OFFICE SUPERVISOR

GRETCHEN PAQUE
VICTIM/WITNESS

CHERI McRAE
PATERNITY DIVISION

MEMORANDUM

TO: Board of County Commissioners

FROM: John R. Moffat
Chief Civil Deputy

DATE: October 16, 1992

RE: Acquisition of Burlington Northern Right-of-Way

Jon Aarstad has advised me that he intends to place on your agenda in the near future your consideration of the purchase from Burlington Northern of approximately 101 acres of abandoned railroad right-of-way for the Centennial Trail. The negotiated purchase price with Burlington Northern is $113,254.00, approximately one-third of the appraised value of the acreage which is $326,992.23.

We wish to be sure that you are aware of the fact that one of the reasons why Burlington Northern may be willing to sell at a reduced value is that it is likely that the railroad does not have clear title to the right-of-way which it is selling to the County. The case of King County v. Squire Investment Co., 59 Wash. App. 888 (1990)(copy attached) indicates that where a railroad abandons right-of-way for railroad purposes, the railroad no longer owns the right-of-way; rather, the adjoining property owners own it.

In the Squire Investment Co. case, the Court found that the deed from the property owners to the railroad back in the 1890's conveyed only an easement interest and that after the railroad abandoned the railroad line in 1985 the ownership of the right-of-way reverted to the adjoining property owners. As stated in the Squire Investment Co. case:

> Burlington Northern formally abandoned the right of way on July 29, 1985. The easement was extinguished at that moment and its interest reverted to the Squires' (original grantor) heirs. Burlington Northern had no interest to convey to King County for use as a

> railroad much less as a trail. Even if the right of way had not been formally abandoned, Lawson v. State, (107 Wn.2d 444 [1986]) defeats the County's argument. Responding to a similar argument, the court stated:
>
> > Applying common law principles, we hold that a change in use from "rails to trails" constitutes abandonment of an easement which was granted for railroad purposes only. At common law, therefore, the right of way would automatically revert to the reversionary interest holders.
>
> Lawson at 452. . . .
>
> In summary, the Squire deed conveyed an easement to the railroad which terminated when its successor, Burlington Northern, abandoned the line with the approval of the ICC. The reversionary interest passed to the successors of the grantors. The trial court's alternative holding that the Squire deed conveyed an easement and, consequently, King County acquired no interest in the right of way is affirmed.

59 Wash. App. at 894-95.

In our case, it is impossible to ascertain the exact nature of the ownership of the right-of-way without examining each and every deed through which Burlington Northern or its predecessor-in-interest acquired title to the railroad right-of-way.

It is instructive to note that the Squire Investment Co. case came about because King County elected to file an action to quiet title and to condemn the entire portion of the right-of-way that it intended to use as a trail before it declared the same as a trail. This is certainly the safer way to go and would avoid problems arising later regarding the ownership of the trail. However it would also be more likely to alert adjoining property owners of their potential interest in the trail property.

If the Board is concerned with adjoining property owners exerting a claim to the trail without the County having established formal ownership thereof, an appropriate course of action would be for the County to commence a quiet title action to the 101 acres, color of

title to which it is acquiring through the purchase from Burlington Northern. Then, any adjoining owners who contest the County's quiet title action can be addressed separately either through private negotiation or a subsequent condemnation action. The County may be able to establish title by default judgment against a number of the adjoining property owners in the quiet title action, thus obviating the necessity of paying any compensation to them through a condemnation suit.

Alternatively, the County could post signs indicating the trail is County property and proceed to treat it as County property, subject to being challenged by adjoining landowners for a period of seven years pursuant to RCW 7.28.050. This procedure could result in the County paying less for the land to adjoining owners, but would also result in additional uncertainty of title for some time.

If you have any further questions regarding this, please let me know.

JRM:tad
cc: Jon Aarstad
Steve Colby
Dave Fleming

Sedro Woolley
to
Incl

By Deputy

RECORDED
REQUEST OF Country Commissioner

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 quit claims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to **SKAGIT COUNTY**, a political subdivision of the State of Washington, Grantee, all its right, title and interest, if any, in real estate situated in Skagit County, State of Washington, together with all after acquired title of Grantor therein, described in Exhibit "A" 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.

EXCEPTING AND RESERVING, however, unto said Grantor, its successors and assigns, all of the coal, oil, gas, casinghead gas and all ores and minerals of every kind and nature, including sand and gravel, underlying the surface of the premises herein conveyed, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the premises herein conveyed, together with the right of access at all times to exercise said rights.

ALSO, the Grantee, and for its successors and assigns, by acceptance of this deed, hereby releases and forever discharges the Grantor, its successors and assigns, from any and all present or future obligations of the Grantor, its successors and assigns, including but not limited to the construction of or continued maintenance thereto of any railroad fences, snow fences, road crossings, cattle guards, gates, farm crossings, bridges, drainage or irrigation pipes, if any, located and situate on the premises herein conveyed.

INTERSTATE COMMERCE COMMISSION, through its Docket No. AB-6 (Sub No. 334X): Burlington Northern Railroad Company - Abandonment Exemption - Skagit County, Washington, has issued a Notice of Interim Trail Use, in lieu of a Notice of Exemption for Abandonment, for that right-of-way conveyed hereunder, that the transfer is made pursuant to that Notice of Interim Trail Use, and is further subject to an Interim Trail Use/Railbanking Agreement Between Burlington Northern Railroad Company and the Rails to Trails Conservancy which provides for reconveyance of the right-of-way in the event of the restoration of railroad service, dated August 23, 1993.

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

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be signed by its Director, Title Services & Field Support, attested by its Assistant Secretary, and its corporate seal to be affixed on the 29th day of November, 1993.

BURLINGTON NORTHERN RAILROAD COMPANY

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

ACCEPTED:
SKAGIT COUNTY

By Jon T Aarstad
Title:
JON AARSTAD, DIRECTOR
SKAGIT COUNTY PARKS, RECREATION AND FAIR DEPARTMENT

ATTEST:

Subject: Fw: Rail to trails

From: Randy Good (rlgood30@frontier.com)

To: rlgood30@frontier.com;

Date: Saturday, September 20, 2014 5:02 PM

THE LATEST NEWS ON RAILS TO TRAILS (RTC)

5/27/2014—The U.S. Claims Court just released a rails to trails compensation claim settlement with 127 property owners along a railroad right of way in Washington State near Bellevue. The settlement with the federal government was for $137 million or about $500,000 for each 80 foot of property. Plus $33 million for attorney fees. Who said the rails to trails scheme would not cost much! There is another settlement due in a few months on another right of way near Bellevue that will probably settle for much more money as those homes are on a lake and the right of way is between the homes and the beaches. If this type of nonsense riles you, then complain to your US Senator or Congressperson. Here is the URL to read about this settlement.
https://www.courtlistener.com/uscfc/eHqx/haggart-v-united-states/

In the United States Court of Federal Claims

No. 09-103L

(Filed: May 21, 2014)

Daniel and Kathy HAGGART, *et al*, For Themselves and As Representatives of a Class of Similarly Situated Persons, **Plaintiffs,** **v.** **UNITED STATES,** **Defendant.**	Rails-to-trails case; takings; class action with more than 500 opt-in plaintiffs; settlement; fairness of settlement; common-fund approach to award of attorneys' fees to class counsel

Thomas S. Stewart, Baker Sterchi Cowden & Rice, L.L.C., Kansas City, Missouri, for plaintiffs. With him on the briefs were Elizabeth G. McCulley, Steven M. Wald, and J. Robert Sears, Baker Sterchi Cowden & Rice, L.L.C., St. Louis, Missouri, and Kansas City, Missouri.

Bruce K. Trauben, Trial Attorney, Natural Resources Section, Environment and Natural Resources Division, United States Department of Justice, Washington, D.C., for defendant. With him on the briefs was Robert G. Dreher, Acting Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, Washington, D.C.

OPINION AND ORDER

LETTOW, Judge,

This rails-to-trails class action is before the court on the parties' Joint Motion for Approval of Settlement and plaintiffs' Motion for Court Approval of Fees and Proposed Division of the Common Fund. Plaintiffs are more than 500 landowners who allege a taking of their land by the federal government when the Surface Transportation Board issued Notices of Interim Trail Use ("NITUs") relating to three segments of railroad rights of way in King County, Washington. *See Haggart v. United* States, 89 Fed. Cl. 523, 528 (2009) ("*Haggart I*"). The rights of way were previously held by the Burlington Northern and Santa Fe Railway ("Burlington Northern"). *Id.* Rather than abandon the rights of way, Burlington Northern

$35,092,243.74.[19] In effect, because class counsel will retain the agreed statutory fee, class members will receive a dollar-for-dollar credit for the statutory fee paid by the government in the amount of $1,920,000, reducing the amount of attorneys' fees to be paid out of the common fund to $33,172,243.74.[20]

CONCLUSION

For the reasons stated, the parties' Joint Motion for the Approval of Settlement is GRANTED, and plaintiffs' Motion for Court Approval of Fees and Proposed Division of the Common Fund is GRANTED IN PART. The clerk is directed to enter judgment in the total amount of $140,541,218.69, consisting of $137,961,218.69 in principal and interest for prevailing class members and $2,580,000 for attorneys' fees and litigation costs awarded pursuant to the Uniform Relocation Act, assuming that these amounts are paid by the Judgment Fund on May 31, 2014. The judgment is payable to class counsel for distribution to the class according to the terms of this opinion and order and the settlement agreement. Class counsel shall retain $660,000.00 in litigation costs and expenses and $1,920,000.00 in statutorily awarded attorneys' fees. The resulting common fund of $137,961,218.69 consists of the principal and interest and does not include statutorily awarded costs or attorneys' fees. Class counsel is entitled to, and shall retain, $33,172,243.74 of the common fund as a contingent fee.

If payment by the government is made before May 31, 2014, the total interest paid shall be reduced using the same method of interest computation as that employed for the previously stated interest amount at an annual interest rate of 4.2%. If payment is made after May 31, 2014, the total interest paid shall be increased using the same method and interest rate. The contingent fee to which class counsel is entitled shall be adjusted accordingly.

The claims of those class members respecting which the government has previously been granted summary judgment on liability are dismissed, as are those whose claims are not listed for an award in the settlement agreement.

The clerk will enter judgment in accord with this disposition.

Costs have already been encompassed in the settlement agreement.

It is so **ORDERED**.

s/ Charles F. Lettow
Charles F. Lettow
Judge

---

[19](0.3 x $50,000,000) + (0.25 x $50,000,000) + (0.2 x ($137,961,218.69 - $100,000,000)) = $35,092,243.74.

[20]This total amounts to approximately 24% of the common fund.

From: Randy Good
To: ForrestJones
Subject: Comments on 2015-2020 6 yr. TIP Community Meeting Sept. 16, 2014 5:30-6:30
Date: Wednesday, September 17, 2014 12:09:21 PM

Forrest Jones; RE: Comments on 2015-2020 6yr. TIP

Thank you for an informative evening. A recap of our comments we discussed Tuesday night at the 6yr. TIP Community Meeting. Safety and maintenance of road and bridge projects certainly need more attention and funding then they have been receiving. Early timely maintenance of roads with chip & seal is certainly more cost effective then overlay's.
The Path of Corruption (cascade trail) projects on draft TIP does not even qualify for grants, has very low use, both Path of Corruption projects need to be removed from this 6yr. TIP. We question the listing of Path of Corruption on this TIP especially considering the need to keep maintenance and safety projects on bridges and roads as top priority to be funded as we found out on the Skagit River bridge collapse.
.
Seven reasons to eliminate these two trail projects from TIP;
1. County has no clear title. Title research shows railroad easement still owned by underlying individual property owners.
2. Projects not included on any comprehensive trail improvement plan as required to qualify for grant funding.
3. No Master Plan.
4. Reinstatement of railroad Feasibility Study completed to put railroad back to Concrete for economic development and add over 100 jobs in Concrete. Why spend millions of dollars to block the railroad and businesses from developing in upriver and in Concrete.
5. Parks Director just last year stated in Herald no plans to pave trail east of Fruitdale Road.
6. Court ruling requires county to perform complete environmental review and SEPA plus comply with all state and local land use plans, zoning ordinances, public health and safety legislation.
7. Almost all homes, businesses and farms along the Path of Corruption have had to deal with one or more of following criminal violations, thefts, trespassing, vandalism, fires and complaints against farming activities and complaints against property owners watch dogs.

Thank You
Randy and Aileen Good
35482 SR 20
Sedro Woolley WA. 98284
360-856-1199

Skagit County Planning Commission
1800 Continental Place
Mount Vernon Wa. 98284

September 20, 2014

RE: Comments on 2015-2020 6yr. TIP

Please remove the two Cascade Trail projects from this 6 yr. TIP for the following reasons.

At the 6 yr. TIP Community Meeting last Tuesday it was mentioned that this TIP is a planning tool. **But, in fact this is the first, last and only opportunity for public participation or pubic input on these county transportation projects**. Once a county project is included on this TIP, processes are put into motion to secure funding to implement design and construction with no further public input or involvement planned. An example is the Centennial Trail which was included on TIP last year and already has a funding source secured to start implementing design with no public input. Another was the paving project on the cascade trail, (renamed by many the Path of Corruption) last year that was not even on a TIP list. So, don't tell us that this is just a planning tool. Let's be honest. Including a project on the TIP moves the project forward to the implementation "to do" project list. The only reason a project does not move forward is lack of funding.

Concerning the two Path of Corruption (cascade trail) projects on this 6 yr. TIP. Trail is in non-compliance with GMA identification and protection of resource lands.

Skagit County has no comprehensive trail improvement plan as required by RCW 47.30.040. No Master Plan. The only plan is the feasibility study for reinstatement of the railroad. (copy attached)

Skagit County has no clear title to Sedro Woolley to Concrete corridor. Title research for three property owners indicate any attempt to apply " rails to trails" law to their property is ineffective because there is no longer a right of way to apply those laws upon. Other property owners have the same easement language on their property. Pacific Legal Foundation research concluded over 80% of this corridor are reversionary easements. Nationwide 40 class actions have been awarded compensation, with 60 more filed and pending. (attached)

U.S. District Court case mandates Skagit County to perform complete environmental review and SEPA, plus comply with all state and local land use plans, zoning ordinances, and public health and safety legislation on any activities on Cascade trail. The county already violated this Court order on the 0.7 mile paving project last year on Cascade Trail from Fruitdale Rd. West failing to get any environmental permits. County citizens have to abide by the law, why does the county feel above the law?
(attached)

The Cascade trail is an attractive public nuisance, easily accessible and completely secluded with no protection from unwanted activities. County Parks and police can **not take care of** existing parks. Highway 20 was built for bicycles and is already a designated bicycle route from Sedro Woolley to Concrete.

Who listed the trails projects on TIP? We were told it was listed by the Parks Dept. But these two projects were never on the Parks Board agenda or in their minutes. Never addressed at the Parks Board. **So once again no public input or public involvement** for projects of this magnitude, a requirement to qualify for grants. Just last July, Parks Director stated in SVH article, Parks had no plans for paving trail any further east from Fruitdale road. (copy attached)

This SVH article written after county violated state and local laws by paving a .7 mile section of Path of Corruption last year. (you can review copy of my Oct. 24, 2013 comments and documentation dealing with violation of laws on present CFP web page).

Where's the trail plan to address issues such as protection of underlying property rights, protection of the environment and property owners, where's the plan to address wetlands, bridges, potential land slides along the steep slopes with no guard rails or fences, the need for fencing both sides full length for property owners safety along with many other issues. Where's the state and county required plans to qualify for grants? Where is the proof Skagit County needs these trails now?

Where's the trail plan to address the washout of Path of Corruption along the Skagit River at Robinson Rd. and potential flooding disaster to wash out Highway 20 and all homes and property in between?

The reinstatement of the railroad from Sedro Woolley to Concrete Feasibility study was completed in 2006 to put the railroad back to Concrete for economic development and add over 100 jobs in Concrete. Why spend millions of dollars to block the railroad and businesses from bringing jobs to Skagit County? (cover page of study to view on internet).

There is no adopted comprehensive trail improvement plan on Cascade Trail. The only plan is for reinstatement of the railroad.

Please remove the two Cascade Trail projects from this 6 yr. TIP .

Thank you.

Randy Good

Randy Good

35482 State Route 20
Sedro Woolley WA. 98284
360-856-1199

Attachments;

1. RCW 47.30.040
2. Title research
3. U.S. District Court
4. Parks Director SVH
5. Railroad Feasibility Study cover page
6. Written comments at Community meeting
7. My December 2, 2013 CFP comments to BOCC

Inside the Legislature
- Find Your Legislator
- Visiting the Legislature
- Agendas, Schedules and Calendars
- Bill Information
- Laws and Agency Rules
- Legislative Committees
- Legislative Agencies
- Legislative Information Center
- E-mail Notifications
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- History of the State Legislature

Outside the Legislature
- Congress - the Other Washington
- TVW
- Washington Courts
- OFM Fiscal Note Website

Access Washington

2010

RCWs > Title 47 > Chapter 47.30 > Section 47.30.040

47.30.030 47.30.050

RCW 47.30.040
Establishing paths and trails — Factors to be considered.

Before establishing paths and trails, the following factors shall be considered:

(1) Public safety;

(2) The cost of such paths and trails as compared to the need or probable use;

(3) Inclusion of the trail in a plan for a comprehensive trail system adopted by a city or county in a state or federal trails plan.

[1972 ex.s. c 103 § 3.]

Notes:

Severability -- 1972 ex.s. c 103: See note following RCW 47.30.030.

David Fair

First American Title Company of Skagit County

formerly Skagit County Title Company

P.O. Box 1667, 1301-B Riverside Dr., Mount Vernon, WA 98273 (360) 424-0115, 1-800-869-7045, FAX (360) 424-5885

February 14, 2000

To Whom It May Concern:

Dear Sirs:

At the request of Jim Cook, we have reviewed his title to a portion of the former railroad right-of-way near the West end of Lyman. The specific property in question was acquired by Jim and his wife Terri by that certain deed recorded May 11, 1999 as Auditor's File No. 9905110012. The short form finding of our review is that the Cooks own the entire 100-foot wide parcel in question and that any rights of Skagit County appear outside the legal chain of title.

We are also aware that this finding is contrary to the County's desires to maintain the rail corridor intact for recreation purposes. We are also familiar with most of the deeds to this railroad corridor. However, this is the only situation that we are aware of giving the underlying fee title holders, the Cooks, such a strong claim to the former railroad right-of-way. Plus, it is additionally unusual that they own the entire width of the right-of-way, however, that is our finding.

In 1890 by deed recorded in Volume 10 of Deeds, page 633, The Port Blakely Mill Company conveyed the right-of-way in question to the railroad. Whether said conveyance was fee or easement it was definitely conditional. In that regards, we call your attention to two provisions in said deed.

The first provision is partially repeated below with bold emphasis added: "this grant of right of way is upon the **EXPRESS CONDITION** that said railroad ... shall be thereafter **CONTINUOUSLY OPERATED ... AS A FREIGHT AND PASSENGER RAILROAD** from the City of Anacortes, Easterly on the line above described."

The second provision reads as follows: "And said party of the second part hereby, accepts this deed upon the conditions above made, and agrees that a failure to comply with any of said conditions above stated this grant and conveyance shall be **NULL AND VOID.**"

The language of the deed is quite clear, whenever the railroad ceased to use the right-of-way "as a freight AND passenger railroad from the City of Anacortes" then the conveyance would become "null and void." The current owner, Jim Cook, has obtained evidence that the passenger railroad service was discontinued in 1956 and the freight service stopped in 1981.

Therefore an argument exists that since the railroad failed to operate BOTH passenger and freight services from 1956 that the railroad's rights ended then. However, the stronger argument is that the railroad's rights ended in 1981 or whenever the freight service was terminated.

It is the position of this Company that the railroad's right-of-way acquired by deed recorded in Volume 10 of Deeds, page 633 became automatically "null and void" upon the cessation of the freight service. It is further the position of this Company that any subsequent attempt to apply the "Rails to Trails" laws to this property are ineffective because there was no longer a right-of-way to apply those laws upon.

At this point in time the entire 100 foot wide railroad right-of-way in the West ½ of the Southwest ¼ of the Northwest ¼ of Section 17, Township 35 North, Range 6 East, W.M. as created by deed recorded in Volume 10 of Deeds, Page 633 belongs to James A. Cook and Terri Ellen Cook, husband and wife.

Please note that said deed terms, also apply to the parcels immediately East and West of the Cook property. However, the Company has made no examination as to the current owners of those parcels.

Attached hereto is a partial copy of a Skagit County Assessor's map which has been color coded with the documents below to show the progression of title.

Pink — represents at the time of recording of Volume 10 of Deeds, Page 633, the entire SW ¼ of the NW ¼ as owned by the Port Blakely Mill Company.

Yellow — represents at the time of recording of Volume 10 of Deeds, Page 633, the 100 wide right-of-way conveyed to the railroad and described hereinabove. Note the same deed provisions affect the adjoining quarter quarter to the West.

AMERICAN

First American Title Company of Skagit County

formerly Skagit County Title Company

P.O. Box 1667, 1301-B Riverside Dr., Mount Vernon, WA 98273 (360) 424-0115, 1-800-869-7045, FAX (360) 424-5885

January 23, 1997

Leonard Simpson
507 Park Street
Concrete, WA 98237

Re: Railroad

Dear Mr. Simpson:

I have not done a full title examination for you but I have spent some time looking at documents affecting your title claims. The railroad obtained its title in your area by a decree entered in Skagit County Cause No. 3624 and recorded in Volume 4 of Judgments, Page 325 records of the Auditor of Skagit County.

To the best of my knowledge all condemnation takings only take the least quality of title necessary to accomplish the purpose of the taking. This means that takings are usually easements as that can accomplish the purpose without taking the fee title. Railroads in many locations in this county have operated with only an easement so it seems that that is all they should have acquired in this case.

After the railroad your plat was recorded, which created the street between your lots and the railroad. Since the street is only an easement you would own the fee under the street and then under part of the railroad.

Of course, the railroad deeded the railroad to Skagit County which clouds your title. Thus should you desire to clarify your title you may need get a deed from the County or sue them. In either case that would be the time to request a formal report from this Company. At

this point I have merely pulled out some documents for a quick review I have not fully examined your title.

Sincerely Yours,
First American Title Company of
Skagit County

John S. Milnor

by John S. Milnor, Title Officer

FILED
LODGED
ENTERED
RECEIVED
DEC 15 1999
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CITIZENS AGAINST RAILS TO TRAILS, a nonprofit association, and RANDY GOOD, an individual, Plaintiffs, v. SKAGIT COUNTY, a political subdivision of the State of Washington, Defendant.	NO. C99-0840R ORDER GRANTING PLAINTIFFS' MOTION FOR REMAND AND STRIKING DEFENDANT'S MOTION TO DISMISS

THIS MATTER comes regularly before the court on plaintiffs CART and Good's ("CART's") motion for remand and on defendant Skagit County's ("Skagit's") motion to dismiss. CART seeks a remand to state court on the grounds that the complaint raises only state law issues and that removal in the first instance was improper. Skagit opposes CART's motion, claiming that the com-

) 72
ev 8/82)

jurisdiction over "the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities . . . is exclusive." 49 U.S.C. § 10501(b)(2). There is no mention in this jurisdictional statute of construction, maintenance, or regrading of interim recreational trails on abandoned right-of-ways.

Moreover, the STB has suggested that it might not retain jurisdiction over trail use issues after an abandonment decision has been made. See Iowa Southern R. Co. - Exemption - Abandonment, 5 I.C.C.2d 496, 501-03. In fact, the STB has expressly declared that interim "trail use must comply with State and local land use plans, zoning ordinances, and public health and safety legislation." Id. at 505; see also Napa Valley Wine Train, Inc. - Petition for Declaratory Order, 4 I.C.C.2d 720. Further, nothing in the STB's "Trails Act rules or procedures is intended to usurp the right of state , regional and local entities to impose appropriate safety, land use and zoning regulation on recreational trails." Id. In light of the strong language employed by the STB, the court is not prepared to enlarge the purview of the STB's exclusive jurisdiction by finding the presence of a federal question in CART's complaint.[1]

---

[1] The court is also mindful of Judge Zilly's Order in Citizens for Safe and Legal Trails v. King County, cause no. C99-01168 (CSLT II), which expressed his opinion that trail development activities subsequent to the salvage and removal process are subject to state

AO 72
(Rev 8/82)

photos of the weekend's activities on pages 12 and 13.

Courier Times
Sept 15 1999

County needs DOE permit for trail

Attorney General's Office notifies Skagit County

By Laura Pierce

Skagit County has been invited to bring its attorneys to the table with the state Department of Ecology, following an opinion last week from the state Attorney General's Office that the county needs a DOE permit to develop the Cascade Trail.

Stretching 23 miles from Sedro-Woolley to Concrete, the county-sponsored trail has been a matter of controversy on several fronts: from landowners along the trail claiming the county didn't have the right to develop the former rail bed into a recreational trail; as well as state officials, mainly from Ecology, who found the county out of compliance with its own shoreline-permitting requirements, in addition to not having applied for a construction storm-water permit through DOE.

Although in the process of working out a plan with DOE to fix erosion problems along the trail, the county has claimed that its work on the trail under the federal Rails to Trails Act exempts it from state permitting requirements.

Ecology officials more than two

Continued on page 6

Trail

Continued from page 1

months ago relayed that question onto the state Attorney General's Office. Last week, they got their answer.

"We did receive this week an opinion from our attorneys," said DOE Spokesman Ron Langley, speaking Friday. "It's their opinion that local permits are required for this project.

"We have invited the county to bring its attorneys to a meeting with our attorneys. Our goal is to settle this as quickly and efficiently as possible."

The county's legal representative on the issue, Paul Reilly, was unavailable for comment prior to deadline. Chal Martin, the county's public works director, also couldn't be reached before *Courier-Times'* press deadline.

Paving the way

Vince Richardson @sports_SVH | Posted: Thursday, July 11, 2013 11:30 am

SEDRO-WOOLLEY —Increase usage and beautification.

Those are the top reasons the Skagit County Parks and Recreation Department made the decision to pave about a seven-tenths-of-a-mile section of the Cascade Trial, which runs through Sedro-Woolley from almost Township Street to Fruitdale Road.

The 22.5-mile Cascade Trail follows an abandoned Burlington-Northern line from Sedro-Woolley to Concrete and is part of the Rails-To-Trails project.

The paving will come within about 550 feet east of Township Street, and the rest is railroad right-of-way, said Skagit County Engineer Paul Randall-Grutter.

The parks department and county engineering are coordinating on the paving project, which is scheduled to be completed by July 19 and will include the parking lot located at the intersection of Fruitdale Road and Highway 20. The newly paved parking lot will provide space for 20 vehicles.

The $143,000 project is being paid for through the parks department and state funding designated for trail improvements.

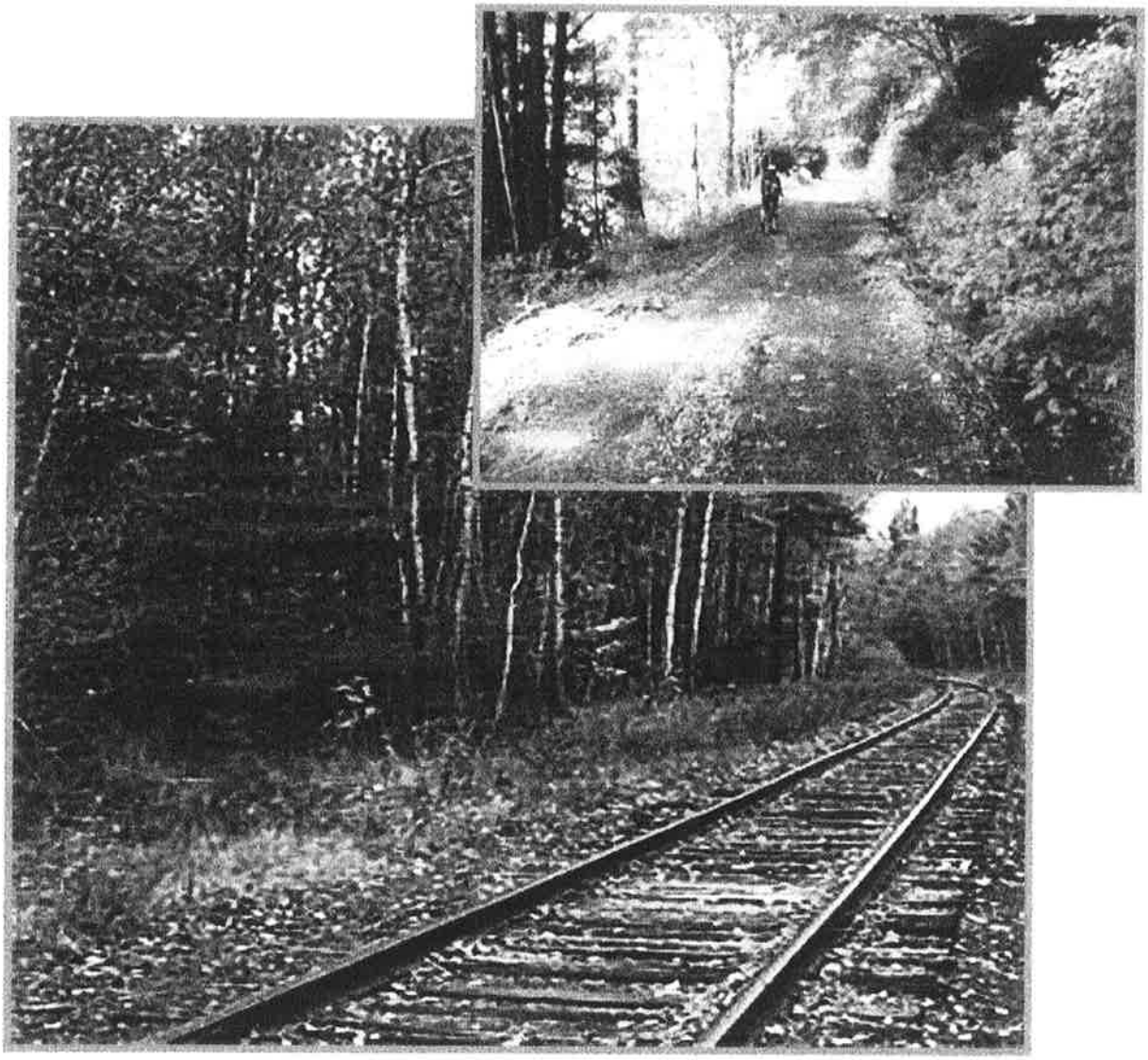
The Parks Department doesn't have any plans to pave more of the trail to the east, Skagit County Parks and Recreation Director Brian Adams said.

"I can guarantee we will see an immediate increase in user-ship," Adams said. "There's always some grumblings about paving trails, however, user-ship always goes up. It's going to be a great addition to the community."

Google title for copy on internet

Washington State

Eastern Skagit Rail Project Feasibility Study



Washington State
Department of Transportation

November 2006

Subject: Fw: Comments on 2015-2020 6 yr. TIP Community Meeting Sept. 16, 2014 5:30-6:30

From: Randy Good (rlgood30@frontier.com)

To: rlgood30@frontier.com;

Date: Sunday, September 21, 2014 4:16 PM

On Wednesday, September 17, 2014 12:09 PM, Randy Good <rlgood30@frontier.com> wrote:

Forrest Jones; RE: Comments on 2015-2020 6yr. TIP

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Thank You
Randy and Aileen Good

Print Close

Rutgers student believed killed by New Jersey's first fatal bear attack in over 150 years

Published September 23, 2014 | FoxNews.com

New Jersey wildlife officials believe that a black bear in search of food killed a Rutgers University senior who was hiking with four friends over the weekend.

The body of Darsh Patel, 22, of Edison, N.J., was found Sunday in the Apshawa Preserve in West Milford. Police Chief Timothy Storbeck said the male bear was walking in a circle about 30 yards from the victim's body and wouldn't leave even after officers tried to scare it away by making loud noises and throwing sticks and stones.

According to Storbeck, the five friends noticed the bear beginning to follow them and ran, splitting up as they did. When the other four couldn't find Patel, they called police, who found his body about two hours later.

The 300-pound animal was killed with two rifle shots and is and is being examined at a state lab for more clues as to why it may have pursued the group of five hikers. If it is confirmed that the bear caused Patel's death, it would be only the second fatal bear attack recorded in the state's history. The other occurred in 1852.

New Jersey Department of Environmental Protection spokesman Larry Ragonese told reporters Monday that the bear had not been tagged by researchers, so there is no documented history of interaction with other humans.

State and local officials stressed that bear attacks are rare even in a region of the state that may have as many as 2,400 bruins in its dense forests. Chief Storbeck noted that his department receives six to 12 calls per week regarding bears, usually involving them breaking into trash cans.

Kelcey Burguess, principal biologist and leader of the state Division of Fish and Wildlife's black bear project, said the bear could have been predisposed to attack but more likely was looking for food, particularly since wildlife officials believe there is a current shortage of the acorns and berries that bears eat. The hikers had granola bars and water with them, Storbeck said.

Officials don't believe the hikers provoked the bear but they may have showed their inexperience when they decided to run. The safest way to handle a bear encounter is to move slowly and not look the bear in the eye, Ragonese said.

Laurie Coyle, who said she just moved into a neighborhood that borders the preserve, hadn't heard about the bear attack.

"It's shocking and it's so sad," she said Monday as she sat in her car at the entrance to the preserve. "I take the kids here after school for exercise. It's really scary."

Ragonese said bear-human encounters in New Jersey have slowly decreased in recent years, likely due to the DEP's introduction of a state-sponsored bear hunt and efforts to educate the public on how not to attract the bruins.

The Associated Press contributed to this report.

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Skagit County Planning Commission
1800 Continental Place
Mount Vernon, WA. 98284

RECEIVED
SEP 25 2014
SKAGIT COUNTY
PDS

September 23, 2014

RE: Comments on 2015-2020 6yr. TIP. Trail safety issues for rural trails and County Parks unable to take care of what they already have.

Attachment is Sedro Woolley code enforcement issue for Parcel # 37594 -- Address 105 Jameson Street showing 10 police calls in 5 months.

History of ownership parcel # 37594 -- Chain of ownership on transfers on web page shows ownership by Quit Claim Deed # 9303050095 by Skagit County-

Skagit County claims ownership by adverse possession January 29, 1993 following John Moffat's advice (attached) on claiming abandoned railroad corridors paying Burlington $101,954.00 for property BN never owned. The Quit Claim Deed (attached) adverse possession process used on this parcel is the very same Quit Claim Deed the county used to claim the entire abandoned railroad from Sedro Woolley to Snohomish County border for Centennial Trail, which Superior Court ruled was a takings. All property owners that filed Quiet Title against Skagit County received their property back. For property owners who did not file Quiet Title action against the county this Quit Claim still stands on their parcel, as is the case on this parcel # 37594. (attached)

Picture was taken September 2014 on site of P 37594. Location -Centennial Trail next to Sedro Woolley High School.

Public safety: This is a documented example of the consequences the county is facing and will continue to face on these rural (Cascade Trail & Centennial Trail) easily accessible but, remote trails in Skagit County. Unlike this parcel which is within city limits, we in the rural county do not have timely Sheriff protection availability.

Please Remove the two Cascade Trail projects and Centennial Trail from this 6year TIP for the above safety reasons.

Randy Good Aileen Good

Randy & Aileen Good
35482 SR 20
Sedro Woolley WA. 98284
360-856-1199

Attachments;

1. Picture taken at P# 37594
2. Sedro Woolley Code enforcement issues report
3. Moffat letter
4. Quit Claim Deed
5. Legal descriptions of lands from Quit Claim Deed

Skagit County Centennial Trail Parcel #37594

CODE ENFORCEMENT ISSUES

Site Address: 105 Jameson Street, Sedro-Woolley

Owner: Skagit County Parks Centennial Trail

Lot Size: 7.28 acres Parcel # 37594

Location: In yellow/immediately across from the Sedro-Woolley High School.

History: Old mill, Skagit County land predominately covered by mill pond (see iridescent green below). North to right of photo, Jameson runs east to west. Note trestle in SW corner.

Current use: Vacant, used for garbage dumping & other criminal activities.

Recent law enforcement/fire/medical issues: Including drug overdose calls, fire calls for brush/arson/vehicle type fires, Sexual assault/rape, Numerous vagrant camping calls; and Trespass/nuisance calls. Specific calls for the past five months from the SWPD:

09-16-14 Recovery- Recovered stolen vehicle

09-16-14 Drug Problem- Report to officers of subject dealing Meth out of the area.

09-11-14 Noise- complaint of glass being broken in area.

08-01-14 Suspicious- subjects fled from vehicle into woods. Claimed to being chased by separate subjects while they were trying to sleep.

06-23-14 Juvenile- complaint of subjects running in the woods and possibly drinking.

06-09-14 Welfare Check- subject laying on ground. Had been seen coming out of woods near rail road tracks. Possible OD.

05-18-14 Public Health- Garbage Dumping

05-12-14 Juvenile- female went with other juveniles to the 420. She ingested drugs with others and was then sexually assaulted when she passed out

04-16-14 Traffic Enforce- Vehicle seen peeling out on the dirt road along rail road tracks.

04-11-14 Information- Possible Runaway staying in a tent in area.

City Objectives: Clean site of debris, clear overgrown brush to improve site visibility from street. Develop usable playfields or in the alternative post site "no trespassing" to allow the SWPD to exclude people from site while long-term plan for redevelopment takes shape.

JOHN MOFFAT
CHIEF CIVIL DEPUTY

DAVE NEEDY
CHIEF CRIMINAL DEPUTY

K. CARL LONG
SENIOR DEPUTY

CORINN VOLLUZ
THOMAS BEGUINE
MORGAN WITT
DIONNE GLASER
KIMBERLY WOODSON
DEPUTIES

MICHAEL RICKERT
SKAGIT COUNTY PROSECUTING ATTORNEY
COURTHOUSE ANNEX - 605 S. 3rd St.
MOUNT VERNON, WASHINGTON 98273
(206) 336-9460 SCAN 554-9460
FAX 336-9347

MAVIS McLAVERTY, PLS
OFFICE SUPERVISOR

GRETCHEN PAQUE
VICTIM/WITNESS

CHERI McRAE
PATERNITY DIVISION

MEMORANDUM

TO: Board of County Commissioners

FROM: John R. Moffat
Chief Civil Deputy

DATE: October 16, 1992

RE: Acquisition of Burlington Northern Right-of-Way

Jon Aarstad has advised me that he intends to place on your agenda in the near future your consideration of the purchase from Burlington Northern of approximately 101 acres of abandoned railroad right-of-way for the Centennial Trail. The negotiated purchase price with Burlington Northern is $113,254.00, approximately one-third of the appraised value of the acreage which is $326,992.23.

We wish to be sure that you are aware of the fact that one of the reasons why Burlington Northern may be willing to sell at a reduced value is that it is likely that the railroad does not have clear title to the right-of-way which it is selling to the County. The case of King County v. Squire Investment Co., 59 Wash. App. 888 (1990)(copy attached) indicates that where a railroad abandons right-of-way for railroad purposes, the railroad no longer owns the right-of-way; rather, the adjoining property owners own it.

In the Squire Investment Co. case, the Court found that the deed from the property owners to the railroad back in the 1890's conveyed only an easement interest and that after the railroad abandoned the railroad line in 1985 the ownership of the right-of-way reverted to the adjoining property owners. As stated in the Squire Investment Co. case:

> Burlington Northern formally abandoned the right of way on July 29, 1985. The easement was extinguished at that moment and its interest reverted to the Squires' (original grantor) heirs. Burlington Northern had no interest to convey to King County for use as a

railroad much less as a trail. Even if the right of way had not been formally abandoned, Lawson v. State, (107 Wn.2d 444 [1986]) defeats the County's argument. Responding to a similar argument, the court stated:

> Applying common law principles, we hold that a change in use from "rails to trails" constitutes abandonment of an easement which was granted for railroad purposes only. At common law, therefore, the right of way would automatically revert to the reversionary interest holders.

Lawson at 452. . . .

In summary, the Squire deed conveyed an easement to the railroad which terminated when its successor, Burlington Northern, abandoned the line with the approval of the ICC. The reversionary interest passed to the successors of the grantors. The trial court's alternative holding that the Squire deed conveyed an easement and, consequently, King County acquired no interest in the right of way is affirmed.

59 Wash. App. at 894-95.

In our case, it is impossible to ascertain the exact nature of the ownership of the right-of-way without examining each and every deed through which Burlington Northern or its predecessor-in-interest acquired title to the railroad right-of-way.

It is instructive to note that the Squire Investment Co. case came about because King County elected to file an action to quiet title and to condemn the entire portion of the right-of-way that it intended to use as a trail before it declared the same as a trail. This is certainly the safer way to go and would avoid problems arising later regarding the ownership of the trail. However it would also be more likely to alert adjoining property owners of their potential interest in the trail property.

If the Board is concerned with adjoining property owners exerting a claim to the trail without the County having established formal ownership thereof, an appropriate course of action would be for the County to commence a quiet title action to the 101 acres, color of

title to which it is acquiring through the purchase from Burlington Northern. Then, any adjoining owners who contest the County's quiet title action can be addressed separately either through private negotiation or a subsequent condemnation action. The County may be able to establish title by default judgment against a number of the adjoining property owners in the quiet title action, thus obviating the necessity of paying any compensation to them through a condemnation suit.

Alternatively, the County could post signs indicating the trail is County property and proceed to treat it as County property, subject to being challenged by adjoining landowners for a period of seven years pursuant to RCW 7.28.050. This procedure could result in the County paying less for the land to adjoining owners, but would also result in additional uncertainty of title for some time.

If you have any further questions regarding this, please let me know.

JRM:tad
cc: Jon Aarstad
Steve Colby
Dave Fleming

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be signed by its Director, Title Services & Field Support, attested by its Assistant Secretary, and its corporate seal to be affixed on the 29th day of January, 1993.

BURLINGTON NORTHERN RAILROAD COMPANY

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

#000934
SKAGIT COUNTY WASHINGTON
Real Estate Excise Tax
PAID
MAR - 3 1993
Amount Paid $ 0
Skagit County Treasurer
By Deputy

ATTEST:

BY Victoria H. Vasquez
Victoria H. Vasquez
Assistant Secretary

STATE OF TEXAS)
) ss.
COUNTY OF TARRANT)

On this 29th day of January, 1993, 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.

Carline Nichols
Notary Public in and for the State of Texas

Residing at: Fort Worth, Texas

My appointment expires: December 20, 1996

BN 2036-22

CARLINE NICHOLS
Notary Public
STATE OF TEXAS
My Comm. Exp. DEC 20, 1996

9303050095 BK 1160 PG 550

Sedro Woolley to Snohomish Line

93 MAR 2

9303050095 QUIT CLAIM DEED

Skagit Co Convey Tax: $0

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 quit claims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to SKAGIT COUNTY, WASHINGTON, a political subdivision of the State of Washington, of 315 South Third Street, Mount Vernon, Washington 98273-3822, Grantee, all its right, title and interest, if any, in real estate situated in Skagit County, State of Washington, together with all after acquired title of Grantor therein, described on Exhibit "A" 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.

EXCEPTING AND RESERVING, however, unto said Grantor, its successors and assigns, all of the coal, oil, gas, casinghead gas and all ores and minerals of every kind and nature, including sand and gravel, underlying the surface of the premises herein conveyed, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the premises herein conveyed, together with the right of access at all times to exercise said rights.

If the premises are locally assessed, the Grantee, and for its successors and assigns, by acceptance of this deed, agrees to assume all locally assessed real estate taxes, outstanding and otherwise, and any and all past, present, pending and future assessments of every nature whatsoever, which have been or may be levied against the premises.

ALSO, the Grantee, and for its successors and assigns, by acceptance of this deed, hereby releases and forever discharges the Grantor, its successors and assigns, from any and all present or future obligations of the Grantor, its successors and assigns, including but not limited to the construction of or continued maintenance thereto of any railroad fences, snow fences, road crossings, cattle guards, gates, farm crossings, bridges, drainage or irrigation pipes, if any, located and situate on the premises herein conveyed.

By acceptance of this deed, Grantee acknowledges that a material consideration for this release, without which it would not be made, is the agreement by the Grantee and for itself and its successors and assigns that Grantor, its predecessors, successors, and assigns shall be in no manner responsible to the Grantee, 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.

9303050095 BK 1160 PG 549

JERRY McINTURFF
SKAGIT COUNTY AUDITOR

'93 MAR 5 P2:02

9303050095 **QUIT CLAIM DEED**

RECORDED AT THE REQUEST OF Skagit Co Commissioners Attn: Stephanie

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 quit claims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to **SKAGIT COUNTY, WASHINGTON**, a political subdivision of the State of Washington, of 315 South Third Street, Mount Vernon, Washington 98273-3822, Grantee, all its right, title and interest, if any, in real estate situated in Skagit County, State of Washington, together with all after acquired title of Grantor therein, described on Exhibit "A" 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.

EXCEPTING AND RESERVING, however, unto said Grantor, its successors and assigns, all of the coal, oil, gas, casinghead gas and all ores and minerals of every kind and nature, including sand and gravel, underlying the surface of the premises herein conveyed, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the premises herein conveyed, together with the right of access at all times to exercise said rights.

If the premises are locally assessed, the Grantee, and for its successors and assigns, by acceptance of this deed, agrees to assume all locally assessed real estate taxes, outstanding and otherwise, and any and all past, present, pending and future assessments of every nature whatsoever, which have been or may be levied against the premises.

ALSO, the Grantee, and for its successors and assigns, by acceptance of this deed, hereby releases and forever discharges the Grantor, its successors and assigns, from any and all present or future obligations of the Grantor, its successors and assigns, including but not limited to the construction of or continued maintenance thereto of any railroad fences, snow fences, road crossings, cattle guards, gates, farm crossings, bridges, drainage or irrigation pipes, if any, located and situate on the premises herein conveyed.

By acceptance of this deed, Grantee acknowledges that a material consideration for this release, without which it would not be made, is the agreement by the Grantee and for itself and its successors and assigns that Grantor, its predecessors, successors, and assigns shall be in no manner responsible to the Grantee, 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.

UNOFFICIAL DOCUMENT

on september 6, 1977 recorded on September 28, 1977 at Volume 286, page 162, records of said Skagit County; also,

An additional strip of land 15.0 feet wide lying adjacent to and Southerly of the herein above described 100.0 foot wide Branch Line right of way located in the N1/2SE1/4SW1/4 and the E1/2NE1/4SW1/4SW1/4 of said Section 14, T34N, R4E lying between two lines drawn parallel with and distant 50.0 feet and 65.0 feet Southerly, measured at right angles to said Main Track centerline and bounded on the South by the South line of said N1/2SE1/4SW1/4 and bounded on the Northwest by the West line of said E1/2NE1/4SW1/4SW1/4; also,

An additional strip of land 20.0 feet wide lying adjacent to and Southerly of the herein above described 100.0 foot wide Branch Line right of way located in the NW1/4SW1/4 of said Section 14, T34N, R4E being that portion of said Government Subdivision lying between two lines drawn parallel with and distant 50.0 feet and 70.0 feet Westerly, measured at right angles to said Main Track centerline and extending from the South line of said above named Government Subdivision Northerly to a line drawn at right angles to said Main Track centerline at a point 940 feet Southwesterly from the Mile Post 80, measured along said Main Track centerline, containing 4/10 acres, more or less; also,

All that portion of said Railroad 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 the NW1/4 of said Section 14, T34N, R4E bounded on the South by the South line of said NW1/4 and bounded on the North by a line drawn at right angles to said Main Track centerline distant 1500 feet Northeasterly, measured along said Main Track centerline from the South line of said NW1/4; also,

All that portion of said Railroad 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 NW1/4 of said Section 14, the SE1/4SE1/4SW1/4 and the SE1/4 of said Section 11, the SW1/4, the SE1/4NW1/4 and the W1/2NE1/4 of said Section 12 all of T34N, R4E bounded on the South by a line drawn at right angles to said Main Track centerline distant 1500 feet Northeasterly, measured along said Main Track centerline from the South line of said NW1/4 of Section 14 and bounded on the North by a line drawn at right angles to said Main Track centerline distant 250.0 feet Southerly, measured along said Main Track centerline from the North line of said W1/2NE1/4 of Section 12; also,

All that portion of said Railroad 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 Government Lot 4, the NW1/4SW1/4 and the SW1/4NW1/4 of said Section 25, T35N, R4E bounded on the South by a line drawn at right angles to said Main Track centerline distant 1117.4 feet Northerly, measured along said Main Track centerline from the South line of said Section 25 and bounded on the North by the North line of said SW1/4NW1/4; also,

All that portion of said Railroad Company's 370.0 foot wide Station Ground property at Sedro Woolley, Washington located on said Branch Line right of way, being 200.0 feet wide on the Westerly side and 170.0 feet wide on the Easterly side of said Main Track centerline upon, over and across the N1/2NW1/4 of said Section 25, T35N, R4E bounded on the South by the South line of said N1/2NW1/4 and bounded on the North by the North line of Jameson Avenue in the City of Sedro Woolley, Washington.

UNOFFICIAL DOCUMENT

From:	Ellen Bynum
To:	PDS comments
Cc:	FOSC Office; Linda Christensen; Ryan R. Walters
Subject:	Written comments for 6 Year TIP to Planning Commission
Date:	Thursday, September 25, 2014 2:07:40 PM
Attachments:	FOSC comments on 6 Yr TIP 092314 FINAL.pdf FOSC comments to BOCC on OS Plan 032009.doc FOSC comments to BOCC on OS Plan 032009.doc

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Dear Planning Commissioners:

In addition to the testimony given to you by Ed Stauffer, we are resending those comments via the appropriate email address for PC comments. We also attached letters which FOSC submitted concerning the Open Space Plan in 2009 for your information.

Please contact us should you need more or different information.

Ellen

Ellen Bynum, Executive Director
Friends of Skagit County
110 N. First St. #C
P.O. Box 2632 (mailing)
Mount Vernon, WA 98273-2632
360-419-0988
friends@fidalgo.net
www.friendsofskagitcounty.org
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20th Anniversary ●Common Goals ●Common Ground ●Common Good●
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110 N. First Street | Suite C
P.O. Box 2632 (mailing)
Mount Vernon, WA 98273
360-419-0988
friends@fidalgo.net
www.friendsofskagitcouny.org

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Tim Minter

Staff
Ellen Bynum
Director

People dedicated to preserving Skagit County's rural character by protecting the natural environment; supporting sustainable, resource-based economies; and promoting livable urban communities for present and future generations.

March 20, 2009

Skagit County Planning Commission
Skagit County Administration
1800 Continental Place, Suite 100
Mount Vernon, WA 98273

Dear Commissioners:

Thank you for the opportunity to present public comments on March 17th concerning the Open Space Trails Plan. Below are some additional comments on the plan as well as an attempt to provide the Commissioners with historical information on why Friends of Skagit County urges you and the County to re-visit the issue of identifying, planning, creating and implementing open space and greenbelts within UGAs and between urban areas and resource lands.

<u>If the Open Space Plan is a Trails Plan the County Needs Additional Public Input.</u> Jeroldine Halberg and consultant Tom Beckwith, Beckwith Consulting worked on this plan for at least a year and have created a framework for discussion with citizens in Skagit's neighborhoods about a regional trails system. Friends would like to encourage a continuing process that involves and assures that citizens make the final decisions, with technical help from planning staff, on what, if any future trails system, could be established in rural Skagit County. Community planning processes which education citizens about planning requirement and how to plan, empower citizens to take decisions on policies and projects which affect them directly on an ongoing basis and genuinely implement the citizen decisions will help prevent future appeals and the responses created from an uninformed public. We realize this approach will require additional resources and urge the Planning Commission and the Board of County Commissioners to begin adopting policies that move planning to be an even more pro-active operation. This will undoubtedly go a long way to save the County and taxpayers legal costs as well as staff and elected officials time.

In a brief look at other County Comprehensive Plans shows that there are a variety of ways to deal with trails, open space and greenbelts. What also seems clear is that "Recreation" is an optional topic for Comp Planning, although almost all counties have included it in their planning under a variety of the required GMA topics. The Planning Commission might look at other rural counties, as well as urban areas, for options.

It is important to note that the Hearings Board repeatedly stresses the identification and protection of resource lands as one of the first items for inclusion in the Comprehensive Planning Process. The Board emphasizes that the lines around these lands are not to be changed and that the lands themselves are to be protected from adjacent land use which compromises their preservation. It is in this early context of identifying and protecting resource lands and critical areas and creating UGAs that the Board also considered open space and greenbelts inside and between UGAs.

<u>Short History on the Question of Open Space and Greenbelts</u>

In taking 10 hours to review the FOSC documents, I came up with the following information. Hopefully County staff can supply additional information to you which may be relevant, but which I did not include. I would also note that there were many different issues, which were brought by Friends, which were brought into compliance, by the County one or more issues at a time. It may be possible that in dealing with the other larger issues, the County (and FOSC) simply failed to create the map until years

later.

It appears that as early as 1995, Friends asked "*Did Skagit County fail to comply with GMA by its alleged failure to identify and protect greenbelts and open spaces when adopting its Interim UGAs?"* A copy of the Final Decision and Order, August 30, 1995, Case No. 95-2-0065, pages 15 & 16 is attached. The County maps did not identify greenbelts or open spaces and "…. *There is no indication in the record of the adoption process of the IUGAs that open spaces and greenbelts were identified. The County is required to identify this major and integral part of an IUGA in its analysis of land capacity and its drawing of boundaries…*"

The Board directed that *"The new ordinance must identify open spaces and greenbelts and must also preclude extension of urban government services outside the IUGA in accordance with CPP 1.8"*.

Friends Motion for Reconsideration again asked the Board for clarification of identifying open spaces and greenbelts, but the Order Regarding Motions for Reconsideration, did not address open spaces and greenbelts when it upheld the County's Ordinance #15794 (readopting #15589). A search of the ordinances does not find the words "open spaces" or "greenbelts". The Amended Order issues October 31, 1995 repeated the requirement that the County, *"…3. Base any new IUGA designation upon the OFM population forecast and the required land capacity, capital facilities and fiscal impact analyses. The new ordinance must identify open spaces and green belts."*

Neither the Finding of Non-Compliance and Finding of Invalidity, Regarding Interim Urban Growth Areas (IUGAs) issued February 7, 1996, the Order Re: Modifying or Rescinding Invalidity (IUGA), April 4, 1996, nor the Second and Third Orders of Continued Non-Compliance and Order RE: Motion to Clarify Finding of Invalidity and Motion Requesting Recommendation for Sanctions, issued August 26, 1996 and January 27, 1997 respectively address open spaces or greenbelts.

I did not find information regarding open space and greenbelts in any of the cases filed in Skagit County again until Abenroth, et. al. V. Skagit County and Sheila Buggia, et. al., Intervenors, No. 97-2-0060c, January 23, 1998, Final Order and Decision which stated *"…Because of the excessive over-capacity of undeveloped commercial/industrial (C/I) land, and the lack of greenbelts and open space, the Anacortes UGA should be found invalid for substantial interference with goals RCW 36.70A.020(1), (2), (3), (9), and (10).* The FDO discusses whether open space designation was appropriate for March's Point, land along the Skagit River is restricted in the Mount Vernon UGA for open space and recreational uses, identified large "open space/agricultural area in the floodway to the south of the City (Sedro Woolley), and addresses agricultural land inside UGAs. None of these references speak about greenbelts, mapping or trails.

The FDO also says *"The land speaks first. Natural resource lands must be designated first and avoided when setting UGAs. We always scrutinize the size of an UGA much more closely if it includes designated natural resource lands…"* and *"…Under GMA land is to be included in an UGA if it is deemed appropriate for urban development. If it is not appropriate for urban development, it should be left out of an UGA. In order to achieve compliance the County must either remove those properties from the UGA or show the need to include them in light of the requirements of the Act…"*

The FDO finds the inclusion of farmland west of Britt Slough Road added to the Mount Vernon UGA erroneous and noted that *"…The property was designated Natural Resource Agriculture by the County.* ***One of GMA's top priorities is the conservation of such lands (emphasis added)*** *and Britt Slough Road plus Britt Slough currently form a wide natural boundary between residential and agricultural uses…"* and *"…Mount Vernon and the Skagit County PC both recognized the importance of this natural boundary to preserve the active farming practices in the area and recommended against any such encroachment…"*

Evergreen Islands, et. al., v. Skagit county and Affiliated Health Services, et.al., No. 00-2-0046c, (FDO Feb6, 2001) was a consolidation of a number of cases with a number of issues including "Identification of Open Space Corridors" (Attached pages 40-41, 48 and 56). The Compliance Order (General Issues) January 30, 2002 required *"…(9)*

Within 180 days, adopt maps or some other clear mechanism to identify greenbelts and open space areas within UGAs and open space corridors within and between UGAs.." and the parties deferred to April 2, 2002 Compliance Hearing the allowed uses in NRL, mapping of greenbelts and open space corridors; and side setback code clarification.

The County was found to be compliant regarding open space and greenbelts by the adoption of Ordinance #R20020036 (copy attached). The Ordinance lists greenbelt corridors, green belts connecting critical areas, lands receiving open space taxation incentives, resource lands, conservation easements, rural open space areas, park lands, and significant historic and archeological scenic and cultural lands…. in a mix of 3 categories (public, private and open space taxation). Though it is not evident from the maps (quality issues) the trails included in the maps were existing trails, not proposed for the future.

Friends challenged the merits of the ordinance in Case No. 02-2-0005, FOSC v. Skagit County, (FOSC #28). A The Board entered stipulation and Order of Dismissal, drafted by Skagit County Prosecuting Attorney, signed by representatives of both parties, on June 6, 2003. We will forward a copy of the stip order if the County staff cannot produce one for your review.

I have attached a summary of information on cases before the Board on greenbelts, open space and related issues for your information. It is neither exhaustive nor complete, but may give you additional information to evaluate the Proposed Open Space Plan.

Jeroldine Halberg advised that because Friends had signed the Stipulation Order, we should now file a new appeal. In the interest of practicality and budget, Friends would rather attempt to assist in constructing some public planning process to address the issues raised in the Open Space Plan. However, we do reserve our right of appeal, should that become necessary.

FOSC understand that the GMA allows Recreational Plans to be included in Comprehensive Plans and we are not questioning the value of the County developing an Open Space System or Recreational/Trails System program. However, we do not feel that the inclusion of NRL in any mapping or program should retain the restrictions required for long-term preservation of resource land viability. We do not see how the current proposal can achieve and uphold this outcome.

Thank you again for the opportunity to comment. Should you have questions or need additional information, please contact us again.

Yours sincerely,

Ellen Bynum
Director

cc: FOSC Board; Gerald Steel, P.E., Counsel, Legislative Representatives and Senators 10th, 39th & 40th Districts.
Enclosures
FDO No. 95-2-0065 FOSC, Barbara Rudge and Andrea Xaver v. Skagit Co. and City of Anacortes and Mt. Vernon.
FOSC & Gerald Steel Opening Brief No. 00-2-0046c, pgs. 29-30, Evergreen Islands, et. al v. Skagit Co. and Affiliated Health Services, et. al.
FDO No. 00-2-0046c (General Issues) pgs. 40-41, 48 and 56.
Skagit County Resolution #R20020036
Compliance Order No. 00-2-0046c (General Issues)15

Friends of Skagit County
PO Box 2632
Mount Vernon WA 98273-2632

www.friendsofskagitcounty.org friends@fidalgo.net
360-419-0988 phone Donate at: www.networkforgood.org

September 23, 2014

Skagit County Planning Commission
1800 Continental Place
Mount Vernon, WA 98273

Dear Planning Commissioners:

Thank you for the opportunity to comment on the Six Year Transportation Improvement Program from 2015 – 2020. We ask that you remove three projects proposed for the Cascade and Centennial Trails and that you condition approval of the entire plan on receiving data from each project to show the demand for the project. We also ask you to require a plan to mitigate for farmland converted to other uses for each project with this impact.

Compliance & Coordination with WA State Growth Management Act and Skagit Comprehensive Plan
Regional Transportation Planning Organizations (RTPOs) were authorized by the WA State Legislature as part of the 1990 Growth Management Act. The concurrency requirements are well supported by the Growth Management Hearings Board rulings and must be provided consistent with GMA requirements and rules. Local governments must consider all aspects of public facilities and services and make a reasoned decision as to which are necessary. Local governments must state what it plans to do and how that is to be accomplished in order to achieve concurrency compliance. More than a generalized policy statement is necessary to comply with the GMA. TRG v. Oak Harbor 96-2-0002 (FDO, 7-16-96). *Concurrency is intended to ensure that at the time of new development public facilities and services are in place or are adequately planned.* Achen v. Clark County 95-2-0067 (FDO, 9-20-95). Conversely, if no new development is planned or there is no demand for the public services, GMA does not require the County to provide these services.

RCW 36.70A.070 - Comprehensive plans -- Mandatory elements.
"*…The plan shall be an* ***internally consistent document and all elements shall be consistent with the future land use map****." (emphasis added).* The land use element of the comprehensive plan includes recreation and is required to include population densities, building intensities and estimates of future population growth.

"….(6) A transportation element that ***implements, and is consistent with, the land use element****…"*
Required sub-elements of this section include forecasts of future need for 10 years and associated demands. We did not find these addressed in the TIP projects; nor did the plan summarize these demands by project(s).

Under the financing section there is a requirement for a multiyear financing plan **based on the needs identified in the comprehensive plan. (emphasis added).** The Skagit Comprehensive Plan adopted in 2007 mentions trails under shorelines, recreation and capital facilities, as desired, rather than mandatory projects. The NMT goals include: "*Provide a* ***safe and efficient*** *network of trails and bikeways, including both on and off-road facilities that link populated areas of the County with important travel destinations.*" ***(emphasis added).*** There is no definition of which destinations are important nor is there a standard to measure safety or efficiency.

The GMA requires counties to create a capital facilities plan element that includes *"….a requirement to re-assess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are* ***coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element****…"(emphasis added).*

"….(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element ***shall include****: (a)* ***Estimates of park and recreation demand for at least a ten-year period****; (b) an evaluation of facilities and service needs; and (c) an evaluation of*

*intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand…"(**emphasis added**).*

To our knowledge Skagit County Parks and Recreation has not produced any estimates of "…demand for use for at least a 10-year period" on any trail in Skagit County. Nor is this demand information included in the Capital Facilities Plan.

The 6 Year TIP does not address demand for any of the proposed projects. The Skagit/Island RTPO Policies do not appear to address demand in the guidance for determining projects for state and local funding. While Policy 1 requires Compliance with the Regional Plan to be eligible for the RTIP, there does not appear to be any requirement for any assessment for demand or need for the project.

We request that the Planning Commission remove the Centennial Trail project and Cascade Trail Asphalt Paving Projects Phase 1 and 2 until such time as there is an accurate assessment of demand for at least 10-years for each project. There may be other projects in the plan which do not contain the "demand for use for at least 10-years" as well which the Commission may want to examine and exclude.

Appearance of Incremental Development
While proposing projects in stages is often useful to funders and budget managers, it is not appropriate for proposing development projects as the impacts, scope and full nature of the project is not transparent. The Cascade Trail project is proposed in two phases and the scope of work in each phase is unclear. The public wants to know where and how its tax money is being spent.

No SEPA or Environmental Review
Unless there is another provision for environmental review, there appears to be no requirement for a SEPA review for the two trails projects. Both trails traverse sensitive areas, wetlands, hazardous slopes and other geographical and ecological features which SEPA intends to protect. How can these protections work if there is no review in the process of the 6-Year TIP?

No Net Loss of Agricultural Lands
Skagit County's policy of no net loss of farmland has not been considered in any of the proposed 6 Year TIP projects. There is no plan for estimating how much farmland will be converted to another use. Nor is there any plan for adding other available land to the Ag-NRL zoning or paying fees into the Conservation Futures fund for loss of productive soils.

For the reasons above we ask that you remove the three proposed trails projects from the 6 Year TIP and that you condition approval of the plan on receiving data from each project on demand for the project. We also ask you to require a mitigation plan for converted farmland.

Thanks very much for your time and continued service.

Ellen Bynum, Executive Director

cc: FOSC Board; SCOG; PD&S; Legislative Representatives.

From:	Ellen Bynum
To:	PDS comments
Cc:	FOSC Office; Diane Freethy; Andrea Xaver
Subject:	Additional comments re: status of the UGA Open Space Concept Plan.
Date:	Thursday, September 25, 2014 3:48:05 PM

The Board of Friends of Skagit County would like to reiterate that the UGA Open Space Concept Plan has not been officially adopted by Skagit County or any of the towns and cities or SCOG. Nor has it been included in the Comprehensive Plan Amendment Process. The UGA OS Concept Plan satisfied the GMHB requirements that the County identify and map lands which may be included in a later plan. A democratically developed UGA OS Plan would required extensive public input, public participation, legal research on ownership of property and willingness of landowners to be considered, and many thousands of hours of work to be suitable for consideration in a Comprehensive Plan Amendment.

We would appreciate staff and elected officials using consistently truthful and accurate words to describe the UGA OS Concept Plan and its status, as any inaccurate suggestions misleads the public. We expect the Planning Commission, staff, BOCC and other elected officials to always uphold their statutory duties to the public. This includes identifying when not enough work has been completed in the planning process, when inaccurate information needs correction, or when goals passed and accepted by the public are not achieved. For example, less than 200 acres of resource lands has been lost to residential development since 1996, but there have been many thousands of acres lost by conversion to other uses with no additional designation of replacement lands.

If you would like additional information or to have clarification or discuss this further, please contact us.

Thank you for the opportunity to comment.

Ellen

Ellen Bynum, Executive Director
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ROGER H. MITCHELL
1155 Chuckanut Ridge Drive
Bow, WA 98232

via email to pdscomments@co.skagit.wa.us and hand delivered print copy

Planning Commissioners
1800 Continental Place
Mount Vernon, Washington 98273

25 September 2014

re: Draft 2015-2020 Capital Facilities Plan

Dear Planning Commissioners,

Please include this letter as my written comment on the draft 2015-2020 Capital Facilities Plan.

Capital Facilities Plans are reasonably complex, therefore many of us have a tendency to accept them as presented because we assume staff knows the details better than we do. Having reviewed the draft 2015-2020 Capital Facilities Plan ("Draft Plan") I realized that there are quite a few questions that, in my opinion, have *not* been asked or answered. The Planning Commission, the Board of County Commissioners, and Skagit County citizens deserve complete, unambiguous, detailed, and honest answers. I trust that the Planning Commission will undertake whatever is necessary to ask these questions, obtain appropriate and thorough answers, and consider the implications during the upcoming Draft Plan deliberations and recommendations to the Board of County Commissioners.

Here are the questions I would like to see addressed:

As it regards "Cascade Trail" and "Highway 20 Trail" listed under the "Parks and Trails: Proposed Projects and Financing" (Draft Plan page 22):

1. Are these projects required to comply with RCW 47.30 (Trails and Paths), RCW 36.70A (GMA and Comprehensive Plan Transportation Element), SEPA, and all other land use regulations ? If "yes", have they, in fact, complied ? If, "No", why not ?

2. The GMA requires "Level of Service" (LOS) standards for highways and transit services. Given the close association, and RCW 36.81.121 requirements (Perpetual advanced 6-yr plans for coordinated transportation program, expenditures – Nonmotorized transportation – Railroad right-of-way), are "Level of Service" (LOS) standards also required for Non-Motorized TIP projects ? If "yes", have LOS's been developed for these two projects ? If, "No", why not ?

3. Does the County have good and clear title to the land where these two trails are contemplated ?

4. Recent US Supreme Court rulings, like *Brandt Trust v. United States*, have been decided in favor of private property owners in these former railway right-of-way cases. How do those recent Supreme Court decisions apply to these two specific projects involving former railway right-of-way ?

5. The County, particularly the Department of Emergency Management, has spent considerable time and effort addressing natural hazards mitigation planning and the latest revision of that Plan was just adopted this month. What specific natural hazard mitigation concerns have been addressed relative to these proposed trail projects ?

6. As a volunteer firefighter/EMT I have experience responding to public safety emergencies on rural trails (for example, Blanchard Mountain is in the fire district I serve). Unfortunately, medical emergencies (eg. injuries, heart attacks and diabetic emergencies associated with physical stress, etc) and illegal mischief are often associated with publicly accessed recreational facilities, like trails. Have County Law Enforcement, Fire Protection Districts, and County Emergency Medical Services (EMS) provided input and advice on these proposed trail projects ?

   Related questions are, "What responsibility does the County have, or need to consider, regarding public safety issues when contemplating trail projects such as these ?" and "What is the County's ongoing liability with respect to infractions of the law on trails of this type ?"

It seems to me that an honest, detailed, and open discussion of the issues and implications raised by the questions listed above would be in everyone's best interest *prior* to approving these particular projects in the 2015-2020 Capital Facilities Plan.

Thank you for your time and consideration of my comments.

Sincerely,

Roger H. Mitchell

cc: Board of County Commissioners via email to commissioners@co.skagit.wa.us and hand delivered print copy

cc: Dale Pernula via email to dalep@co.skagit.wa.us and hand delivered print copy