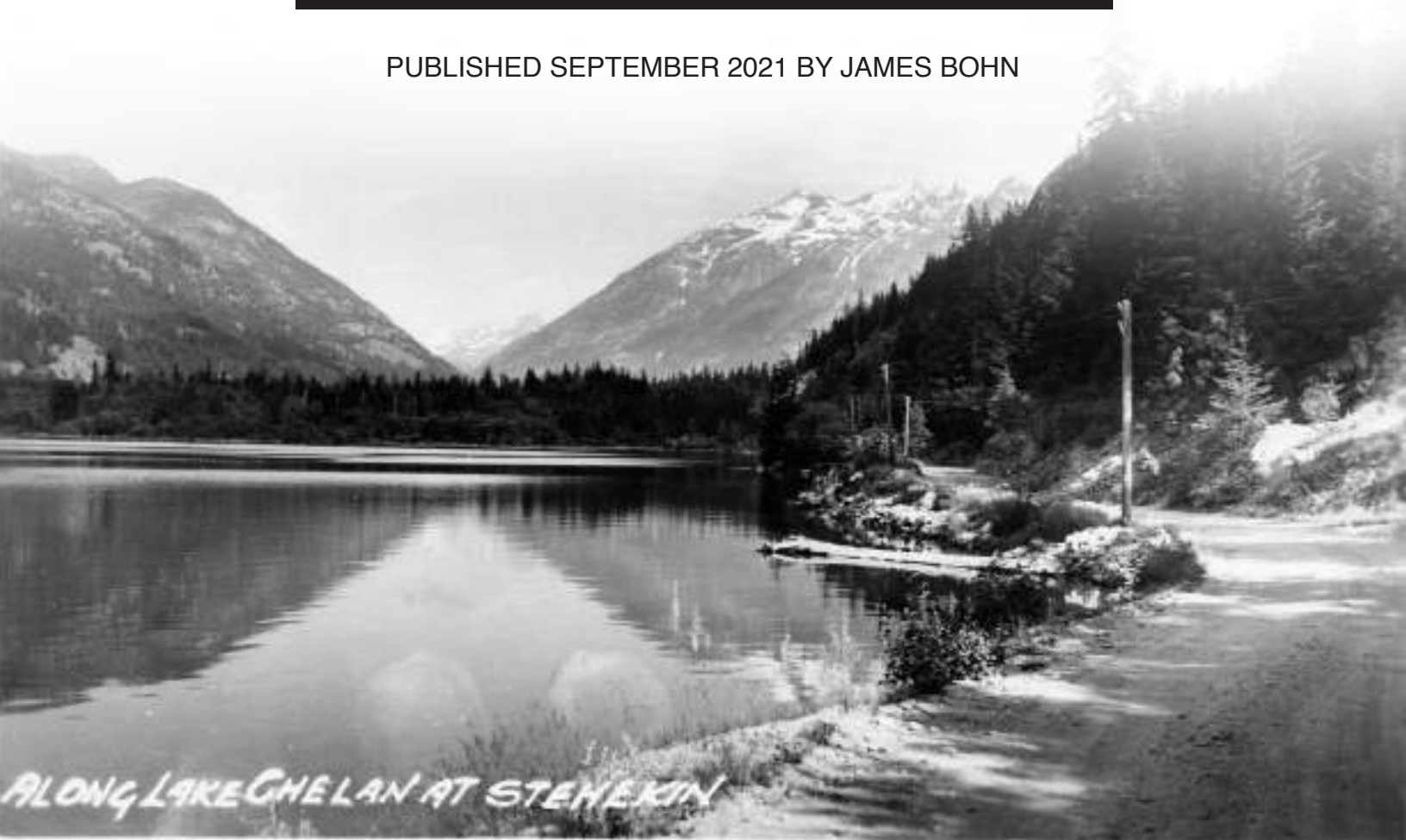


STEHEKIN VALLEY ROAD REPORT

PUBLISHED SEPTEMBER 2021 BY JAMES BOHN



ALONG LAKE CHELAN AT STEHEKIN

What to know about the Stehekin Valley Road

A critical review of the illegal conveyance from Chelan County to the National Park Service in 1970:

- *See how the transaction violated several state laws specifically intended to prevent such action, protect private property rights, and the rights of the general public*
- *Notice that the NPS created an illegal description of the road, had it incorporated into the quitclaim deed from Chelan County, to make the transaction appear to be a grant of land and increase the road easement boundaries*
- *Read how the overly zealous NPS attorneys in the third lawsuit spun a more elaborate fictional account that the conveyance was an unrestricted grant of land, fee title*
- *Discover missing documents as a result of the fourth lawsuit that irrefutably prove the conveyance was not a grant of land, but the easement / right-of-way for the County road*
- *Understand that all four lawsuits were dismissed on legal procedure technicalities before trial without a judicial review of the facts and applicable laws*
- *Know that the terms and conditions of the road easement were not changed by the lawsuits, cannot be changed, and are exactly the same as any other county road*
- *Learn what actions will protect your property and your rights to use the road against false claims related to the illegal conveyance*

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NOTICE: The statements and conclusions in this report are those of the author based upon his comprehensive study of available public documents, court records, state and federal laws, and relevant legal precedence. Footnoted references are included as exhibits. This report is intended to provide accurate information in regard to the subject matter covered, and every effort was made to do so. However, the author assumes no responsibility for errors, inaccuracies, omissions, or any other inconsistencies herein. The reader is advised to study the information, verify the references, and make their own determination with respect to the legality of the Stehekin Valley Road conveyance and any related issue(s). Permission to duplicate and distribute this report is hereby granted providing each copy distributed is complete with all exhibits.

What to know about the Stehekin Valley Road

Prepared by: James Bohn, September 2021

Introduction: This report outlines the facts pertaining to the true legal status of the Stehekin Valley Road (SVR) and the unresolved issues related to the illegal conveyance from Chelan County to the United States of America (USA) in 1970. The report is a compilation of information by the above named plaintiff since the quiet title lawsuit (USA v Chelan Co, 1992-1993) updated with additional details from the plaintiff's lawsuit against defendants Chelan County and the USA (2020-2021).

The report is intended to inform those already familiar with Stehekin, WA, particularly the residents, property owners, local title companies, county and state representatives, and the National Park Service (NPS). Presented herein are details why the conveyance of SVR was not legal under state law, how the NPS initiated and facilitated the scheme with a illegal description of the road as a *strip of land*, how that description conflicts with the senior land titles, and how the legal process was employed to prevent a fair review of the facts to law and falsely sustain the conveyance as a grant of fee title in favor of the NPS.

Before going further the reader must understand the difference between easement and fee title. For further detail please refer to relevant Washington case law excerpts outlined in the attached page entitled Easements – The General Rule¹. Note: All footnote references are included as attachments to support statements and conclusions herein.

The term “*illegal conveyance*” refers to the mutual agreement between the NPS and the Chelan County Commissioners to transfer the Stehekin road (County Road 21) to the USA under RCW 36.34.220² for the conveyance of real property for federal projects while concurrently vacating the road under RCW 36.87 intended for the termination of public road right of ways (ROW) and easements. The illegality relates to the fact that Chelan County owned none of the land encumbered by the road (i.e.: *real property* as required under RCW 36.34.220) and there was no physical federal project needing land within the scope of the state law. The illegality under RCW 36.87 relates to not adhering to the prescribed mandatory ROW vacation process.

When lawfully vacating a ROW / easement, there are specific considerations and mandatory administrative steps which must be taken in accordance with RCW 36.87³. Violations of this statute by Chelan County include falsely claiming the road was “*useless*” (36.87.010) and “*not useful*” (36.87.060), failure to require a petition from owners residing in the vicinity of the road (36.87.020), failure to submit the “*Engineer's report*” (36.87.040), and failure to secure a unanimous vote by the board of commissioners or judgment of a court (36.87.080). The combined misuse of the two separate and distinct state laws is legally inconsistent with both statutes, and unprecedented in the state of Washington.

The conveyance occurred only because the remote Chelan County road was expensive to maintain, and the NPS had recently taken over management of the Lake Chelan National Recreation Area

¹ Easements – The General Rule: Municipal Research & Service Center, Seattle, WA <https://MRSC.org>

² RCW 36.34.220, Session Laws, 1963: Lease or conveyance to United States for flood control, navigation and allied purposes (RCW – Revised Code of Washington).

³ RCW 36.87, Session Laws, 1963: Road and Bridges - Vacation

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(LCNRA) and wished to “*control the roadside scene*”⁴. Local residents, not yet familiar with the policies coming with the new recreation area, advocated for better maintenance promised by the NPS. These self-serving interests obscured the mandatory process of the vacation statute enacted to protect the servient rights of the actual fee title landowners and the long-standing rights of the public in and to the road. If the mandatory steps had been truthfully followed the conveyance would not have been possible.

The deal was initiated by the NPS and arranged in a series of meetings starting in 1969 and concluding with a Chelan County prepared quitclaim deed conveying *all right, title, and interest* in the road to the USA acting by and through the Bureau of Reclamation (BOR)⁵. The purported reasons were that the road *served virtually no citizens of Chelan County, and the road is of value to the United States...for use in making water and snow measurements and surveys*⁶, *the National Park Service has assumed jurisdiction of all the lands in the Stehekin River Valley served by County Road No. 21*⁷. These reasons were obvious fabrications, just something to fill the pages, and no one noticed, cared, or made any complaint at the time. The complaints came later as the NPS promises for road improvement included restrictions in violation of the long established terms and conditions for a county road.

Since 1970 there have been four lawsuits concerning: 1) the legality of the conveyance, 2) road and land use restrictions imposed by the NPS, 3) Chelan County’s attempt to reclaim road administration, and 4) recently, NPS administration of the road as if it were federal property without regard for the above named plaintiff’s servient rights to the land encumbered by the road. This overt management of the land as fee title along the entire road was, in effect, a taking of private property without due process of several laws. The central question in the recent action sought to discover what was actually conveyed 50 years ago, and more specifically, did the conveyance and previous lawsuits actually convert the legal foundation of the roadway from easement for a county road to fee title federal property?

It would seem, with four lawsuits, many affidavits, and legal arguments with cited precedence, all presented and guided by lawyers before judges in the deliberative process of the courts, that the facts would have been fairly evaluated by now and we would know the truth. If you believe that, you do not understand the legal system. Only in the recent action, by chance or mistake, has the federal government inadvertently revealed what was hidden *or withheld* from view for 50 years. Please read on to learn what was revealed and how it resolves the plaintiff’s main concerns, and forever dispels the NPS perpetuated myth of fee title road “*ownership*”.

The Lawsuits:

1. Stehekin River Resort Inc. et. al. v. Chelan County (10/5/70 > 4/17/73)
2. Stehekin Heritage Defense Committee et. al. v. William Clark et. al. (1/20/84 > 8/6/85)
3. United States v. Chelan County (8/31/92 > 6/4/93)

⁴ Letter from R.J.Cantor, NPS Superintendent to Chelan County Commissioners, December 11, 1969

⁵ Quit Claim Deed, Stehekin Valley Road, from Chelan County to the United States of America, March 30, 1970, includes three page legal description

⁶ Chelan County Resolution 637-E, March 30, 1970

⁷ Chelan County Resolution 642-E, April 20, 1970

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4. James Bohn v. Chelan County, United States of America, Bureau of Reclamation, and the National Park Service (6/23/20 > 4/13/21)

Stehekin River Resort, Inc. v. Chelan County, No. 25845 (Chelan County Superior Court):

Shortly after the road transfer, a small group of Stehekin residents protested the quality and extent of NPS road maintenance. The main complaint was that the NPS did not intend to plow snow on the road spur commonly known as the Company Creek Road branching off the main road at the Harlequin Bridge. The NPS knew that section was not included in the quitclaim deed and thought the County should continue with maintenance as they had for many years prior. Formal ROW dedications did not exist for this section of road and the protest group thought the NPS could accept it anyway, possibly because of “prescriptive” use and maintenance by the County for a certain number of years.

When the County discontinued maintenance, and the NPS likewise declined the task, the protest group filed a lawsuit⁸ questioning the legality of the conveyance correctly citing noncompliance with RCW 36.87. This action prompted an agreement from the County with concurrence from the NPS to the protesting group: The NPS would take over maintenance of the Company Creek road and pursue ROW dedications to justify the new task and associated costs. With respect to settling the lawsuit, the action was seen by all parties as legal “leverage” only to obtain continued maintenance from the County or a new maintenance agreement from the NPS. The legality of the “vacation-conveyance” was not an issue once the NPS promised to maintain that section.

In the end the protest group received the maintenance promise from the NPS in trade for agreeing that the conveyance *was authorized pursuant to RCW 36.34.220...* (forgetting about their very valid complaint under RCW 36.87). The stipulation memorandum⁹ dated April 17, 1973 states in part: *That it is for the best interest of all parties concerned that the status of the said road be settled and hereby stipulate that the court may enter its judgment herein declaring that the Chelan County was authorized pursuant to RCW 36.34.220 to convey that portion of County Road No. 21, also known as the Stehekin Valley Road, to the United States of America.* Note: The self-serving agreement was between the two parties without a judicial review of any facts and applicable laws. One down, three to go.

Note: There is no mention in any records of the Company Creek Road being a county road, and many residents believed it to be a private road. However, since this road spur was maintained by Chelan County for well over seven years, and was not part of the conveyance, it remains a county road open to the public (Ref: RCW 36.75.070 *Highways worked seven years are county roads*). Correspondence between the parties provides additional insight on the issues¹⁰.

Stehekin Heritage Defense Committee et. al. v. William Clark et. al. C-84-045-RJM (US District Court, E.D. Wash): The specific grievances included limitations on use of the road,

⁸ Stehekin River Resort v. Chelan County, No. 25845, *Complaint for Declaratory Judgment*, October 5, 1970

⁹ Stehekin River Resort v. Chelan County, No. 25845, *Stipulation*, April 17, 1973 and *Order and Judgment*, April 30, 1973

¹⁰ Correspondence dated November 13, 1970, March 29, 1971, April 15, 1971, May 4, 1973, and NPS Final GMP LCNRA, June 1995, Appendix G, Page 459

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limitations on the size of tours, restrictions on commercial activity, NPS land acquisition contrary to the intent of the enabling legislation, and a host of additional matters which the plaintiffs viewed as unnecessary and unwarranted interferences within the community. As a partial remedy, the plaintiffs sought an order requiring the NPS to offer for resale to the original vendors all land acquired by the NPS.

The court found that the claims were barred by the 12-year statute of limitations in the Federal Quiet Title Act, 28 USC §2409(a)(g) and the case was dismissed without a judicial review of any facts and applicable laws. Two down, two to go.

United States v. Chelan County, USDC CS-92-0331-AAM (US District Court, E.D. Wash.):

In 1991, because of the unusual restrictions contrary to the original intent to only transfer maintenance responsibility, Chelan County attempted to reclaim the road by passing Resolution 91-72 and resuming certain maintenance operations (i.e.: emergency restoration of a partial road washout at 8-mile). The NPS secured an injunction to stop the work and sued Chelan County for quiet title in federal court.

Note: The fact that the NPS sued for quiet title and argued the case as fee title indicates their clear intention to illegally claim fee title to the entire road between the Stehekin Landing and the National Park entrance at High Bridge.

Through a reading of the USA's brief supporting the final order, the NPS prevailed, the conveyance was deemed valid, and involved a grant of real property, i.e.: a "*strip of land*" according to the "*legal description*" attached to the quitclaim deed. The 24 page order¹¹ referenced several cases involving transfer of real properties, authority of the USA to take title, and the exclusive and unrestricted use of fee title land while ignoring the misapplication of state law and the critical fact that the county road only existed as an easement - a legal creation from self-executing ROW grants, recorded dedications, and prescriptive use.

Chelan County attorneys weakly defended the case, failing to successfully argue the fact that the County did not have, and thus, could not convey any fee interest, RCW 36.34.220 had been incorrectly applied, and the property right protections of RCW 36.87, specifically enacted for the vacation of roads, had not been properly administered. In Resolution 91-72, Chelan County stated they were *fraudulently* misled by the NPS¹². This admission may be true but the available records from 1970 indicate both parties mutually cooperated to execute the "conveyance" contrary to state law and without regard for the rights of the actual fee owners with land bisected by or abutting to the centerline of the roadway.

The final order concludes with the following statement: *Based upon the NPS's pervasive assertion of jurisdiction over the administrative responsibilities for the Stehekin Valley Road, the County must be deemed to have known of the United States' claim of interest in the road since at*

¹¹ USA v. Chelan County, CS-92-0331-AAM, Order Granting Motion for Summary Judgment, partial copy: Pgs 1, 4, 5, 10, 11, 12, 13, 17, 18, 19, 21, 22, 23, 24

¹² Chelan County Resolution 91-72, July 9, 1991

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least 1972. Consequently, the County's present attempt to dispute the United States' interest is time-barred by 28 U.S.C. §2409.

The case was dismissed on the statute of limitations without a judicial review of the facts and applicable laws. Three down, one to go.

James Bohn v. Chelan County, USA et. al. 2:20-cv-00257-SMJ (US District Court, E.D. Wash.: Plaintiff Bohn claimed the road conveyance was unlawful under Washington state law, specifically RCW 36.87 and three related published opinions of the Washington State Attorney General¹³. Additional unlawfulness was apparent under RCW 36.34.220, RCW 36.87.130, and PL90-544¹⁴. The claim of unlawfulness under RCW 36.87 was identical to that outlined in Stehekin Resort v. Chelan County. The fact that the plaintiffs in the early case stipulated the conveyance was "*authorized*" under RCW 36.34.220 did not make it so. They agreed only to secure snow plowing by someone, and that was the NPS who needed to resolve this issue in order to gain control of the main road.

The Stehekin road was planned, constructed, maintained at a considerable cost in terms of public and private money, and work effort. A review of newspaper articles collected by and obtained from the NPS reveal a significant investment in the road by the state and federal governments. In addition, there were funds given by private companies, organizations, and individuals to promote and support the road building effort. Roads of this character and use are *secondary state highways* or *county roads*, and nearly all exist on easements or right-of-ways. The costs incurred from 1890 to 1970 have not been tabulated or calculated in today's dollars but a cursory review will show a considerable investment for many decades, that the road was indeed valuable, still in use, likely to increase in use, and not something to be casually given away by Chelan County.

The property owners adjoining the ROW were denied due process protection of the state and federal constitutions when the County unlawfully conveyed the road to the NPS in 1970, and again, after the 1993 final order in USA vs. Chelan County because there were no effective avenues for appeal. A valid vacation requires a formal petition by a majority of property owners. Self-serving interests of the County to "*get rid of the road*"¹⁵ or the NPS as a single advocate for a concurrent "*vacation – conveyance*" are not sufficient justifications to violate unambiguous legal processes negatively affecting the rights of private property owners and the general public.

With the Sedro-Wooley and Stehekin based NPS management continuing to believe and administer the road as fee title federal property, the validity of the plaintiff's property deed was indeterminate. Did the NPS now own the middle 6000 square feet of the parcel (60x100), the actual fee ownership downsized from 0.32 acres to 0.18 acres? After the 1993 lawsuit, the plaintiff's parcel was downsized that amount by Chelan County with the helpful assistance of the NPS. The county assessor told the plaintiff that showing the roadway area now owned by the USA as a separate parcel (03-128) running the entire length of the Stehekin Valley to Bridge Creek was a "*benefit*" that would reduce his property taxes! The plaintiff understood this news

¹³ AGO 57-58 No. 32, AGO 1970 No. 26, and AGLO 1980 No. 12, Partial copies w/relevant text

¹⁴ Public Law 90-544, 90th Congress, S.1321, October 2, 1968, Title II, Section 202

¹⁵ Wenatchee World, March 30, 1970, County gets rid of Stehekin road

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much differently – as an illegal taking initiated in 1970, sustained in 1993, and continuing into the future. This overt and ongoing illegality was the main reason the plaintiff filed the lawsuit.

In addition to the plaintiff's personal concerns, the public rights to utilize the road as any other county road had been partially taken by the NPS who reconditioned many of those rights into privileges under a permit system (so boldly stated in the 1993 quiet title order). Since the conveyance in 1970, the general public and the Stehekin residents have been denied full rights to use the road as originally granted. As a county road, all persons, legal vehicles, licensed commercial enterprises, and other legal road related activities would have equal access subject only to restrictions related to public safety and engineering standards (e.g.: speed and weight limits). The terms and conditions of the unaltered, original grants* made then and still on the record indicate a ROW for *a county road, a highway, a road, the road*. However, since managed as exclusive federal property, rights to use the road have been diminished or denied under the permit system (also boldly stated in the 1993 quiet title court order).

*The Stehekin road exists from four (4) separate and distinct grants or dedications outlined below. Evidence has been obtained showing that the NPS provided the legal description for the quitclaim deed that violates state law, conflicts with the senior deeds, creating (taking) a wider section of ROW than was held in the public trust by Chelan County.

The above summary of the Bohn complaint reflects the original illegality, the NPS overt claim and management of the roadway area as fee title federal land, the effective taking of the middle section of the plaintiff's property, and the illegal changes to the physical size and location of the ROW. There are 57 additional non-federal properties that are similarly affected. One property has had 30 feet of land "deducted" through a misinterpretation of the 1993 quiet title order. The abutting parcel is now described as abutting the edge of the ROW instead of to the center... Another owner with the road established on a prescriptive easement was told by the NPS to remove personal property encroaching on their illegally expanded 60 foot strip of "federal land". This written directive was obviously based upon the NPS created description despite the fact that prescriptive easements are limited to the as-used width and cannot be expanded without the owner's consent.

The Bohn lawsuit was original filed against Chelan County in Douglas County Superior Court. Because the complaint referenced the subsequent misdeeds and mismanagement by the USA, defendant Chelan County petitioned the USA to join the case as a co-defendant. The plaintiff supported this petition, and the USA, NPS and BOR agreed to join.

As expected, Chelan County denied any responsibility and motioned for dismissal on the statute of limitations. The USA also motioned for dismissal on the quiet title 12-year statute of limitations. The plaintiff petitioned unsuccessfully that the statute be tolled because of conflicting assurances that the road was in fact an easement or ROW (so stated in five letters from the Department of the Interior addressing plaintiff's concerns). Unfortunately, the letters were legal "hearsay" and meant

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little if anything, even one from then NPS Director, Fran Manella¹⁶, clearly acknowledging that the road existed as an easement and the *plaintiff's servient rights would be respected*.

Despite the letters of assurance from Sedro-Wooley, Denver and Washington DC, the NPS for the North Cascades Park Complex continued to overtly operate the road as fee title, through the permit system, and by taking over state traffic law enforcement...*"on their federal land"* (also boldly stated in the 1993 quiet title court order).

The plaintiff's complaint and supporting brief (137 pages) included known details and new details, organized with timelines, exhibits, the letters, compilation of road dedication language from deed reviews, and much more. The case was summarily dismissed on the 12-year statute of limitations without judicial review of the facts and applicable law. Four down, and are we done yet? No, there's more, and it gets better.

The dismissal: The dismissal was not unexpected. Admittedly, 50 years is a bit late. Many of those involved are dead, gone, forgotten, have no idea what the issue was or still is, or simply do not care. The opposing attorneys (one for Chelan, and two for the USA) seemed to understand the issue but stood firm to deny wrong-doing and defend their employers. In conversations we had, the plaintiff was asked more than once why he was so concerned with the issue that was *"settled law"*. The answer can be found with an understanding of the difference between easement/ROW and fee title, and what the difference means in terms property rights, freedom to use the road, and law enforcement. And, to date, there has not been a judicial review of any facts relative to the laws by a judge. One of the attorneys admitted what happened in 1970 and 1993 may have been wrong but it was just too late for a resolution, now settled law, like letting a known thief go free and keep ill-gotten property.

Settled law: Attorneys like to use this term and move on. In the 1993 quiet title case the attorneys for the USA referred to the previous two cases as settled law, and further "evidence" supporting their positions that the conveyance was legal. This claim was not at all true. All of the four cases were dismissed without a judicial review of the facts: Stehekin Resort was a self-serving agreement (we'll agree that the deal was legal if you plow snow on our spur road), and the other three cases were dismissed as too late. The cases may be settled law in terms of legal process technicalities but not in terms of the facts as applied to the law.

The illusion of settled law comes from emphasis, omissions, and spin within the arguments. In *USA v. Chelan County*, the arguments varied with the road being an easement¹⁷ (weakly presented by the County) but mostly real property, land, fee title, unrestricted, exclusive use, and never owned by Chelan County (laid on in multiple layers by the Sierra Club legal team and the USA attorneys). The final order (written by the USA attorneys) was prefaced with a long recitation of the NPS's great stewardship, and authority to take title to land, fee title, without restrictions. There were citations only supporting fee title yet no mention of the road existing from an easement or ROW grants. None of these details mattered or were heard as the judge granted the USA

¹⁶ Letter from F. Manella to J. Bohn, May 11, 2006

¹⁷ *USA v. Chelan County*, CS-92-0331-AAM, Memorandum in Opposition to Motion for Preliminary Injunction

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request for a summary judgment with the following statement: *Consequently, the County's present attempt to dispute the United States title is time-barred by 28 U.S.C. §2409. Summary judgments are decisions made before the issues go to trial. It was too late to review any of the inconvenient facts but a perfect opportunity to summarize the NPS claims in great detail and make it appear to be a judicial ruling on "facts" – i.e.: their version of the truth...*

Legal argument verse facts and evidence: If you have watched legal proceeding (real or fictional) you've seen the judge tell the jury that the arguments of the lawyers are not the facts, just their opposing versions of the case (with one being mostly truthful and the other not so much...). For example: *Ladies and gentlemen of the jury, the opening and closing arguments of these distinguished attorneys are not evidence. You must only consider the facts admitted into evidence through the testimony of witnesses and allowed exhibits, and apply the facts to the law as outlined in my jury instructions to you.* Understanding this, all four cases were summarily dismissed without consideration of any evidence, facts, and applicable laws. Attorneys are trained to guide the case around undesirable facts, or better yet, all facts and evidence, by finding a technicality for a dismissal before trial. Sadly, it is the way the system works.

An unexpected discovery: Discovery in a legal contest is the process of sharing with the opposing parties information relevant to the issues. Chelan County and the USA provided information to the plaintiff and the plaintiff provided information to the defendants. Additional information can be obtained through a *Request for Production of Documents*. The plaintiff filed several such requests, one seeking information on the un-credited legal description for the road that was attached to the 1970 quitclaim deed. The three page document referred to the conveyance as a *"strip of land 60 feet wide"*, but was not dated, did not include references for the survey data, and lacked authentication. Such references and authentication are required by state law (Ref: RCWs 18.43.070, 58.09, 58.17, 64.04, and others). The question was: Who created the legal description??

Several USA provided documents indicate the description was prepared by the USA and given to Chelan County for attachment to the quitclaim deed. A letter¹⁸ from the NPS offered to prepare and provide a description while a NPS memorandum¹⁹ suggested an outline with reference to existing data and new description data (from NPS survey in 1969) that did not previously exist in the County record system. The County Commissioner Journal confirmed receipt of the finished product²⁰.

Another plaintiff question needing an answer was: Had the Bureau of Reclamation really used the road for access to perform the surveys and snow measurements? That request resulted in no records being found, most likely because everyone quickly forgot all about that phony *"federal project"* after the conveyance...

¹⁸ Edward E. Grant (USA) to E.R. Whitmore (Chelan County), March 16, 1970 (offer is on Page 2)

¹⁹ Memorandum USA Realty Officer to Office of Land Acquisition, January 15, 1970, and Memorandum from Civil Engr – Mt. Rainier to District Director, December 29, 1969, *Stehekin Road Survey*

²⁰ Commissioners' Journal – Chelan County, Washington, partial copy: October 27, 1969 - March 30, 1970

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The unexpected arrived within transmittals of over 800 PDF pages received from the US attorneys. The plaintiff found it interesting that much of this large download consisted of duplications, selected exhibits from his original complaint filed in Douglas County, and excerpts from plaintiff's published report on the subject: *The Illegal Transfer of the Stehekin Valley Road, A review of the unresolved issues (2004)*.

There within the documents was the *Certificate of Inspection and Possession*, a one-page form utilized by the USA to formally document the Stehekin road conveyance from Chelan County to the USA. The certificate²¹ indicates conveyance of an easement but for whatever reason this document was previously omitted from the evidence presented in the quiet title case. Associated with the certificate are title insurance policies²² also indicating easement, with expressed *rights of reversion to adjoining property owners*, and *rights of the public in and to said roadway*.

Also received with the discovery download were NPS documents consisting of two memos, several pages of an un-credited "legal" description, and maps produced by the Department of the Interior, Land and Water office (see FN Item 19). All of these 1969-1970 era documents indicated the road was an easement / ROW before and after the conveyance. No mention of fee title.

If ignoring their own documents were not egregious enough, the USA legal team in the quiet title case ignored the pleading of Chelan County and the USA lead attorney that the conveyance only involved an easement and significant sections of the underlying property were owned by others (then 80 plus, and presently, the plaintiff and 57 others). Only through the omission of these critical facts and skillful manipulation of the legal arguments was the USA legal team able to guide the case from the original misapplication of RCW 36.34.220 for "real property" to conclusion with a convincing story that the conveyance was an unrestricted grant of land now owned and controlled by the National Park Service.

The new information confirms the Stehekin Valley Road to be an easement / ROW. Although the arguments of the parties in the quiet title case gave life to the evolving and NPS perpetuated false claim of fee title, the 1993 summary judgment did not require a ruling on any material facts, but merely dismissed the case in favor of the plaintiffs on the statute of limitations. *At the summary judgment stage, the court's function is not to weigh the evidence but to determine whether there is a genuine issue for trial.* In other words, the interest being quieted in favor of the NPS could only be for the legal interest in question before the issue was brought to court.

An easement was the legal interest allegedly being conveyed according to the Certificate of Inspection and Possession. With respect to intent of the conveyance, the USA argued that the quitclaim deed contained *no language... indicating an intent*, and, *In fact, the deed is silent as to any alleged purposes for the conveyance.* (FN Item 11, page 18). While this statement appears true if only looking at the quitclaim deed, the Certificate documents the conveyance as an easement, and an easement has a specific purpose. Fortunately, the Certificate and companion title insurance prove both the intent and purpose, that being, an easement for a public *roadway*,

²¹ Certificate of Inspection and Possession, April 22, 1970

²² Policies of Title Insurance, No.P-35949 and P-35950, and correspondence relevant to the easement

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highway, and thoroughfare, all being legally the same. The Certificate can now be utilized to refute any future false claims of the easement being fee title in favor of the USA.

The Certificate: Form LWR-SSC-6 (Nov 1966), entitled Certificate of Inspection and Possession, documents the inspection and approval of the conveyance by USA Realty Officer, Keith M. Watkins on April 22, 1970. Item 7 states: *The Estate conveyed to the Secretary of the Interior according to the Chelan Title Company was an easement.* There is no indication of any fee interest being conveyed. Note: This form is intended for land acquisition as indicated by the X'd out preprinted subject line which reads: *In the condemnation proceeding entitled Civil No. ____.* The modification apparently allowed its use for other acquisitions.

The Title Insurance: The title insurance evidence is two-part and is consistent with the conveyance of an easement through the use of that terminology. Apparently, the USA requested title insurance (effective 11/5/1969) which appears to be a pre-conveyance title search of Chelan County's interest in the road. A follow-on policy was issued to the USA after the conveyance (effective 9/18/70). The Chelan County policy P-35949 indicates *easement for highway purposes and easement... for thoroughfare purposes.* The policy P-35950 issued to the USA indicates an *easement for roadway through sections of land, and rights of reversion to adjoining property owners upon any vacation of said roadway, in whole or in part, and the rights of the public in and to said roadway.*

A related letter with respect to the Stehekin road conveyance from US attorney general John Mitchell to the Secretary of the Interior requested changes to the title insurance. The letter refers to the conveyance of *certain highway easements, these easements, easements for highway purposes, the subject easements, and interest in the easements.* Both policies and the AG letter only refer to conveyance of easements.

The NPS provided "legal" description: It is more than highly suspect to have a Grantee prepare the legal description, give it to the Grantor, essentially saying "*this is what we want*". It is outright illegal for a surveyor to prepare such a document for use with a deed and not authenticate the information as required by law. It is equally illegal for the Chelan County Commissioners to overlook this very serious omission and sign the quitclaim deed. If the legal description had referenced a series of existing and previously recorded dedications accurately detailing the subject route there might be no issue. Unfortunately, there was no tidy, concise, *latest format*, legal description for the Stehekin road. One-piece legal descriptions typically do not exist for easements since stand-alone titles are not required for easements. To make this scheme appear legitimate and address both a vacation and conveyance, someone had to create a legal description for the conveyance part.

In 1969, the forward-planning NPS performed a survey of the road using a government surveyor from the Mt. Rainier district that condensed the details into three pages and forwarded it to Chelan County. It remained un-credited, un-dated, without references, probably for a very good reason. Anyone who signed it would be liable for any errors, conflict with senior deeds, and the blatant illegality that was underway.

What to know about the Stehekin Valley Road

Prepared by: James Bohn, September 2021

Going back in time, beginning around 1890, the road developed from United States Revised Statute, RS 2477 (self-executing grants across unreserved federal land), prescriptive use, written dedications without legal descriptions, and written dedications with legal descriptions. All four of these ROW dedication methods are reflected either in the deeds, or have been established by long-term use, and are the foundation for the entire Stehekin road. A good example of a dedication with a modern legal description is the section of road from the Stehekin Landing to the corner by the Stehekin Bakery. When the level of Lake Chelan was raised 21 feet in 1927, Chelan Electric bought the land to be flooded as well as a ROW across the upland properties to build a new road above the higher water line. This most recent dedication was 60 feet wide along a route described with location data: references to *monuments* (fixed points), *metes* (direction) and *bounds* (distance), later formalize under RCW 36.86.010 (Standard width to be 60 feet... *from and after April 1, 1937*). The NPS created legal description uses some of this data but is devoid of any reference sources (e.g.: recorded surveys or county auditor record numbers such as for the Chelan Electric lakeshore section: Deed Record 201, Auditor #160365).

As the road goes further up the Stehekin valley, the senior deed dedication language is less clear as was typical of the late 1800s, early 1900s. Several deeds note an exception for a *County Road, a Road, the Road, a Highway*, etc but without width or location information. Still further, past Harlequin Bridge, many deeds for land abutting or bisected by the road are void of any dedication language. These sections of roadway exist by prescription, that is, open public use and maintenance (\$\$\$) for at least seven (7) years (RCW 36.75.070).

Without the any regard for the language of the senior deeds and overall legal foundation for the road, the NPS surveyed the road prior to the conveyance and used the new information to develop the unidentified three page legal description attached to the County's quitclaim deed. The new description past the Bakery is very different from what is stated (or not) in the County land records. The easement is now shown to be 60 feet wide all the way to Bridge Creek, and the route has been given location information, without any justification or authority – it was just done, and done to make it appear that Chelan County had, or prepared, the legal description. The effect of this deception is really no different than moving a survey stake or revising dedication language to make a change to a property boundary without the consent of the property owners. RCW 18.43.070 (Session Law 1959, applicable at the time) and WAC 332-130 require legal descriptions to meet certain requirements for format and authentication. None of the mandatory state law requirements are reflected in the legal description attached to the quitclaim deed.

In the late 1960s, state laws were not as detailed as they are today. However, real estate conveyances then did require written deeds, and surveys, references, and authentication of legal descriptions. Legal precedence also supports the necessity of accurate legal descriptions to preclude uncertainty and title issues. Legal precedence mentions that an illegal gain for one person is a corresponding loss for another. Both then and now, it is illegal to move a survey stake or alter a legal description without written justification. Consider RCW 64.04.175 (1991) codifying the importance of protecting property rights: *Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.*

What to know about the Stehekin Valley Road

Prepared by: James Bohn, September 2021

A quitclaim deed limits the conveyance to the property interests of the Grantor (RCW 64.04.050). The interests in the Stehekin road would be the collective easement dedications that existed at the time of the conveyance. Those dedications were for a secondary state highway or county road no matter what words were used in the deeds. The terms and conditions of such roads are uniform throughout the state, in all counties. With that understood, what did the NPS obtain through the conveyance? If considered a "legally settled" case today, the answer must only be the same interests that the County had, nothing more, nothing less. Can the NPS alter the easement boundaries, expand the width, and change the route with a federal survey, create an un-credited legal description, give it to the County, and have it over-write existing easement dedications? The answer is obvious and easily confirmed by reading RCW 18.43.070 and 64.04.175. Can the NPS through a misinterpretation of the quiet title final court order (not a judicial ruling on facts) take the rights associated with the easement and turn those rights into privileges under a federal permit system? It is exactly what the NPS has done from time to time depending upon who is asking and who is granting such permissions. The Certificate of Inspection and Possession and title insurance guarantees the servient rights of the property owners and the right of the public in and to the road. Rights cannot be reconditioned into privileges under the NPS permit system. Valid existing rights are protected against alteration or reconditioning by the NPS under PL90-544, Title II, Section 202 (LCNRA created *subject to valid existing rights*).

Final questions: Does the NPS have authority, under proprietary federal jurisdiction, to take over state traffic law enforcement on the road? Maybe, but only if the road were truly fee title County property then and entirely federal property now (session of State jurisdiction comes with real property conveyances for real *federal projects* according to RCW 36.34.240). Can the NPS take over law enforcement as the grantee of the County road easement? A vacated - conveyed easement is not similarly addressed as real property in the RCWs, and cannot be conveyed under RCW 36.34.220, so the answer must be no.

Stehekin road easements then and now: As shown, the road exists on an easement, a series of four types of easements, connected end-to-end. An easement is a surface right to pass over fee title land owned by others. A private easement is not open to the public while a public easement is open to all while being maintained at public expense unless vacated according to RCW 36.87. If ever vacated, the encumbrance is removed and the full use of the land reverts to the land owner. An exception is when other persons need continued ingress / egress to their properties. In these situations, a private easement of necessity remains for the other persons.

James R. Shivley, US attorney in the quiet title case, offered this statement with respect to the legal effect of the road vacation²³: *While it is not clear what, if any, effect the language with respect to the National Park Service's assumption of jurisdiction over the road had, it is clear that Chelan County lost whatever interest it had in the road. Even though the United States may not have acquired the right-of-way along all the remainder of the Stehekin Valley Road by operation of the vacation, it clearly acquired title to those sections of the roadway where it was the abutting*

²³ USA v. Chelan County, CS-92-0331-AAM, Government's Memorandum in Support of Motion for Summary Judgment, April 15, 1993

What to know about the Stehekin Valley Road

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landowner and Chelan County surrendered whatever right, title or interest it had at the time of the vacation.

What Mr. Shivley said: The County gave up whatever interest it had and the federal land became unencumbered but the USA may not have acquired the interest in the remaining sections across private lands. An easement cannot be vacated in sections to the detriment of the remaining sections so this is not a workable scenario. However, if the entire easement was vacated (it was), the road would immediately become private. The private property owners could have erected signs indicating PRIVATE ROAD. Under this analysis, public use was extinguished, yet the road remained open, and was reestablished seven years later by prescription as a county road since the state law does not indicate the source of public funds for maintenance (RCW 36.75.070, 1963 c4). The reestablishment would be prescriptive and limited to as-used width and location.

Lands encumbered by the Stehekin road either abut to the road centerline or are bisected as across the plaintiff's property. There is no separate parcel or title for just the road, 60 feet wide as surveyed, illegally made part of the quitclaim deed, and mismanaged as fee title by the NPS. Even as a majority landowner and powerful federal agency, the Department of the Interior acting through the NPS cannot claim their federal land is unencumbered since the vacation. To do so, means that the other parcels are likewise unencumbered. On the other hand, if all parcels are still encumbered, what terms and conditions apply? If the NPS can recondition the easement across the federal land what prevents the plaintiff and 57 others from changing the terms and conditions in the sections of easements across their parcels? The fact that these unusual questions can be asked but there are no sensible answers is entirely due to the unprecedented actions by Chelan County and the USA in 1970.

The only workable scenario is an open public road as existed before the so called "conveyance", and under the same terms and conditions. The rights of the property owners does not mean just for those properties owned by the USA. Rights of the public in and to the roadway does not mean only when permitted by the NPS. The unambiguous conditions of LCNRA enabling legislation, *subject to valid existing rights*, does not mean subjecting the private and public rights to NPS management. It is the other way around.

With the Certificate, the acknowledgements of the title insurance, and recorded senior property deeds, the Stehekin community can demand that dedications for the Stehekin Valley Road be respected under the same terms and conditions as County Road 21.

Summary: It has been said that if you trade liberty for security, you'll likely loose both. How about if you make a false statement in a stipulation before a court of law in trade for snow plowing on what you think is your private road? You get snow plowing but loose the main road to the NPS and their federal permit system. In hindsight, the trade was not equitable and loosing value over time.

With the myth of the Stehekin road being situated entirely upon fee title federal land now exposed as not true, the Stehekin community can demand respect for the easement by knowing the details, exercising their rights, and rejecting any attempt to recondition those rights, no different than all

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county roads. The conveyance changed nothing except who does the maintenance with our tax dollars. The NPS will continue with the maintenance but cannot continue with the absurd myth of fee ownership.

The NPS must accept reality that the Stehekin road is not entirely on federal land, and the surface easement, despite maybe being temporarily “vacated” for seven years remains intact, continuous, and has not been reconditioned because of any of the four lawsuits. The NPS are proprietors, caretakers, without legislative powers, and so, must reside within the defined authority of the most limiting proprietary federal jurisdiction.

Recommendations: If you are a Stehekin land owner encumbered by the road, become familiar with your property deed, description, and boundaries. Know the difference between easement and fee title. Any claim of the easement being 60 feet based only upon the unauthenticated NPS description must be rejected. If NPS activities encroach upon senior deed easements or restrict any activity that is legal on other county roads, it could be a new cause for legal action. The 12-year statute of limitations will not apply to new infringements on the senior easement dedication language or any restrictions on the rights associated with all county roads.

All property owners with land abutting or bisected by the road should file, with the Chelan County Auditor, a Notice of Interest attesting to the fact that the Stehekin road encumbrance across their property is an easement as evidenced by the Certificate of Inspection and Possession. The notice need only be a simple statement acknowledging the easement, restating the dedication language from their deed (if any), the easement width (if any) and referencing an attached copy of the certificate and page from the title insurance listing the rights of reversion and public right in and to the road.

Once filed, the notice will reside forever in the County records to counteract unfound claims related to the illegal conveyance of the Stehekin Valley Road. Chelan County will be asked to waive or pay for all filing fees as a courtesy compensation to those adversely affected by the illegal 1970 vacation – conveyance.

If you work for, or with, a local title company, please be aware that the 1970 quitclaim with the NPS-provided and unauthenticated “legal description” is not compliant with state laws. However, you are advised to perform your own research and determination on this subject.

The road easement upsized by the NPS demands an investigation that should start with obtaining the NPS survey documents for comparison with the senior deeds. A review by a competent civil engineering firm could identify differences such as the easement width increase without consent of the fee owners. Note: The plaintiff is not directly impacted by the issue and recommends further action by those who are affected: Those with 1) properties with easement sections established by prescription, and 2) properties without defined easement width and location.

With this additional information, it may still be possible to challenge the quitclaim deed as null and void for the many violations of the state law identified in this report. And, with the new documents the public’s right in and to the road may extend all the way to Cottonwood Camp.

What to know about the Stehekin Valley Road

Prepared by: James Bohn, September 2021

FOOTNOTE - EXHIBIT LIST

1. Easements – The General Rule: Municipal Research & Service Center, Seattle, WA <https://MRSC.org>
2. RCW 36.34.220, Session Laws, 1963: Lease or conveyance to United States for flood control, navigation and allied purposes (RCW – Revised Code of Washington).
3. RCW 36.87, Session Laws, 1963: Road and Bridges – Vacation
4. Letter from R.J.Cantor, NPS Superintendent to Chelan County Commissioners, December 11, 1969
5. Quit Claim Deed, Stehekin Valley Road, from Chelan County to the United States of America, March 30, 1970, includes three page legal description
6. Chelan County Resolution 637-E, March 30, 1970
7. Chelan County Resolution 642-E, April 20, 1970
8. Stehekin River Resort v. Chelan County, No. 25845, Complaint for Declaratory Judgment, October 5, 1970
9. Stehekin River Resort v. Chelan County, No. 25845, Stipulation, April 17, 1973 and Order and Judgment, April 30, 1973
10. Correspondence dated November 13, 1970, March 29, 1971, April 15, 1971, May 4, 1973, and NPS Final GMP LCNRA, June 1995, Appendix G, Page 459
11. USA v. Chelan County, CS-92-0331-AAM, Order Granting Motion for Summary Judgment, partial copy: Pgs 1, 4, 5, 10, 11, 12, 13, 17, 18, 19, 21, 22, 23, 24
12. Chelan County Resolution 91-72, July 9, 1991
13. AGO 57-58 No. 32, AGO 1970 No. 26, and AGLO 1980 No. 12, Partial copies w/relevant text
14. Public Law 90-544, 90th Congress, S.1321, October 2, 1968, Title II, Section 202
15. Wenatchee World, March 30, 1970, County gets rid of Stehekin road
16. Letter from F. Manella to J. Bohn, May 11, 2006
17. USA v. Chelan County, CS-92-0331-AAM, Memorandum in Opposition to Motion for Preliminary Injunction
18. Edward E. Grant (USA) to E.R. Whitmore (Chelan County), March 16, 1970 (offer is on Page 2)
19. Memorandum USA Realty Officer to Office of Land Acquisition, January 15, 1970, and Memorandum from Civil Engr – Mt. Rainier to District Director, December 29, 1969, Stehekin Road Survey

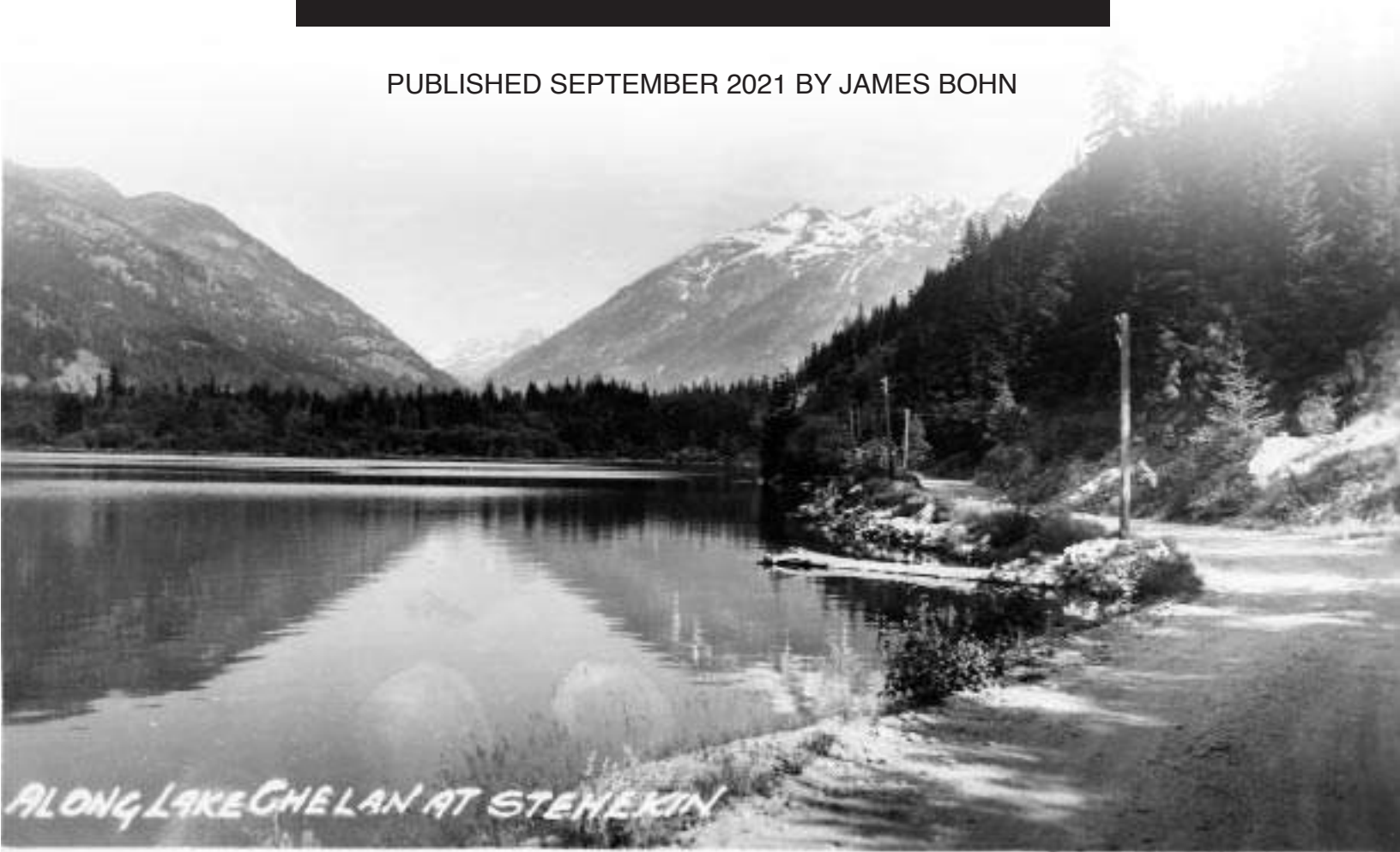
What to know about the Stehekin Valley Road

Prepared by: James Bohn, September 2021

20. Commissioners' Journal – Chelan County, Washington, partial copy: October 27, 1969 - March 30, 1970
21. Certificate of Inspection and Possession, April 22, 1970
22. Policies of Title Insurance, No.P-35949 and P-35950, and correspondence relevant to the easement
23. USA v. Chelan County, CS-92-0331-AAM, Government's Memorandum in Support of Motion for Summary Judgment, April 15, 1993

EXHIBITS 1-23

PUBLISHED SEPTEMBER 2021 BY JAMES BOHN



ALONG LAKE CHELAN AT STEHEKIN

Easements - The General Rule:

As a general rule, a city or county right-of-way is an easement for public travel. (An easement is a privilege or a right, distinct from ownership, to use in some way the land of another.) So, typically, a city or county does not own the fee title to the property underlying the public right-of-way; the abutting property owners have that fee title, and that title usually extends to the centerline of the right-of-way (Because this is a “general rule,” there are always exceptions.) The right-of-way easement generally extends beyond the improved roadway and includes sidewalks, if any, and parking strips (the area between the sidewalk and the paved street or road).

While this general rule about the nature of the public right-of-way as an easement may not be clearly set out in statute statutes, it is clearly set out in numerous Washington court decisions stretching back over a century and a half to territorial days. For example:

- In *Rowe v. James*, 71 Wash. 267, 270 (1912), the state supreme court noted the general rule that “in the absence of a governing statute or a reservation in the grant, the owner of the land on each side of the street owns the fee to the center of the street, subject only to the easement in the public.” The court further noted that “We have uniformly held that a city acquires only an easement in a street in consequence of a dedication.”
- In *Finch v. Matthews*, 74 Wn.2d 161, 167-68 (1968), the state supreme court explained: Since *Burmeister v. Howard*, 1 Wash. Terr. 207 (1867), this court has not departed from the rule established in that case, that the fee in a public street or highway remains in the owner of the abutting land, and the public acquires only the right of passage, with powers and privileges necessarily implied in the grant of the easement.
- More recently, in *Kiely v. Graves*, 173 Wn.2d 926, 934 (2012), the state supreme court addressed the dedication of land for a public highway, stating that “Normally, the interest acquired by the public in land dedicated as a highway is only an easement”; the court then quoted from the state Bar Association’s *Real Property Deskbook*: Any deed to a local government specifically for highway, right of way, or any public purpose could be interpreted as a dedication conveying an easement only. If the intent is to grant a fee interest, that intent should be clearly stated and the use should be unrestricted or, if the use is a condition, the condition should be clearly stated with a specific right of reversion.

Because a public right-of-way is generally an easement, when that right-of-way is vacated, the fee title to the property underlying that right-of-way – held by the abutting property owners - becomes “unencumbered” by that easement. What the vacation accomplishes is the extinguishment of the right-of-way easement. Thus, one of the statutes governing street vacations, RCW 35.79.040 says, “If any street or alley in any city or town is vacated by the city or town council, the property within the limits so vacated shall belong to the abutting property owners, one-half to each.” Unfortunately, this language is somewhat clumsy because it implies that, prior to the vacation, the abutting property owners did *not* own the property within the right-of-way easement - which, as explained above, is generally not the case. The state supreme court in *London v. Seattle*, 93 Wn.2d 657, 666 (1980), states the legal effect of a street vacation better than does the statute: “The general rule is that upon vacation of a street, the public easement is extinguished and the abutting property owners *regain unencumbered title* to the center of the street.”



* **36.34.220 Lease or conveyance to United States for flood control, navigation and allied purposes.** If the board of county commissioners of any county adjudges that it is desirable and for the general welfare and benefit of the people of the county and for the interest of the county to lease or convey property, real or personal, belonging to the county, however acquired, whether by tax foreclosure or in any other manner, to the United States for the purpose of flood control, navigation, power development, or for use in connection with federal projects within the scope of the federal reclamation act of June 17, 1902, and the act of congress of August 30, 1935, entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," and federal acts amendatory thereof and supplemental thereto, for the reclamation and irrigation of arid lands, the board, by majority vote, may lease or convey such property to the United States for flood control, navigation, and power development purposes, or for use in connection with federal projects for the reclamation and irrigation of arid lands. This property may be conveyed or leased by deed or other instrument of conveyance or lease without notice and upon such consideration, if any, as shall be determined by the board and the deed or lease may be signed by the county treasurer when authorized to do so by resolution of the board. Any deed issued heretofore by any county to the United States under authority of section 1, chapter 46, Laws of 1937 and the amendments thereto, is ratified and approved and declared to be valid.

36.34.230 ———State consents to conveyance. Pursuant to the Constitution and laws of the United States and the Constitution of this state, consent of the legislature is given to such conveyance by a county to the United States for such purposes.

* **36.34.240 ———Cession of jurisdiction.** Pursuant to the Constitution and laws of the United States and the Constitution of this state, consent of the legislature is given to the exercise by the congress of the United States of exclusive legislation in all cases whatsoever on such tract or parcels of land so conveyed to it: *Provided*, That all civil process issued from the courts of the state and such criminal process as may issue under the authority of the state against any person charged with crime in cases arising outside of said tract may be served and executed thereon in the same manner as if such property were retained by the county.


36.34.250 Lease or conveyance to the state or to United States for military, housing and other purposes. The board of county commissioners of any county by a majority vote are hereby authorized to directly lease, sell, or convey by gift, all or any portion of real


a way that it may obstruct the view or distract the attention of a person operating a vehicle or train and approaching the crossing.


When a person who has erected or who maintains such a sign, signboard, or billboard or when a railroad company permits such brush or timber in the vicinity of a railroad grade crossing with a county road or permits the surface of a grade crossing to become inconvenient or dangerous for passage and who has the duty to maintain it, fails, neglects, or refuses to remove or cause to be removed such brush, timber, sign, signboard, or billboard, or maintain the surface of the crossing, the utilities and transportation commission upon complaint of the board or upon complaint of any party interested, or upon its own motion, shall enter upon a hearing in the manner now provided for hearings with respect to railroad-highway grade crossings, and make and enforce proper orders for the removal of the brush, timber, sign, signboard or billboard, or maintenance of the crossing: *Provided*, That nothing in this section shall prevent the posting or maintaining thereon of highway or road signs or traffic devices giving directions or distances for the information of the public when the signs conform to the "Manual for Uniform Traffic Control Devices" issued by the state highway commission. The board shall inspect highway grade crossings and make complaint of the violation of any provisions of this section.

Chapter 36.87

ROADS AND BRIDGES—VACATION

 **36.87.010 Resolution of intention to vacate.** When a county road or any part thereof is considered useless, the board by unanimous resolution entered upon its minutes, may declare its intention to vacate and abandon the same or any portion thereof and shall direct the county road engineer to report upon such vacation and abandonment.

 **36.87.020 Freeholders' petition—Bond.** Ten freeholders residing in the vicinity of any county road or portion thereof may petition the board to vacate and abandon the same or any portion thereof. The petition must show the land owned by each petitioner and set forth that such county road is useless as part of the county road system and that the public will be benefited by its vacation and abandonment. The petition must be accompanied by a bond in the penal sum of one hundred dollars, payable to the county, executed by one or more of such petitioners as principal or principals, and two or more satisfactory sureties, and conditioned that the petitioners will pay into the county road fund of the county the amount of all cost and expenses incurred in the examination, report, and all proceedings pertaining to such petition to vacate and abandon.




36.87.030 ————Action on petition. On the filing of the petition and bond and on being satisfied that the petition has been signed by petitioners residing in the vicinity of the county road or portion thereof, the board shall direct the county road engineer to report upon such vacation and abandonment.

36.87.040 Engineer's report. When directed by the board the county road engineer shall examine any county road or portion thereof proposed to be vacated and abandoned and report his opinion as to whether the county road should be vacated and abandoned, whether the same is in use or has been in use, the condition of the road, whether it will be advisable to preserve it for the county road system in the future, whether the public will be benefited by the vacation and abandonment, and all other facts, matters, and things which will be of importance to the board, and also file his cost bill.

36.87.050 Notice of hearing on report. Notice of hearing upon the report for vacation and abandonment of a county road shall be published at least once a week for two consecutive weeks preceding the date fixed for the hearing, in the county official newspaper and a copy of the notice shall be posted for at least twenty days preceding the date fixed for hearing at each termini of the county road or portion thereof proposed to be vacated or abandoned.

36.87.060 Hearing. On the day fixed for the hearing, the board shall proceed to consider the report of the engineer, together with any evidence for or objection against such vacation and abandonment. If the county road is found useful as a part of the county road system it shall not be vacated, but if it is not useful and the public will be benefited by the vacation, the board may vacate the road or any portion thereof.



36.87.070 Expense of proceeding. If the board determines to vacate the road, it shall certify all costs and expenses incurred in the proceedings to the county treasurer and upon payment of the certified costs and expenses by the principal or principals or sureties upon the bond the board shall declare the road, or portion thereof, vacated and enter its declaration in its minutes.

36.87.080 Unanimous vote required. No county road shall be vacated and abandoned except by unanimous vote of the board properly entered, or by operation of law, or judgment of a court of competent jurisdiction.

36.87.090 Vacation of road unopened for five years—Exceptions. Any county road, or part thereof, which remains unopen for public use for a period of five years after the order is made or authority granted for opening it, shall be thereby vacated, and the authority

D-30

North Cascades National Park
Sedro Woolley, Washington 98284

December 11, 1969

Back file copy

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Page 1 of 1

Chelan County Commissioners
Chelan County Court House
Wenatchee, Washington 98801

Gentlemen:

This confirms our discussion with you on December 8. We would appreciate the County Commissioner's action in withdrawing the blanket approval of private excavation within the Stehakin Road right-of-way.

A matter of concern at this time is large scale excavation adjacent to the lake shore between Stehakin Landing and the head of the lake. This constitutes a considerable scar and disruption of the lake shore scene. We are not objecting to the use of the material for lake shore fills. In fact, we have been making available fill material from the Stehakin River bed to the citizens of the community. We realize excavation from the right-of-way directly opposite from the fill location is less expensive, but the haul distance from the river bed is not excessive.

Control of the roadside scene is one of the objectives in our proposed transfer of the Stehakin Road from your administration to ours. In honor of this intended transfer, we would appreciate a moratorium on such excavation until the outcome of our transfer efforts are known.

Sincerely yours,

Roger J. Contor
Superintendent

cc:
District Manager Wagner HC
Northwest District Director, NPS HC
Dave Burkhardt

RJContor:al 12/11/69



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Page 1 of 1

FILED FOR RECORD
PRINTER MAIL UNIT 073642-4
MAY 11 2 45
BOOK 6-2 249-53
CHELAN CO. WASHINGTON

QUIT CLAIM DEED

GS3842

THE GRANTOR, Chelan County, a Municipal Corporation of the State of Washington, for and in consideration of the sum of One Dollar and other valuable consideration conveys and quit claims to the United States of America, acting by and through the Bureau of Reclamation, all right, title and interest in and to the following described county road situate in Chelan County, State of Washington, to-wit:

The Stehakin Valley Road, the legal description to which is marked "Description of the Stehakin Road" attached hereto and by this reference made a part hereof.

Dated this 30th day of March, 1970.

CHELAN COUNTY, A Municipal Corporation

By Benton M. Bangs
Chairman of the Board of County Commissioners

Attest:

Earl Miller
Clerk of the Board

STATE OF WASHINGTON }
 } ss.
County of Chelan }

I, the undersigned, a Notary Public in and for the State of Washington, do hereby certify that on this 30th day of March, 1970, before me personally appeared Benton M. Bangs and Earl Miller, to me known to be the Chairman of the Board of County Commissioners and the Clerk of the Board of County Commissioners respectively, the individuals who executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the Board of Commissioners of Chelan County, Washington, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument on behalf of Chelan County.

In witness whereof, I have hereunto set my hand and affixed my official seal this 30th day of March, 1970.



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1/4

Charles J. Bangs
Notary Public in and for the State of Washington, residing at Wenatchee.
WR 602 ME 249

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Description of the Stahakin Road

PARCEL "A"



A strip of land 60 feet in width, being 30 feet on each side of and running parallel with the following described survey line, to-wit: Beginning at a point in the south boundary line of Section 31, Township 33 North, Range 18, E.W.M., a distant 359.2 feet west of the south quarter corner of Section 31, located in said boundary, thence south $20^{\circ}19'$ east 130.7 feet, thence south $2^{\circ}00'$ west 85.1 feet, thence south $20^{\circ}45'$ east 114.2 feet, thence south $17^{\circ}15'$ east 93.0 feet, thence south $55^{\circ}45'$ east 119.0 feet to survey station 5+42, thence south $69^{\circ}56'$ east 96.8 feet to a point, the end of this description, which bears south $23^{\circ}45'$ west 550.0 feet from a point in the south boundary line of Section 31, Township 33 North, Range 18 E.W.M., said point being 165.0 feet east of the south quarter corner thereof; also a strip or parcel of land 60.0 feet in width, being 30 feet on each side of the following described survey line, to-wit:
Beginning at survey station 5+42 in the above described survey line, thence south $87^{\circ}09'$ west 53.5 feet, thence north $54^{\circ}06'$ west 173.0 feet to a point on the shore of Lake Chelan, containing an area of 1.18 acres, more or less.

PARCEL "B"



A strip of land 60 feet in width, being 30 feet on each side of and running parallel with the following described line, to-wit: Beginning at a point in the south boundary of Section 31, Township 33 North, Range 18 E.W.M., which bears west 359.2 feet from the south quarter corner of Section 31 in said boundary, thence north $13^{\circ}44'$ west 219.6 feet, thence north $20^{\circ}10'$ west 218.9 feet, thence north $13^{\circ}28'$ east 220.3 feet, thence north $8^{\circ}12'$ west 252.5 feet, thence north $20^{\circ}47'$ west 177.7 feet, thence north $10^{\circ}52'$ west 195.0 feet, thence north $38^{\circ}07'$ west 194.0 feet, thence north $23^{\circ}19'$ west 113.7 feet, thence north $36^{\circ}50'$ east 162.0 feet, thence north $22^{\circ}21'$ west 70.1 feet, thence north $46^{\circ}24'$ west 273.9 feet, thence north $55^{\circ}27'$ west 131.5 feet, thence north $34^{\circ}18'$ west 302.6 feet, thence north $40^{\circ}28'$ west 136.1 feet, thence north $47^{\circ}01'$ west 136.9 feet, thence north $37^{\circ}24'$ west 302.2 feet, thence north $44^{\circ}47'$ west 267.4 feet, thence north $58^{\circ}40'$ west 190.4 feet, thence north $47^{\circ}00'$ west 121.5 feet, thence north $37^{\circ}31'$ west 199.0 feet, thence north $68^{\circ}35'$ west 118.8 feet, thence north $53^{\circ}32'$ west 154.1 feet, thence north $73^{\circ}40'$ west 168.9 feet, thence north $43^{\circ}26'$ west 43.4 feet, thence north $21^{\circ}36'$ west 69.9 feet, thence north $50^{\circ}03'$ west 162.3 feet, thence north $85^{\circ}44'$ west 70.6 feet to a point in the east boundary line of Section 36, Township 33 North, Range 17 E.W.M., distant 900.0 feet from the east quarter corner of Section 36, thence north $38^{\circ}44'$ west 157.0 feet, thence north $49^{\circ}26'$ west 132.1 feet, thence north $39^{\circ}55'$ west 509.2 feet, thence north $41^{\circ}29'$ west 207.4 feet, thence north $30^{\circ}59'$ west 203.5 feet, thence north $54^{\circ}56'$ west 171.1 feet, thence north $18^{\circ}46'$ west 67.3 feet, thence north $44^{\circ}46'$ west 67.3 feet, thence north $44^{\circ}46'$ west 157.3 feet, thence north $68^{\circ}21'$ west 109.5 feet, thence north $16^{\circ}09'$ west 95.9 feet, thence north $52^{\circ}32'$ west 94.1 feet, thence north $73^{\circ}12'$ west 115.3 feet, thence north $27^{\circ}09'$ west 80.0 feet, thence north $66^{\circ}42'$ west 102.1 feet, thence north $59^{\circ}12'$ west 134.9 feet, thence north $51^{\circ}40'$ west 86.8 feet, thence south $87^{\circ}04'$ west 113W



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Page 2 of 3

along a line 30 feet south of and parallel with the south line of Section 25, 2688.7 feet to a point, the end of this description in the west boundary of the east one-half of the east one-half of the northwest quarter of the northwest quarter of Section 36, Township 33 North, Range 17, E.W.M., containing an area of 13.40 acres, more or less.

PARCEL "C"

A strip of land 60 feet in width, being 30 feet on each side of and running parallel with the following described line, to-wit:

Beginning at a point in the west boundary of the east one-half of the east one-half of the northwest quarter of the northwest quarter of Section 36, Township 33 North, Range 17 East, Willamette Meridian, 30 feet south of the south line of Section 25, said point being the center of the right-of-way described in a quit claim deed from the Chelan Electric Company to Chelan County dated November 3, 1927 and recorded in book 201, Page 543, thence north $37^{\circ}24'$ west 187.2 feet, thence north $23^{\circ}41'$ west 1,334.1 feet, thence north $39^{\circ}50'$ west 692.2 feet to a point on the east boundary line of Section 26, Township 33 North, Range 17 East, W.M., distant 720.7 feet south of the east quarter corner of Section 26, thence north $39^{\circ}50'$ west 434.2 feet, thence north $48^{\circ}40'$ west 533.2 feet to a point on the north line of the southeast quarter of Section 26, 643.1 feet west of the east quarter corner of Section 26, thence north $32^{\circ}39'$ west 550.6 feet, thence north $15^{\circ}10'$ west 239.7 feet, thence north $2^{\circ}46'$ west 335.2 feet, thence north $1^{\circ}58'$ east 277.1 feet, thence north $13^{\circ}14'$ west 338.7 feet, thence north $40^{\circ}46'$ west 468.1 feet, thence north $6^{\circ}4'$ west 413.2 feet to a point on the north line of Section 26, 1321.8 feet east of the north quarter corner of Section 26, thence north $6^{\circ}4'$ west 148.1 feet, thence north $39^{\circ}4'$ west 746.1 feet, thence north $67^{\circ}38'$ west 426.0 feet, thence north $50^{\circ}59'$ west 351.3 feet, thence south $52^{\circ}4'$ west 313.6 feet, thence south $84^{\circ}06'$ west 597.2 feet, thence north $68^{\circ}55'$ west 439.9 feet, thence north $34^{\circ}43'$ west 727.2 feet, thence north $34^{\circ}1'$ west 730.0 feet, thence north $63^{\circ}26'$ west 196.3 feet, thence north $47^{\circ}06'$ west 540.5 feet, thence north $57^{\circ}56'$ west 298.1 feet, thence north $52^{\circ}38'$ west 684.7 feet, thence north $37^{\circ}34'$ west 341.8 feet, thence north $23^{\circ}57'$ west 710.6 feet, thence north $57^{\circ}48'$ west 134.1 feet, thence north $66^{\circ}40'$ west 244.8 feet, thence north $35^{\circ}10'$ west 194.0 feet, thence north $55^{\circ}38'$ west 245.1 feet, thence north 37° west 263.4 feet, thence north $44^{\circ}43'$ west 598.3 feet, thence north $44^{\circ}20'$ west 412.0 feet, thence north $56^{\circ}10'$ west 282.6 feet, thence north $38^{\circ}15'$ west 300.5 feet, thence north $19^{\circ}39'$ west 609.9 feet to a point that bears north $87^{\circ}46'$ east distant 51.5' from corner number 4, H.E.S. number 148, thence north $71^{\circ}56'$ west 285.6 feet, thence south $87^{\circ}11'$ west 392.4 feet, thence north $62^{\circ}12'$ west 753.3 feet, thence north $44^{\circ}13'$ west 866.3 feet, thence north $79^{\circ}33'$ west 705.6 feet, thence north $68^{\circ}56'$ west 201.7 feet to a point that bears south $40^{\circ}40'$ west distant 70.3 feet from corner number 10, H.E.S. number 148, thence north $68^{\circ}56'$ west 228.2 feet, thence north $58^{\circ}23'$ west 819.2 feet, thence north $35^{\circ}32'$ west 656.8 feet to a point that bears north $54^{\circ}41'$ east distant 175.3 feet from corner number 3, H.E.S. number 233, thence north $61^{\circ}43'$ west 806.4 feet, thence north $75^{\circ}07'$ west 298.9 feet, thence north $15^{\circ}06'$ west 182.0 feet, thence north $56^{\circ}38'$ west 780.9 feet to a point which bears south $71^{\circ}9'$ west distant 326.7 feet from corner number 2, H.E.S. number 233, thence north $47^{\circ}15'$ west 674.1 feet, thence north $65^{\circ}07'$ west 1,465.1 feet to a point which bears south $35^{\circ}19'$ west distant 410.5 feet

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Page 3 of 3

from corner number 1, H.E.S. number 149, thence north $65^{\circ}07'$ west 195.4 feet, thence north $60^{\circ}25'$ west 1084.8 feet, thence south $81^{\circ}42'$ west 1065.8 feet, thence north $87^{\circ}41'$ west 695.5 feet, thence north $74^{\circ}44'$ west 932.4 feet, thence north $87^{\circ}31'$ west 620.0 feet, thence north $49^{\circ}30'$ west 481.0 feet, north $41^{\circ}29'$ west 422.1 feet, thence north $64^{\circ}49'$ west 378.9 feet, thence north $61^{\circ}45'$ west 1024.1 feet, thence south $81^{\circ}24'$ west 150.9 feet, thence south $52^{\circ}18'$ west 425.2 feet, thence south $73^{\circ}36'$ west 737.1 feet, thence north $83^{\circ}19'$ west 421.8 feet, thence north $79^{\circ}36'$ west 461.6 feet, thence north $83^{\circ}25'$ west 836.5 feet, thence north $52^{\circ}22'$ west 610.6 feet, thence south $88^{\circ}13'$ west 882.1 feet, thence north $87^{\circ}27'$ west 290.8 feet to a point that bears north $3^{\circ}23'$ west distant 66.5 feet from corner number 6, H.E.S. number 150, at which point the road enters land formerly under the jurisdiction of the U.S. Forest Service and now under the Department of Interior, National Park Service.

Leaving the lands now under the jurisdiction of the Department of Interior, National Park Service and beginning at a point in the center line of the road on the south east end line of the Rock Island Mining claim which bears north $34^{\circ}46'$ east distant 370.7 feet from the southwest corner of the Rock Island mining claim, thence north $39^{\circ}19'$ west 251.8 feet, thence north $48^{\circ}34'$ west 436.4 feet, thence north $29^{\circ}53'$ west 349.6 feet, thence north $7^{\circ}18'$ west 464.9 feet, thence north $3^{\circ}45'$ east 141.6 feet to a point on the northwest end line of the Rock Island mining claim which bears south $34^{\circ}46'$ west distant 134.3 feet from corner number 1.



EXHIBIT "A"

RESOLUTION NO. 637-E

Page 1 of 1

A RESOLUTION authorizing the conveyance to the United States of the Stehekin Valley Road.

* WHEREAS the United States has acquired title to virtually all of the property served by the Stehekin Valley Road and has included the same within the newly created North Cascades National Park thereby leaving said road to service virtually no citizens of Chelan County; and

* WHEREAS said road is of value to the United States acting by and through the Bureau of Reclamation for use in making water and snow measurements and surveys; and

WHEREAS, by the laws of 1963, Chapter 4, the legislature has authorized counties to convey property to the United States for flood control, navigation and allied purposes and said road is no longer of value to the county for county purposes but is of value to the United States for said federal purposes;

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF CHELAN COUNTY COMMISSIONERS as follows:

That Chelan County, a Municipal Corporation of the State of Washington convey to the United States of America, acting by and through the Bureau of Reclamation, by Quit Claim Deed the Stehekin Valley Road, the legal description to which is marked "Description of the Stehekin Road" attached hereto and by this reference made a part hereof.

DATED at Wenatchee, Washington, this 30TH day of MARCH, 1970.

BOARD OF CHELAN COUNTY COMMISSIONERS

Benton M. Bangs
Benton M. Bangs, Chairman

Homer J. Trefry
Homer J. Trefry

Claude A. Hower
Claude A. Hower

Attest:

Earl Miller
Earl Miller, Clerk of the Board



1/1

RESOLUTION

642-E

B-229
230

Vacate Co. Road No. 21 at Stehakin

~~EXHIBIT~~ *e*

WHEREAS, the National Parks Service has assumed jurisdiction of all the lands in the Stehakin River Valley served by Chelan County Road No. 21;

WHEREAS, it is in the public interest that the administration and responsibility for this road be vested in the National Parks Service;

THEREFORE, BE IT RESOLVED that it is the desire of the Chelan County Commissioners to formally vacate this road so that the National Parks Service will have this authority;

THEREFORE, BE IT RESOLVED THAT A PUBLIC HEARING be held by the Board of County Commissioners of Chelan County at their office in the Chelan County Courthouse, Wenatchee, Washington, at the hour of 11:00 A.M., Monday, May 11th, 1970, at which time any person may appear for or against said proposed road vacation.

Dated this 20th day of April, 1970.

BOARD OF COUNTY COMMISSIONERS
CHELAN COUNTY, WASHINGTON



Benton M. Lungs
BENTON M. LUNGS, Chairman

Claude A. Hower
CLAUDE A. HOWER

Homer J. Trefry
HOMER J. TREFRY

ATTEST:

EARL MILLER

EARL MILLER, Clerk of the Board.

by *Emily DeBord*
Deputy.

10 copies to Co. Engineer 4-20-70



1 / 1

~~EXH-14~~ *e*
Page 1 of 1

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3
4 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

5 IN AND FOR THE COUNTY OF CHELAN

6 STEHEKIN RIVER RESORT, INC., a cor-)
7 poration; RICHARD G. JEFFERS and BETTY)
8 B. JEFFERS, his wife; DOUGLAS W. DEWAR)
9 and EVA DEWAR, his wife; DANIEL)
10 CAMPBELL and FERN CAMPBELL, his wife;)
11 ARTHUR CAMPBELL and KATHLEEN CAMPBELL,)
12 his wife; HARRY S. BUCKNER and LENA)
13 BUCKNER, his wife; F. A. (SAM) TOLLBER)
14 and DORIS TOLLBER, his wife; PAUL A.)
15 RUSSELL and MILDRED RUSSELL, his wife;)
16 ROBERT SIMMERMAN and GLADYS SIMMERMAN,)
17 his wife; GUY R. IMUS and HAZEL IMUS,)
18 his wife; HERBERT C. WINKEL and)
19 VIRGINIA WINKEL, his wife; DAVID)
20 KEITHLEY and BEVERLY KEITHLEY, his)
21 wife; WILLIAM L. SULLIVAN; PAUL)
22 BERGMAN; PAUL KINZEL; R. L. FELLOWS;)
23 ANNE O'NEAL; EDWARD LEAF; and WALTER)
24 G. WINKEL, on behalf of themselves)
and other residents and property)
owners in Stehekin Precinct of Chelan)
County, Washington, and users of and)
dependent upon Chelan County Road No.)
21, known as Stehekin River Road,

Plaintiffs,

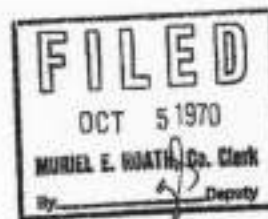
vs.

CHELAN COUNTY, a municipal corpora-
tion of the State of Washington,

Defendant.

No. 25845

COMPLAINT FOR
DECLARATORY JUDGMENT



The plaintiffs complain of the defendant and for cause of
action allege as follows:

Complaint for Declaratory Judgment - 1

HUGHES, JEFFERS & JEFFERS
ATTORNEYS AT LAW
Professional Centre, P. O. Box 1085
Telephone (206) 462-2146
Wenatchee, Washington 98801



I

This action is filed under the Declaratory Judgment Act of the State of Washington and under pertinent sections of the laws of the State of Washington relative thereto, being R.C.W. 7.24.010 and all other pertinent sections.

II

That plaintiffs are property owners in Stehekin Precinct, Chelan County, Washington. That the property of some of the plaintiffs abuts directly on County Road No. 21, also known as Stehekin Valley Road and Stehekin River Road, and that the property of other plaintiffs abuts on spur roads leading to said Stehekin River Road. That said road provides the only access to the various plaintiffs' property, and therefore plaintiffs have a special interest in said public road, different in kind and not merely in degree from that of the general public.

III

That defendant now is and at all times herein mentioned has been a municipal corporation organized and existing under and by virtue of the laws of the State of Washington.

IV

The Stehekin school district of Chelan County operates a public schoolhouse adjacent to said public roadway, approximately four miles north of the southerly end of said roadway. At the present time there are seven children of residents within said

1 school district attending said school, necessitating the use of
2 said roadway for the transportation of said children to and from
3 school and whose homes are located along said roadway from the
4 southerly end to approximately nine miles north of the southerly
5 end of said roadway.

6 V

7 That at the time the defendant attempted to transfer its
8 rights in and to said public roadway as hereinafter alleged,
9 there were approximately 44 people permanently residing within
10 Stehekin Precinct, Chelan County, and dependent upon said public
11 roadway for ingress and egress to their properties and for access
12 to said properties from what is known as the Stehekin Landing,
13 located near the southerly end of said roadway. There are numer-
14 ous other property owners in said area who utilize their property
15 during late spring, summer, and early fall as summer homes, all of
16 whom require the use of said public road for access to their prop-
17 erties. That there are 181 parcels of private land located within
18 Stehekin Precinct as per the records of the Chelan County Assessor.

19 VI

20 That on the 30th day of March, 1970, defendant, by
21 Resolution No. 637-E and quit claim deed conveyed County Road No.
22 21, also known as the Stehekin River Road, to the United States of
23 America, acting by and through the Bureau of Reclamation. That
24 Resolution No. 637-E and the quit claim deed, true copies of which

Complaint for Declaratory Judgment - 3

HUGHES, JEFFERS & JEFFERS
ATTORNEYS AT LAW
Professional Group, P. O. Box 1188
Telephone (509) 662-2546
Wenatchee, Washington 98801



1 are attached hereto as Exhibits "A" and "B", are by this reference
2 made a part hereof as though fully set forth herein. That defend-
3 ant, by said resolution, purports that the conveyance is authorized
4 by R.C.W. 36.34.220.

5 VII

6 By its Resolution No. 642-E dated April 20, 1970, the
7 defendant determined that the National Parks Service had assumed
8 jurisdiction of all the lands in the Stehekin River Valley served
9 by Chelan County Road No. 21 and gave notice of a public hearing
10 to be held on May 11, 1970 to vacate said road. Plaintiffs deny
11 the truthfulness of the Chelan County Commissioners' findings in
12 said resolution and deny that said notice of vacation was in
13 accordance with the laws of the State of Washington. Said Resolu-
14 tion No. 642-E of the Chelan County Commissioners and the "Final
15 Order of Vacation" dated May 11, 1970, are marked Exhibits "C" and
16 "D" and are by this reference made a part hereof.

17 VIII

18 That the State Legislature, in R.C.W. 36.87.010, et seq.,
19 set forth the procedure a County must follow in order to divest
20 itself of the duty to maintain a County road. The action of the
21 County in divesting itself of the duty to maintain County Road
22 No. 21 was not sufficient for the following reasons:

23 (a) Notice of defendant's intention to vacate County
24 Road No. 21 was not given in accordance with R.C.W. 36.87.050.

Complaint for Declaratory Judgment - 4

HENNES, JEFFERS & JEFFERS
ATTORNEYS AT LAW
Professional Office, P. O. Box 1488
Telephone (209) 442-2144
Wendover, Washington 98881



1 → (b) No report was filed by the County Road Engineer
2 in accordance with R.C.W. 36.87.010 and -.040.

3 → (c) A hearing was not held in accordance with R.C.W.
4 36.87.060.

5 → (d) There were not sufficient grounds for the vaca-
6 tion of County Road No. 21 under R.C.W. 36.87.060 in that the
7 County Road was still in use.

8 → (e) That the resolution was signed by only two of
9 the County Commissioners and was not the unanimous vote required
10 by R.C.W. 36.87.080.

11 IX

12 That the plaintiffs have no adequate or speedy remedy at
13 law.

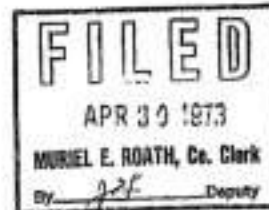
14 WHEREFORE, plaintiffs pray that the Court enter a Declara-
15 tory Judgment declaring County Resolution No. 637-E and the quit
16 claim deed issued thereunder and County Resolution No. 642-E and
17 the Final Order of Vacation of County Road No. 21, also known as
18 the Stehekin Valley Road, null and void and set them aside. ←

19 DATED this 5th day of October, 1970.

20 HUGHES, JEFFERS & JEFFERS

21 By

22 *Richard G. Jeffers*
23 RICHARD G. JEFFERS
24 Attorneys for Plaintiffs



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

STEHEKIN RIVER RESORT, INC.,
et al,

Plaintiffs,

vs.

CHELAN COUNTY, a municipal
corporation of the State of
Washington,

Defendant.

No. 25845

STIPULATION

The Plaintiffs, in and for themselves and in behalf of
the residents and property owners of the Stehekin Precinct, Chelan
County, Washington, by and through Hughes, Jeffers & Jeffers, their
attorneys and the Defendant, Chelan County, a municipal corporation
of the State of Washington, by and through E. R. Whitmore, Jr.,
Prosecuting Attorney, stipulate as follows:

I

That the Plaintiffs are residents and property owners of
the Stehekin Precinct, Chelan County, Washington, and that they have

Stipulation

-1-

HUGHES, JEFFERS & JEFFERS
ATTORNEYS AT LAW
Professional Office, P. O. Box 1886
Stehekin (360) 667-2146
Wenatchee, Washington 98801

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1 filed this suit for themselves and for the benefit of all residents
2 and property owners of Chelan County who are similarly situated.

3 II

4 That the Defendant, Chelan County, transferred that por-
5 tion of County Road No. 21, also known as the Stehekin Valley Road,
6 within the Lake Chelan Recreational Area, to the United States of
7 America pursuant to Resolution No. 637-E and the conveyance of
8 March 30, 1970, which are attached hereto, marked as Exhibits "A"
9 and "B", and by this reference made a part hereof.

10 III

11 That the Board of County Commissioners for Chelan County,
12 by Resolution No. 642-E, initiated a proceeding to vacate that
13 portion of County Road No. 21, also known as the Stehekin Valley
14 Road, within the boundaries of the North Cascades National Park,
15 and by its order of May 11, 1970, vacated that portion of the
16 Stehekin Valley Road, lying northerly of the portion of the same
17 road conveyed to the United States as set forth in paragraph II
18 hereinabove. Copies of said Resolution and Order of Vacation are
19 attached hereto, marked as Exhibits "C" and "D", and by this refer-
20 ence made a part hereof.

21 IV

22 That the Plaintiffs filed this action seeking a judgment
23 declaring that Resolution No. 637-E, the conveyance of March 30,
24 1970, Resolution No. 642-E, and the Order of Vacation dated May 11,

Stipulation

1 1970, all relating to County Road No. 21, also known as the Stehekin
2 Valley Road, were without authority and of no force and effect and
3 that they should be set aside.

4 V

5 That the Bureau of Reclamation, United States Department
6 of the Interior, has under construction an irrigation project
7 known as the Manson Unit of the Chief Joseph Dam Project which will
8 utilize water from Lake Chelan. That the said Stehekin Valley Road
9 will be used by the Bureau of Reclamation, or its contractors, in
10 the construction, operation, and maintenance of said Manson Unit
11 Project.

12 VI

13 That pursuant to the conveyance of March 30, 1970, and
14 the Vacation Order of May 11, 1970, the United States has assumed
15 jurisdiction over the Stehekin Valley Road and desires to recon-
16 struct and maintain said road.

17 VII

18 That it is for the best interest of all parties concerned
19 that the status of the said road be settled and hereby stipulate
20 that the court may enter its judgment herein declaring that Chelan
21 County was authorized pursuant to RCW 36.34.220 to convey that por-
22 tion of County Road No. 21, also known as the Stehekin Valley Road,
23 to the United States of America.
24

Stipulation



VIII

That the vacation of the upper portion of said road within the North Cascades National Park as evidenced by the County Commissioners' Order of May 11, 1970, shall be approved and title to said road shall vest in the parties entitled thereto.

IX

That the United States of America by and through the National Park Service, has assumed jurisdiction over an existing publicly used roadway on the west side of the Stehekin River commencing at the bridge which crosses said river and across Company Creek to the terminus of said roadway as it now exists. Said roadway is described by the center line description prepared by Donald B. West, Chelan County Engineer, dated June 3, 1971. A copy of said description is marked Exhibit "E", attached hereto and by this reference made a part hereof. That the United States of America, by and through the United States Department of the Interior, through the National Park Service, by Raymond L. Freeman, Associate Director, by letter dated June 15, 1972, directed to Richard G. Jeffers, Suite C, Professional Centre, Wenatchee, Washington, set forth the position of the National Park Service insofar as said road is concerned. A copy of said letter is attached hereto, marked Exhibit "F" and by reference made a part hereof. The original of said letter shall be made an attached exhibit and a part of any judgment entered herein.

Stipulation

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HUGHES, JEFFERS & JEFFERS
ATTORNEYS AT LAW
Professional Centre, P. O. Box 1488
Wenatchee 13991 945-2344
Wenatchee, Washington 98801



X

That the United States of America has agreed to the satisfaction of the Plaintiffs, subject to the availability of appropriated funds, to maintain said roadways described in Paragraphs II and IX herein in as good a condition as the same exist as of this date, including the removal of snow sufficient to allow those persons living along said road reasonable ingress and egress to their real property abutting upon said road. The United States may at some future time construct a roadway in the immediate area of the road described in Exhibit "E" which will provide ingress and egress to the property now abutting upon the roadway described in Exhibit "E" at which time the United States may abandon its maintenance of the part of said roadway no longer needed by reason of the new construction.

XI

The defendant Chelan County shall be released by the Plaintiffs from any further obligation to maintain the roadways described herein.

XII

That a judgment may be entered herein incorporating the terms and conditions of this stipulation and that none of the parties herein shall recover costs and disbursements of this suit.

DATED this 17th day of April, 1973.

STEHKIN RIVER RESORT, INC., et al

By Richard G. Jeffers
RICHARD G. JEFFERS
Attorney for Plaintiffs

RICHARD G. JEFFERS & JEFFERS
ATTORNEYS AT LAW
Professional Center, P. O. Box 1508
Spokane (208) 462-2146
Spokane, Washington 99201

Stipulation

-5-

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1 CHELAN COUNTY, STATE OF WASHINGTON

2
3 By E. R. Whitmore, Jr.
4 Chelan County Prosecuting Attorney

5 APPROVED AS TO FORM THIS
6 12th day of April, 1973:

7 C. Richard Neely
8 Assistant Regional Solicitor
9 representing the National Park
10 Service
11
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Stipulation

- 6 -

HUGHES, JEFFERS & JEFFERS
ATTORNEYS AT LAW
Professional Service, P. O. Box 1608
Telephone (509) 463-2146
Wenatchee, Washington 98801

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6/10

FILED AND RECORDED ON
MICRO-FILM
Roll 40

APR 30 1973

MURIEL E. ROATH, Co. Clerk
By JS Deputy

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

STEHEKIN RIVER RESORT, INC.,
et al,

Plaintiffs,

vs.

CHELAN COUNTY, a municipal
corporation of the State of
Washington,

Defendant.

NO. 25845

ORDER AND JUDGMENT

THIS MATTER came on for hearing before the above-entitled Court on the 30th day of April, 1973, upon the stipulation of the parties hereto dated April 17, 1973, and which stipulation was approved by C. Richard Neely, the Assistant Regional Solicitor representing the National Park Service; and based upon said stipulation and the records and files herein, and the Court being fully advised in the premises, now, therefore, it is

ORDERED, ADJUDGED AND DECREED that that certain stipulation entered into by the plaintiffs by their attorneys of record, Hughes, Jeffers & Jeffers, by Richard G. Jeffers, and the defendant, Chelan County, by and through E. R. Whitmore, Jr., Chelan County

Order and Judgment

-1-

HUGHES, JEFFERS & JEFFERS
ATTORNEYS AT LAW
Professional Office, P. O. Box 188
Telephone (509) 842-0346
Wenatchee, Washington 98801



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1 Prosecuting Attorney, and approved as to form April 12, 1973, by
2 C. Richard Neely, Assistant Regional Solicitor representing the
3 National Park Service, is in all respects made by reference a part
4 of this Order as though fully set forth herein; and the terms and
5 conditions thereof shall in all respects be binding upon the
6 parties hereto; and that the original letter from the United States
7 Department of the Interior, National Park Service, dated June 15,
8 1972, from Raymond L. Freeman, Associate Director of the National
9 Park Service, to Richard G. Jeffers, attorney for plaintiffs,
10 shall be affixed to this Order and is by reference made a part
11 hereof.

12 DONE IN OPEN COURT this 30th day of April, 1973.

13
14
15
16 Approved this 23rd day of
17 April, 1973.

18 E. R. Whitmore, Jr.
19 Chelan County Prosecuting Attorney
20 Attorney for Defendant

21 Approved and presented this
22 23 day of April, 1973:

23 HUGHES, JEFFERS & JEFFERS

24 By Richard G. Jeffers
RICHARD G. JEFFERS
Attorneys for Plaintiffs

Order

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IN REPLY REFER TO:
D30-M

EXHIBIT "F"

United States Department of the Interior

NATIONAL PARK SERVICE
WASHINGTON, D.C. 20240

JUN 15 1972

Mr. Richard G. Jeffers
Hughes, Jeffers and Jeffers
Attorneys at Law
Suite C, Professional Center
Wenatchee, Washington 98801

Dear Mr. Jeffers:

→ We have been advised by the Director of the Pacific Northwest Region, National Park Service, that you represent the plaintiffs in the case of Stehekin River Resort, Inc., et al. v. Chelan County, which is presently pending in the Superior Court for the County of Chelan, State of Washington. Further, we understand that the complaint seeks a judgment declaring the transfer by Chelan County to the United States of the Stehekin Valley Road to be null and void. While the United States is not a party to this suit, the National Park Service is interested in resolving this issue.

→ Many of the plaintiffs' concerns which led to the filing of the suit apparently have now been resolved and the parties are willing to enter a stipulation for the entry of a judgment which will settle the issue concerning the transfer of the Stehekin Valley Road. However, before executing such a stipulation on behalf of the plaintiffs you have requested the National Park Service to provide you with some assurance regarding its intention concerning the maintenance and use of a roadway within the Lake Chelan National Recreation Area known as the Company Creek Road.

As you know, the Company Creek Road was not included in the County's conveyance to the United States of March 30, 1970, because the road was not on the county road system nor had it been maintained by the county. Nevertheless, it was necessary that the National Park Service acquire the right to use the road to carry out its duties in the administration of the Lake Chelan Recreation Area.



National Parks Centennial 1872-1972

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The National Park Service acquired several parcels of the land over which the road traversed and obtained easements from the owners whose lands were not acquired. Such action was taken to enable the National Park Service to use and maintain the Company Creek Road for general access to the area west of the Stehekin River, including the camping area, fishing and hiking areas, fire control access and other administrative purposes.

Attached hereto is a copy of the form of easement used for acquisition of a right-of-way from the owners of the property upon which the Company Creek Road was situated. You will note that the National Park Service has acquired this right-of-way subject to the condition that it "reasonably maintain said roadway in as good condition as it exists as of the date of this grant, including the removal of snow sufficient to allow the Grantors, their heirs and assigns, reasonable ingress and egress to their remaining property abutting thereon; . . ." The National Park Service has been satisfactorily maintaining the Company Creek Road since acquiring the easements and, subject to the availability of appropriated funds, has every intention of continuing to do so. Although it is our intention to maintain the road, including snow removal, we are sure you recognize, from discussions with our field representatives, that we cannot commit the National Park Service to maintain this road in perpetuity.

It is our hope that this letter will satisfactorily allay any fears you and your clients may have regarding the future use and maintenance of the Company Creek Road.

Sincerely yours,

Raymond L. Freeman
Associate Director

Enclosure

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IN REPLY REFER TO:

A3815
PNR(D)

United States Department of the Interior

NATIONAL PARK SERVICE
Pacific Northwest Region
931 Fourth and Pike Building
Seattle, Washington 98101

November 13, 1970

Page 1 of 7

Hon. Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D. C. 20510

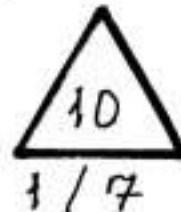
Dear Mr. Chairman:

We are pleased to reply to your recent inquiry on behalf of Mr. Robert K. Christy, concerning questions raised over the Stehekin Valley Road.

Our Master Plan calls for minor improvement of the Stehekin Valley Road from Stehekin Landing to the road's end at Cottonwood Camp - a distance of 25 miles. Before maintenance or construction could be accomplished by park funds, transfer of the road to the National Park Service was needed.

In 1969, the first operating year of the North Cascades National Park Service Complex, this road remained under the jurisdiction of Chelan County. That year, Stehekin residents complained that the road maintenance was poor and that it had always been poor. The community was unanimously in favor of a transfer to the National Park Service, yet we had difficulty finding a way to transfer it. Finally, in April of 1970, the Office of the Interior Department's Solicitor in Portland arranged a transfer to the Department of the Interior using statutory powers of the U. S. Bureau of Reclamation.

Following this, the park assumed maintenance responsibility for the Valley Road. It was graded several times during the summer, the Bridge Creek bridge was replaced at a cost of \$41,000 and the road reopened all the way to Cottonwood Camp for the first time in many years. The park devoted in one summer approximately four times as much in maintenance funds as the County averaged in previous calendar years. Despite Mr. Christy's claim, the road as far as High Bridge was not impassable and was in fact maintained by the same contract equipment operator, Mr. Virgil Fellows, who had done the grading in past years for the County. The park staff followed his advice as to times of



AME Jackson, Henry M.
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Gen Carr / Dept
US National Park Service
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EXH-23 e

Page 2 of 7

grading, etc. Unfortunately, 1970 was a record summer for lack of rainfall; and as you know, with limited road maintenance equipment, it is generally considered futile to grade a dirt road unless it has rained. Thus, for a month or so, the road was slightly rougher than average, but not to any significant degree. Now that fall rains have come, many loads of gravel have been hauled and graded over the rough spots. We believe Mr. Christy will be pleased with the improvement.

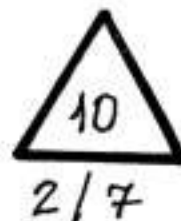
We have also budgeted planning funds for this fiscal year to prepare for reconstruction of the Stehekin Road. It is our hope to pave the lower portion to correct an intense dust problem and generally upgrade the upper part of the road to motor nature trail standards. However, Mr. Richard Jeffers of Wenatchee has recently contested the legality of the County Commissioner's action in transferring the road. Until the status of the transfer is determined, we must withhold any further planning or reconstruction expenditures.

In searching for basic causes of the recent concern over the road transfer, we find it centering around snow removal in the Company Creek area. 
Ten or 17 percent of the year-round residents live beyond the P.U.D. Power Plant in the Company Creek area and are concerned that it won't be plowed out this winter. The County has been unknowingly financing its plowing over the years, yet feels that it cannot do it now, since it is not a public road. 
Unless the County does assume this responsibility, the six families may have to pay for plowing approximately 1.5 miles of road. We see no legal way for the National Park Service to maintain a private road. Incidentally, there isn't a school bus. Children are taken to school by their parents. Understandably, some Stehekin residents have panicked somewhat over this issue and apparently chose to challenge the road transfer as a means to get "action." 
The park staff had always recommended and assumed the County would take over maintaining 1.5 miles of the Company Creek Road as a public service, in view of the fact that it was being relieved of 25 miles of road maintenance.

The park staff, with help from the Solicitor's Office, is now working on the matter of transfer legality and responsibility for maintaining and plowing the upper 1.5 miles of the Company Creek Road. In the meantime, Mr. Christy can be assured that the main Stehekin Valley Road below High Bridge is being maintained as good as, or slightly better than in the past.

Sincerely yours,


John A. Rutter
Director



Enclosure

RECEIVED
NOCA
MAR 30 1971

JOSEPH L. HUGHES
RICHARD G. JEFFERS
GARFIELD R. JEFFERS

HUGHES, JEFFERS & JEFFERS
ATTORNEYS AT LAW
SUITE C
PROFESSIONAL CENTRE
WENATCHEE, WASHINGTON 98801

March 29, 1971

P. O. BOX 1688
TELEPHONE (AC) 509/662-2148

Honorable Board of Commissioners
Chelan County, Washington
Chelan County Courthouse
Wenatchee, Washington 98801

Re: Stehekin River Road

Gentlemen:

I, as a property owner in the Stehekin area, have been attempting to assist the other residents in resolving the Stehekin River road problem with no emolument to me.

You are aware of the pending legal proceedings by a group of property owners in the Stehekin area to set aside the purported transfer of the Stehekin road to the United States of America. This proceeding has cast a cloud on the ownership of the road and the possible obligations of the County and the United States regarding maintenance of the same. In an effort to amicably resolve this matter, I have been in conferences with Mr. C. Richard Neely, the United States Solicitor representing the National Park Service, Mr. Whitmore, your Prosecuting Attorney, and the representatives of the Stehekin area residents.

The problems seem to emanate primarily from the failure of the National Park Service to assume responsibility for the maintenance of the road within reason on a year-round basis and, in particular, the snow removal on the road from the Stehekin Landing to the end on the Company Creek side of the Stehekin River and a reasonable distance on the North-easterly side of the River above the Company Creek bridge. The Park Service attempted to keep a part of these roads open during the past winter and the residents of the area have been advised that with adequate equipment and personnel to be available this coming year, there will be a decided improvement over the efforts of this past season.

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Honorable Board of Commissioners
March 29, 1971
Page Two

~~EXH~~ **(23)** *o*
Page 4 of 7

The Park Service has to date refused to give serious consideration to the road above the powerhouse on the Company Creek side of the Stehekin River because the existing roadway has not legally been made a part of the Chelan County Road system. Some of us disagree with this position inasmuch as the County has maintained this section of the roadway for many years, and by reason of which we believe it to be a part of the County system, irrespective of formal or legal recognition.



In any event, the Park Service seems willing to consider the responsibility of the road above the powerhouse if the property owners will grant a 30-foot permanent easement on the existing roadway. In a joint effort to resolve this matter, we would respectfully request that your County Engineer be directed to furnish right of way descriptions with property owners names and addresses for a 30-foot right of way on the existing road above the powerhouse to the end. With this information, we can then attempt to secure the necessary documents to satisfy the Park Service and, hopefully, resolve this matter.

This has been discussed with Mr. Whitmore, and I believe he is in accord with this request. I enclose a list of names of purported property owners adjacent to the road in question.

Respectfully submitted,

Richard G. Jeffers
RICHARD G. JEFFERS

RGJ:le

Enclosure

cc: Mr. Homer Trefry
Mr. David Davis
Mr. Fred Nierman
Mrs. Milda Russell
Mr. C. Richard Neely
Mr. Lowell White
Mr. E. R. Whitmore, Jr.
Chelan County Engineer
Mr. George Wagner
Mr. Dan Campbell

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lands

Superintendent, North Cascades

Meeting with Chelan County Commissioners

On April 13, Mr. Richard Nealey, George Wagner and myself met with Mr. Richard Jeffers and the Chelan County Commissioners regarding ownership questions on the Stehekin Valley Roads.

Attorney Jeffers has brought legal action against the County of Chelan regarding their legal right to transfer the Stehekin Valley road to the National Park Service. Mr. Jeffers stated however that if the Company Creek Road (1.6 miles) could be maintained by the National Park Service, he would drop the suit on the Stehekin Valley Road (res judicata). This means that the he would stipulate that the County of Chelan did in fact legally transfer this road to the National Park Service and the case would be rested.

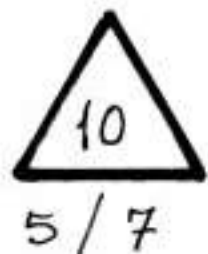


The National Park Service has agreed to maintain the 1.6 miles of Company Creek Road in its present condition and width and to keep it reasonably free of snow when the jurisdiction on this road is transferred to the National Park Service. It was agreed that this could be done through an easement.

There are apparently 44 landowners across which this road traverses. It was decided that if the County could come up with a center-line description of this road, that Mr. Jeffers would inturn submit this description to the various landowners involved and obtain an easement right from them. The County survey will begin when snow conditions warrant.

W. Lowell White

cc:
Stehekin
D. J. To, PAK
File
White/ad



~~EXH~~ - 23

Page 6 of 7

JOSEPH L. HUGHES
RICHARD G. JEFFERS
GARFIELD R. JEFFERS

HUGHES, JEFFERS & JEFFERS
ATTORNEYS AT LAW
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PROFESSIONAL CENTRE
WENATCHEE, WASHINGTON 98501

P. O. BOX 1688
TELEPHONE (AC) 501-582-2148

May 4, 1973

C
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United States Department of the Interior
Office of the Solicitor
Portland Region
1002 N. E. Holladay Street
P. O. Box 3621
Portland, Oregon 97208

Attention: Mr. C. Richard Neely
Assistant Regional Solicitor

Re: Stehekin River Resort, et al v. Chelan County
Chelan County Cause No. 25845

Dear Dick:

I enclose herein a signed copy of the Order and Judgment and a Xerox copy of the Stipulation in the above matter. The judgment was signed and filed April 30, 1973. I have taken the liberty of forwarding a copy to Lowell White, Superintendent of the North Cascades National Park.

I believe this should conclude this matter and I hope to everyone's satisfaction.

Once again you have been most cooperative in participating with all concerned in solving what, at one time at least, was a rather sticky problem. Sometimes mutual understandings with the inherent equities of the problem bring about a far better solution to a problem than expounding the legal principles and theories before the courts.

On behalf of the Stehekin Property Owners Association and my firm, I wish to sincerely thank you, your office, and Mr. Lowell White for your cooperation in the solution to this problem.

Sincerely yours,

RICHARD G. JEFFERS

RGJ:le
Enclosures
cc: Mr. Lowell White
Mr. E. R. Whitmore, Jr.
Chelan County Board of Commissioners
Mr. Donald West, Chelan County Engineer

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As part of its management and operational responsibilities at Lake Chelan National Recreation Area, the National Park Service maintains the Stehekin Valley road. When the National Park Service assumed this responsibility in 1971, it also committed to maintain the Company Creek road, which is a spur road located to the west of the Stehekin River. It connects with the Stehekin Valley road at the Harlequin Bridge. The lower portion of the Company Creek road provides access to NPS maintenance facilities, seasonal housing area, the Chelan County PUD generating plant, and the emergency airstrip. The middle and upper portion of the road provides access to approximately 15 private residences.

While the National Park Service has the legal authority to maintain the Stehekin Valley road, Harlequin Bridge, and the access to these public areas, the authority of the National Park Service to maintain the middle and upper portions of the Company Creek road is less clear. This is because it is not totally in federal ownership.

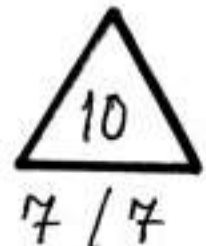


The National Park Service ordinarily spends public maintenance dollars on roads that are under federal control.

The National Park Service wants to continue its commitment of routine maintenance on the Company Creek road in good faith with the residents of the Stehekin Valley. Therefore, to clarify the authority of the National Park Service, it is recommended that Congress amend the legislation establishing the Lake Chelan National Recreation Area to provide the National Park Service the authority to maintain the Company Creek road.

Appropriate legislative language to this effect will be drafted and included in the legislative support data package that will be prepared after the final GMP/EIS and Record of Decision are completed.

In the interim, the National Park Service proposes to continue to honor its long-standing commitment to maintain the road to the extent funding allows without major reconstruction and/or expenditure of funds.



FINAL GEN. MGT. PLAN - LCNRA JUNE 1995

EXH-21

Page 1 of 24

U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUN 4 1993

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAMES R. LAPLEY, JR.

THOMAS

UNITED STATES OF AMERICA,

Plaintiff and

NORTH CASCADES CONSERVATION
COUNCIL, a nonprofit Washington
corporation,

Intervenor-Plaintiff,

vs.

CHELAN COUNTY, a municipal
corporation of Washington,

Defendant.

No. CS-92-0331-AAM

ORDER GRANTING MOTION
FOR SUMMARY JUDGMENT

RECEIVED
BY MAIL

JUN 07 1993

U.S. ATTORNEY
SPOKANE, WA

This civil action is brought by the United States to
quiet title to the Stehakin Valley Road located in the Lake
Chelan National Recreation Area and to enjoin defendant
Chelan County¹ and its agents and officers from using the
road without authorization and from interfering with the
National Park Service's management and administration of the
Lake Chelan National Recreation Area. By order dated
January 23, 1993, the court granted North Cascades

¹Chelan County is a municipal corporation vested with
certain governmental authority over Chelan County in the
State of Washington. The county acts through the Board of
Chelan County Commissioners.


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EXH

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Page 4 24

1 Lake Chelan National Recreation Area is currently
2 administered by the NPS through a Superintendent at Sedro
3 Woolley and through district officials at Stehekin.

4 The present litigation concerns the legal title to a 
5 portion of the Lake Chelan National Recreation Area,
6 specifically, the Stehekin Valley Road which begins at
7 Stehekin Landing on the north end of Lake Chelan and runs in
8 a northwesterly direction approximately 23 miles. The
9 Stehekin Valley Road is unusual in that it is not connected
10 to any other road system. To enter the Stehekin Valley, one
11 must travel by foot, plane, or boat. The Valley is not
12 accessible by automobile. The Stehekin Valley Road serves
13 as the primary access route for the Stehekin Valley and is
14 used by permanent and seasonal residents of the Valley and
15 by visitors to the Lake Chelan National Recreation Area.
16 There is a two-mile long, unpaved spur called Company Creek
17 Road that branches off the Stehekin Valley Road.

18 When the Lake Chelan National Recreation Area was
19 established in 1968, the Stehekin Valley Road existed in an
20 unpaved condition and was maintained as a county roadway by
21 Chelan County. The upper seven miles of the road were
22 overgrown with vegetation and impassable to vehicular
23 traffic; the wooden bridge across Bridge Creek was closed
24 due to structural decay; and the vegetation adjacent to the
25 lower four miles of the road was continually covered with
26 dust during the summer months due to the substantial use of

27 Order Granting Motion
28 for Summary Judgment - 4


2/14

EXH-21

5 24

1 that segment by private vehicles. The NPS paved the lower
2 four miles of the road to eliminate the dust problem,
3 reconstructed the Bridge Creek bridge, and opened the upper
4 seven miles of the Stehakin Road to vehicular traffic
5 pending a final decision on the permanent closure of that
6 section. A public shuttle bus service was instituted by the
7 NPS to reduce private vehicle use on the Stehakin Valley
8 Road and to provide park rangers an opportunity to educate
9 the public concerning the important biologic, scenic and
10 historic resources of the Lake Chelan National Recreation
11 Area and the North Cascades National Park.

12 Because of its isolation and exposure to extreme snow
13 loads and high creek flows, the repair and upkeep of the
14 Stehakin Valley Road and its bridges is a costly endeavor.
15 In 1970, the County, no doubt eager to relinquish its
16 maintenance responsibility to the NPS, determined to convey
17 its interest in the road to the federal government. The
18 Board of Chelan County Commissioners first sought to
19 transfer the road to the NPS through the Chelan County Port
20 Authority, but this route of transfer was foreclosed by
21 certain legal barriers.⁴ This left the Board with only two
22 alternatives: (1) to seek transfer of the road through the
23 state legislature, which would delay the transfer for
24 several months, or (2) to transfer the road to the United

25 ⁴The title company through which the parties sought to
26 acquire title insurance refused to issue such insurance if
27 the property was transferred through the Port Authority.

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EXH - 21 e

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1 other actions demonstrating its claim of interest in the
2 road. It has assumed sole responsibility for roadside
3 brushing, grading or shaping the road surface, snow removal
4 operations, pothole and surface crack repairs, ditch and
5 drainage work, rock removal, roadside litter collection,
6 sign repair and replacement, minor bridge repair, heavy
7 equipment operation, gravel hauling and spreading, and
8 hazardous tree removal. The NPS has replaced eleven
9 bridges, paved the first four miles of the road, repaired
10 slide removals, cleared plugged culverts, and replaced lost
11 sections of roadway. For the period between 1980 and 1992,
12 the NPS spent \$1,408,000 on road maintenance and repair. It
13 is estimated that a comparable amount was spent by the NPS
14 from 1970 to 1980. Maintenance and improvement of the road
15 is an integral part of the NPS's General Management Plan for
16 the area.

17 In addition to maintenance responsibilities, NPS
18 personnel assumed law enforcement responsibilities and, in
19 this capacity, have investigated accidents and administered
20 emergency medical services to those injured along the road.

21 The NPS has also regulated commercial use of the road
22 since 1970. It has issued concession contracts, concession
23 permits, commercial use licenses and special use permits for
24 various commercial services that occur on federal lands
25 within the Lake Chelan National Recreation Area. Since
26 1973, shuttle bus service to various trailhead locations

27 Order Granting Motion
28 for Summary Judgment - 10

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~~EXH~~ 21
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1 along the Stehekin Valley Road has been provided by the NPS
2 or by a private concessioner with the NPS's permission.
3 Since 1972, commercial use of the Stehekin Valley road for
4 tours and taxi service has been authorized by the NPS under
5 a single concession contract. The NPS has also issued
6 special use permits and right-of-way permits for water lines
7 on federal lands which run beneath the surface of the
8 Stehekin Valley Road.

9 In the past few years, the NPS has denied permission
10 for certain commercial uses of the road by several local
11 residents of the Stehekin Valley. The denials have been
12 based on a perceived conflict between the proposed
13 commercial uses and the contractual right of an NPS
14 concessioner.

15 For twenty-one years Chelan County did not engage in
16 any road maintenance activities or otherwise assert any
17 interest in the Stehekin Valley Road. Then, on July 9,
18 1991, the County adopted Resolution 91-72 which purports to
19 rescind the quitclaim deed executed in 1970 and to return a
20 portion of the Stehekin Valley Road to the Chelan County
21 road system. This resolution was undoubtedly spurred by the
22 NPS's refusal to grant certain use permits to local
23 residents of the Valley and the resulting community interest
24 in having the Stehekin Valley Road returned to the County
25 road system.

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~~EXH~~ ~~21~~ ~~C~~
page 12 24

1 Following the adoption of Resolution 91-72, the County
2 began to take actions inconsistent with the United States'
3 * ownership of the road. On November 16, 1991, a County
4 employee, while conducting snow removal operations, removed
5 material at Wilson Creek, widening the road and destroying a
6 water diversion dike. In June 1992, Chelan County issued a
7 permit authorizing a resident to place a culvert across the
8 Stehakin Valley Road without prior consultation with or
9 authorization from the NPS. On August 30, 1992, Chelan
10 County commenced a bank stabilization project at a point
11 along the Stehakin Valley Road commonly referred to as
12 "Eight-Mile." This was to be accomplished by placing 1200
13 cubic yards of rip rap along the Stehakin Valley Road at the
14 Eight-Mile location. The rip rap was acquired by removing
15 rock from along side the Stehakin Valley Road approximately
16 four miles from the project site.

17 This action was filed by the United States on August
18 31, 1992, to quiet title to the Stehakin Valley Road in the
19 United States and to enjoin defendant from interfering with
20 the NPS's administration of the road. The County does not
21 contest the validity of the quitclaim deed; nor does it
22 challenge the propriety of its Final Order of Vacation.
23 However, in its counterclaim, the County asserts that the
24 conveyance and the vacation were accomplished as an integral
25 part of an express or implied contract between Chelan County
26 and the United States, pursuant to which Chelan County

27 Order Granting Motion
28 for Summary Judgment - 12

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~~EXH-21~~

Page 13 of 24

1 agreed to transfer its interest in the road in exchange for
2 the United States' agreement to maintain and administer the
3 road in a manner not inconsistent with the County's prior
4 maintenance and administration thereof. According to the
5 County, the United States agreed to maintain the road in a
6 manner which did not jeopardize the health, welfare and
7 safety of users of the road and to continue to provide users
8 of the road with the same unrestricted access to the road as
9 they enjoyed prior to the transfer. (Chelan County's First
10 Amended Answer, p. 4-5). The County, alleging that the
11 United States has breached this agreement, counterclaims for
12 damages and injunctive relief.

13 Alternatively, the County contends it had no authority
14 to convey, and did not intend to convey, an unrestricted fee
15 interest in Stehakin Valley Road to the United States. Its
16 conveyance of the Stehakin Valley Road by quitclaim deed was
17 limited to the purposes set forth in Resolution No. 637-E
18 and in the enabling legislation, RCW 36.34.220. Because the
19 County was only authorized to convey county property to the
20 United States under RCW 36.34.220 "for flood control,
21 navigation, power development, or for use in connection with
22 federal projects . . . for the reclamation and irrigation of
23 arid lands," the County argues that it necessarily retained
24 a reversionary interest in the road. Thus, when the NPS
25 disregarded the use restrictions impressed on the original
26 conveyance and began to exercise unbridled, unrestricted

27
28 Order Granting Motion
for Summary Judgment - 13

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7/14

EXH-21

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1 jury might return a verdict in its favor based on that
2 evidence." T.W. Elec. Service v. Pacific Elec. Contractors,
3 809 F.2d 626, 631 (9th Cir. 1987). See also, Anderaon v.
4 Liberty Lobby, Inc., 477 U.S. at 252.

5 IR 56 requires a party moving for summary judgment to
6 set forth the specific facts relied upon in support of the
7 motion. Any party opposing a motion for summary judgment
8 must file a statement in the form prescribed by IR 56(a),
9 setting forth the specific facts which the opposing party
10 asserts establish a genuine issue of material fact
11 precluding summary judgment. IR 56(b). "In determining
12 any motion for summary judgment, the Court may assume that
13 the facts as claimed by the moving party are admitted to
14 exist without controversy except as and to the extent that
15 such facts are controverted by the [opposing party's IR
16 56(b) statement of disputed facts]." IR 56(c).

17 2. INTERPRETATION OF THE QUITCLAIM DEED

18 The interpretation of a deed is a mixed question of law
19 and fact; the parties' intent is a factual question, whereas
20 the legal consequences of that intent constitute a question
21 of law to be resolved by the court. Harris v. Ski Park
22 Farms, 120 Wn.2d 727, 738 (1993). As a general rule, deeds
23 are to be construed in a manner which gives effect to the
24 intent of the parties. Harris v. Ski Park Farms, 120 Wn.2d
25 727, 739 (1993). "The intent of the parties is to be
26 derived from the entire instrument and, if ambiguity exists,

27 Order Granting Motion
28 for Summary Judgment - 17

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~~EXH - 20~~

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1 the situation and circumstances of the parties at the time
2 of the grant are to be considered." Id. at 739. Even in
3 the absence of an apparent ambiguity, extrinsic evidence may
4 be considered as an aid in ascertaining the parties' true
5 intent. Id. (citing Berg v. Hudson, 115 Wn.2d 657, 801
6 P.2d 222 (1990)).

7 * A deed which by its terms conveys land to a grantee
8 operates as a grant of the fee. King County v. Hanson
9 Investment Company, 34 Wn.2d 112, 119 (1949). In order to
10 make a defeasible or conditional fee, "the deed must clearly
11 indicate such an intent, either by express terms or by
12 necessary implication from the language used." Id. at 119.

13 There is no ambiguity in the language of the 1970
14 quitclaim deed. The quitclaim deed clearly states that
15 Chelan County conveyed and quitclaimed to the United States
16 "all right, title and interest in and to [the Stabekin
17 Valley Road]." The deed contains no language whatsoever
18 indicating an intent on the part of the donor to retain a
19 reversionary interest in the road. Nor does the deed limit
20 * the United States' use of the land in any way. In fact, the
21 deed is silent as to any alleged purpose for the conveyance. *!

22 In contrast, the resolution drafted contemporaneously
23 with the quit claim deed states that the road is of value to
24 the United States for use in making water and snow
25 measurements and surveys, and refers to the enabling
26 legislation which permits transfer for this purpose. The

27 Order Granting Motion
28 for Summary Judgment - 18

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~~EXH-11~~

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1 resolution does not, however, express the County's intent to
2 have the title revert back to the County upon discontinuance
3 of this use. Indeed, to read such an intent into the
4 resolution would be inconsistent with other language in the
5 resolution stating that "said road is no longer of value to
6 the county for county purposes but is of value to the United
7 States for federal purposes."

8 The resolution's reference to the enabling legislation,
9 which is codified at RCW 36.34.220, merely serves to show
10 * the grantee's authority to take title to the land. King
11 County v. Hanson Investment Company, 34 Wn.2d 112, 119-20
12 (1949). A companion statute, RCW 36.34.240, gives the
13 federal government exclusive authority to administer tracts
14 * or parcels of land conveyed pursuant to RCW 36.34.220.⁷

15 Nothing in either statute limits the federal government's
16 administrative responsibilities, once it acquires the land,
17 to those matters relating to flood control, navigation, or
18 allied purposes. The County's decision to transfer the road

19 ⁷RCW 36.34.240 reads:

20 Pursuant to the Constitution and laws of the
21 United States and the Constitution of this state,
22 consent of the legislature is given to the
23 exercise by the congress of the United States of
24 exclusive legislation in all cases whatsoever on
25 such tract or parcels of land so conveyed to it;
26 Provided, That all civil process issued from the
27 courts of the state and such criminal process as
28 may issue under the authority of the state against
any person charged with crime in cases arising
outside of said tract may be served and executed
thereon in the same manner as if such property
were retained by the county.

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for Summary Judgment - 19



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~~EXH - 71~~

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3. NPS's MAINTENANCE AND ADMINISTRATION OF STEHEKIN VALLEY ROAD

At most, the Court could find, based on the stipulation in Stehakin River Resort, Inc. v. Chelan County, No. 25845 (Chelan County Superior Court April, 1973), that the parties entered into an implied covenant whereby the United States agreed to maintain the road in a manner consistent with the County's prior level of maintenance. Even assuming the existence of such an implied contract, the defendant has failed to set forth any facts which would establish that the NPS breached this duty. In contrast, the United States and the NOCC have submitted numerous affidavits evidencing the efforts of the NPS to maintain the road in a manner consistent with the County's prior practices and Congress' directive in 16 U.S.C. § 90a-1. The uncontroverted testimony contained in the affidavits shows that the condition of the Stehakin Valley Road has substantially improved since the NPS assumed responsibility for its upkeep.

The record is devoid of any evidence which would lend support to the County's claim that the parties agreed, expressly or impliedly, that the United States would administer the road so as to provide users of the road with the same unrestricted access they enjoyed prior to the transfer. The 1973 stipulation makes no reference to such an agreement. Regardless, the County has failed to show that the NPS has stopped or suspended any commercial uses

Order Granting Motion
for Summary Judgment - 21

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1 that were in existence at the time of the 1970 transfer. It
 2 has merely shown that the NPS refused to permit new or
 3 expanded commercial uses on the road.



4 The court, upon the defendant's failure to make a
 5 showing sufficient to establish the existence of an element
 6 essential to its counterclaim, is constrained to enter
 7 summary judgment on the counterclaim in favor of the United
 8 States. The complete failure of proof concerning the
 9 government's breach necessarily renders all other facts
 10 immaterial. Calotex Corp. v. Catrett, 477 U.S. 317, 323
 11 (1986).

12 4. 28 U.S.C. § 2409a(f) STATUTE OF LIMITATIONS

13 The United States has consented to be sued in any
 14 action to adjudicate a disputed title to real property in
 15 which the United States claims an interest, but only if the
 16 action is commenced within twelve years of the date upon
 17 which it accrued. 28 U.S.C. § 2409a(f). "Such action shall
 18 be deemed to have accrued on the date the plaintiff or his
 19 predecessor in interest knew or should have known of the
 20 claim of the United States." 28 U.S.C. § 2409a(f). This
 21 statute of limitations on the United States' waiver of
 22 sovereign immunity is jurisdictional and must be strictly
 23 construed. State of Nevada v. United States, 731 F.2d 633,
 24 634 (9th Cir. 1984); Humboldt County v. United States, 684
 25 F.2d 1276, 1280 (9th Cir. 1982).



~~EXH~~ 21

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The uncontroverted facts show that the United States, beginning as early as 1972, has claimed an interest in the Stehakin Valley Road beyond its limited use for flood control, navigation and other water-related purposes. In 1973, the NPS issued a concession permit to John O. E. Moore to provide food, lodging, transportation and other associated services along the Stehakin Valley Road. In 1973, the NPS began operating a shuttle bus service to various trailhead locations along the road. Since 1972, the NPS has authorized commercial use of the Stehakin Valley Road, including tours and taxi, under a single concession contract. Individuals who have attempted to engage in business activities without the NPS's permission have been cited and prosecuted for their conduct.



In 1984, various residents of the Stehakin Valley filed an action in the United States District Court for the Eastern District of Washington, attacking the manner in which the recreation area was being administered. The plaintiffs alleged specific grievances concerning the limitations placed on the use of the Stehakin Valley Road and the NPS's regulation of commercial activity. The plaintiffs sought, among other things, to enjoin the United States from attempting to regulate the Stehakin Valley Road. While the action was construed as one for judicial review under the APA and dismissed for failure of the plaintiffs to exhaust their administrative remedies, it serves as further

Order Granting Motion
for Summary Judgment - 23



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~~EXH-21~~

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1 ~~XXXX~~ evidence of the United States' claim to exclusive title in ~~XXXX~~
2 ~~XXXX~~ the Stehekin Valley Road. ~~XXXX~~

3 Based on the NPS's pervasive assertion of jurisdiction
4 over the administrative responsibilities for the Stehekin
5 Valley Road, the County must be deemed to have known of the
6 United States' claim of interest in the road since at least
7 1972. Consequently, the County's present attempt to dispute
8 the United States' title is time-barred by 28 U.S.C. § 2409.
9 Accordingly,

10 IT IS HEREBY ORDERED that the plaintiffs' motions for
11 summary judgment are GRANTED. Judgment shall be entered in
12 favor of the United States and North Cascades Conservation
13 Council.

14 IT IS SO ORDERED. The clerk is directed to enter this
15 order and forward copies to counsel.

16 DATED this 14th day of June, 1993.

17 
18 ALAN A. McDONALD
19 United States District Judge
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Order Granting Motion
for Summary Judgment - 24

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EXH

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I-417

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RESOLUTION NO. 91-72

A RESOLUTION to place approximately nine miles of the Stehekin Valley Road (Road #21) on the County Road System, from the Steeling Landing to the easterly boundary of Township 33, Range 16 East, W.M., as traveled.

WHEREAS, the Stehekin Valley Road (Road #21) does serve citizens of Chelan County as well as other; and

WHEREAS, the requirements of the transfer of the Stehekin Valley Road (Road #21) to the U.S. Bureau of Reclamation for use in making water and snow measurements and surveys has not been met; and

WHEREAS, Federal agencies have gone farther in regulating the road than could have been foreseen and specifically, the National Park Service is restricting the movement of private citizens on the subject roadway; and

WHEREAS, it appears that Chelan County was fraudulently misled by the National Park Service in 1970 as to the nature of the area and the Stehekin Road (Road #21); and

WHEREAS, Resolution No. 637-E, adopted March 30, 1970, erroneously states "The United States has acquired title to virtually all of the property served by the Stehekin Valley road and has included the same within the newly created North Cascade National Park thereby leaving said road to service virtually no citizens of Chelan County"; and

WHEREAS, it appears that Chelan County could not transfer the Stehekin Valley Road (Road #21) thus eliminating service to Chelan County citizens and property owners; and

WHEREAS, it is deemed in the public interest that the Stehekin Valley Road (Road #21) be returned to the Chelan County road system; and

WHEREAS, the overwhelming majority of private property owners in Stehekin support the return of the Stehekin Valley Road (Road #21) to Chelan County.

FEES NO FEE
FILED

Chelan County
Commissioners

JUL 11 9 11 AM '91

Resolution

BOOK 951

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EXHIBIT

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THEREFORE, BE IT RESOLVED by the Board of Chelan County Commissioners that Resolution No. 637-E, adopted March 30, 1970, was not and is not representative of the conditions in Stehekin and that Resolution No. 637-E, adopted March 30, 1970 is hereby rescinded and that the quit claim deed of March 30, 1970 is also hereby rescinded; and

BE IT FURTHER RESOLVED THAT that portion of the Stehekin Valley Road (Road #21) from the Stehekin Landing to the easterly boundary of Township 33, Range 16 East, W.M., as traveled be returned to the Chelan County Road system and be know as the Stehekin Valley County Road, Road #21.

DATED this 9th day of July, 1991.

BOARD OF CHELAN COUNTY COMMISSIONERS

Thomas A. Green
THOMAS A. GREEN, CHAIRMAN

John S. Wall
JOHN S. WALL, COMMISSIONER

Ronald W. Myers
RONALD W. MYERS, COMMISSIONER

ATTEST: EVELYN L. ARNOLD, Auditor and
Clerk of the Board

Claudia Meitz
Deputy Auditor



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OK 0551 101845



Opinion

JOHN JAMES BOYCE, JR., ATTORNEY GENERAL OF WASHINGTON

EXH - (11) -

Page 1 of 3

AGO 1957-58 No 032

[[Orig. Op. Page 1]]

COUNTY ROADS -- VACATION AND ABANDONMENT.

The duty and liability of a county to maintain a county road once a part of a county road system cannot be divested by mere resolution.

March 13, 1957

Honorable Thurman E. Ward
Prosecuting Attorney
Klickitat County
Goldendale, Washington

Cite as: AGO 57-58 No. 32

Dear Sir:

In your letter of February 19, 1957, you requested the opinion of this office on a certain question which we paraphrase as follows:

May the county commissioners by resolution withdraw county roads from the county road system and thus relieve the county from the duty and liability of maintenance without the road losing the status of a county road?

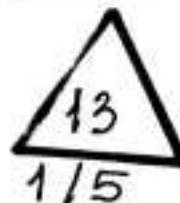
We answer this question in the negative.

ANALYSIS

Your letter referred to RCW 36.75.080 (1955 Supp) as possible authority for action by the county commissioners pursuant to the aforementioned question.

Section 3, chapter 361, Laws of 1955, (RCW 36.75.080) provides:

"All public highways in this state, outside incorporated cities and towns and not designated as state highways, which have been used as public highways for a period of not less than ten years are county roads: Provided, That no duty to maintain such public highway for any liability for any injury or



EXH-11 Page 2 of 3

damage for failure to maintain such public highway or any road signs thereon shall attach to the county until the same shall have been adopted as a part of the county road system by resolution of the county commissioners.*

[[Orig. Op. Page 2]]

Prior to the amendment of RCW 36.75.080 by chapter 361, Laws of 1955, a public highway used for the prescriptive time of not less than ten years became a county road and part of the county road system. It is evident that the object of chapter 361 is to relieve the counties of the duty and liability of maintaining public roads that become county roads on the basis of the expiration of the prescriptive ten-year period. By this amendment the legislature intended that the duty and liability of maintaining roads that automatically become county roads after ten years would not necessarily devolve upon the county. Rather the road must be adopted by resolution as a part of the county road system by the county commissioners before the duty of maintenance attaches to the county.

We are of the opinion that under RCW 36.87.080 (1955 Supp.), a county may, by resolution, assume the duty and liability of maintenance of a county road on the expiration of the prescriptive period but cannot, by mere resolution, divest itself of this duty and liability, once assumed.

The legislature has provided in RCW chapter 36.87, the statutory procedure by which a county may divest itself of the duty and liability of maintaining county roads which become part of the county road system either before or after the enactment of chapter 361, Laws of 1955.

RCW 36.87.010 reads:

"When a county road or any part thereof is considered useless, the board by unanimous resolution entered upon its minutes, may declare its intention to vacate and abandon the same or any portion thereof and shall direct the county road engineer to report upon such vacation and abandonment."

RCW 36.87.020 reads in part:

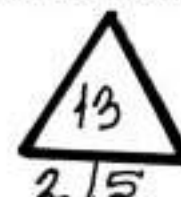
"Ten freeholders residing in the vicinity of any county road or portion thereof may petition the board to vacate and abandon the same or any portion thereof . . ."

This chapter of the code further provides that the county engineer shall examine the county road under consideration for vacation and report his opinion as to whether the county road should be vacated and abandoned; provides for publication of notice of hearing on the report; provides for a public hearing; and stipulates that a unanimous vote is required by the board of [[Orig. Op. Page 3]] county commissioners properly entered, or by operation of law, or judgment of a court of competent jurisdiction (for vacation and abandonment).

In an annotation at 175 A.L.R. 760, 762, the following statement is made:

"While some limitations to its application are to be found, the rule appears to be quite general that where the procedure for the vacation, discontinuance, or alteration of a public street or highway by direct action of public authorities is prescribed by statute, it is necessary to adhere to such procedure in order that the vacation or alteration may be effective. . . * Brazell v. Seattle, 55 Wash. 180.

In any event, the vacation and abandonment of a county road would not destroy the private easement of egress and ingress of a property owner established by prescription, when the only means available would be by the vacated



~~EXH-11~~ 0
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Page 3 of 3

and abandoned county road. Van Buren v. Trumbull, 92 Wash. 691.

In conclusion, it is our opinion that a county can only escape the duty and liability of maintaining a county road, once a part of the county road system, by following the statutory vacation procedure. To allow otherwise would deny to the public the safeguards incorporated in the vacation statutes. 39 C.J.S., Highways, 121

Very truly yours,

JOHN J. O'CONNELL
Attorney General

CLARENCE H. FIDLER
Assistant Attorney General

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EXH-4

Page 3 of 5

following dictionary definitions of the word "abut".

"Century Dictionary defines abut,

"To touch at the end; be contiguous; join at a border or boundary; terminate; rest: [[Orig. Op. Page 4]] with on, upon, or against before the object; as, his land abuts upon mine; the building abuts on the highway; the bridge abuts against the solid rock."

"1926 Merriam Series, Webster's New International Dictionary defines abut,

"To project; to terminate or border; to be contiguous; □-with on, upon, or against; as, his land abuts on the road. Usually abut implies contact, but this is not always so. To end at; to border on; to reach or touch with an end; as, two lots abutting each other."

Our statutes relating to the procedures for vacating city streets have similarly referred to property "abutting" in the sense of lateral touching. See, RCW 35.79.010, et seq.

Of particular note is the usage of the word "abutting" in RCW 79.01.448. This statute, granting preferential rights to upland owners to purchase tide or shore lands, provides in part:

"The owner or owners of land abutting or fronting upon tide or shore lands

Clearly the word "abutting" in the statute is used in the sense of "contiguous to."



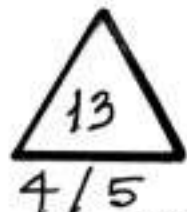
In another area where the word "abutting" has been similarly used, the Washington court has consistently held that the fee title to a public street or road remains in "abutting" landowners, with the public acquiring only a right of passage with powers and privileges necessarily implied in the granting of an easement. Finch v. Matthews, 74 Wn.2d 161, 443 P.2d 833 (1968); Puget Sound Alumni of Kappa Sigma, Inc. v. Seattle, 70 Wn.2d 222, 422 P.2d 799 (1967); State ex rel. Patterson v. Superior Court, 102 Wash. 331, 173 Pac. 186 (1918).

Finally we may note that more recent statutes providing for the establishment of limited access highways have referred to the "abutting owner's right of access" and "abutting property" clearly in the sense of property which is contiguous or touching along the lateral edge of the highway right of way. See, RCW 47.52.080. Our court in construing these statutes [[Orig. Op. Page 5]] and discussing access rights of owners of land along the highway, conventionally has referred to land abutting upon the highway. State v. Calkins, 50 Wn.2d 716, 314 P.2d 449 (1957); State v. Besselman, 55 Wn.2d 524, 348 P.2d 406 (1960); Deaconess Hosp. v. Highway Commission, 66 Wn.2d 378, 403 P.2d 54 (1965).

The foregoing legislative and judicial uses of the word "abutting" are by no means exhaustive; however, they fairly represent the uniform meaning which has been given to the word by our legislature and courts. Therefore, consistent with this usage, it is our opinion that as used in chapter 185, the term "abuts" means contiguous, both on the lateral edges of a county road right of way and the terminal end of such a right of way.

Question (2):

Your remaining question assumes the foregoing answer to your initial question, and asks:



EXH - 12 9

Page 5 of 5

hearing on the petition before the commissioners, by posting notice thereof, containing a description of the property to be vacated, in three of the most public places in said town, at least twenty days before the hearing."

Chapter 36.87 RCW also deals, among other things, with the vacation of county roads upon the petition of freeholders residing in the vicinity thereof. See, RCW 36.87.020 and 36.87.030.

We would regard chapters 58.11 RCW and 36.87 RCW as authorizing alternative methods for the vacation of a county road. Moreover, as far as we know, they are the only methods. Therefore, if the vacation of a plat or part thereof entails the vacation of a county road, one or the other of these two laws must be utilized. But it is not necessary to comply with both.

This completes our consideration of your questions. We trust that the foregoing will be of assistance to you.

Very truly yours,

SEADE GORTON
Attorney General

PHILIP H. AUSTIN
Deputy Attorney General

ROBERT F. HAUTH
Senior Assistant Attorney General

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Public Law 90-544
90th Congress, S. 1321
October 2, 1968

EXH-6
Page 1 of 1

An Act

To establish the North Cascades National Park and Ross Lake and Lake Chelan National Recreation Areas, to designate the Panayten Wilderness and to modify the Glacier Peak Wilderness, in the State of Washington, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NORTH CASCADES NATIONAL PARK

Sec. 101. In order to preserve for the benefit, use, and inspiration of present and future generations certain majestic mountain scenery, snow fields, glaciers, alpine meadows, and other unique natural features in the North Cascade Mountains of the State of Washington, there is hereby established, subject to valid existing rights, the North Cascades National Park (hereinafter referred to in this Act as the "park"). The park shall consist of the lands, waters, and interests therein within the area designated "national park" on the map entitled "Proposed Management Units, North Cascades, Washington," numbered NP-CAS-7002, and dated October 1967. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior, and in the office of the Chief, Forest Service, Department of Agriculture.

Establishment.

82 STAT. 926

82 STAT. 927

TITLE II—ROSS LAKE AND LAKE CHELAN NATIONAL RECREATION AREAS

Sec. 201. In order to provide for the public outdoor recreation use and enjoyment of portions of the Skagit River and Ross, Diablo, and Gorge Lakes, together with the surrounding lands, and for the conservation of the scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Ross Lake National Recreation Area (hereinafter referred to in this Act as the "recreation area"). The recreation area shall consist of the lands and waters within the area designated "Ross Lake National Recreation Area" on the map referred to in section 101 of this Act.

Establishment.

SECTION

202 →

Sec. 202. In order to provide for the public outdoor recreation use and enjoyment of portions of the Stehekin River and Lake Chelan, together with the surrounding lands, and for the conservation of the scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Lake Chelan National Recreation Area (hereinafter referred to in this Act as the "recreation area"). The recreation area shall consist of the lands and waters within the area designated "Lake Chelan National Recreation Area" on the map referred to in section 101 of this Act.

←

TITLE III—LAND ACQUISITION

Sec. 301. Within the boundaries of the park and recreation areas, the Secretary of the Interior (hereinafter referred to in this Act as the "Secretary") may acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that he may not acquire any such interests within the recreation areas without the consent of the owner, so long as the lands are devoted to uses compatible with the purposes of this Act. Lands

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County gets rid of Stehekin road

Page 1 of 1

Turning over title to a 12-mile stretch of county road from Stehekin to Bridge Creek to the federal government was approved Monday by Chelan County commissioners.

And County Engineer Don West breathed a sign of relief.

"It's one of the most expensive roads to maintain that we have," West said of the isolated Stehekin area road.

Maintenance had been done by contract with area residents.

County commissioners said the area is included in the North Cascades National Park. That agency will assume the responsibility of improving and maintaining the roadway now.

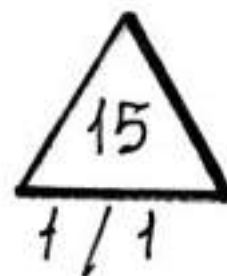
Commissioners yesterday also approved spending \$25,000 this year on improvement of rural roads that connect to Wenatchee streets.

Engineer West said the work will be done as county crews have the time.

Existing roadways will be widened as much as possible

within their present rights-of-way, ditches will be cleaned, ballasting put down and resurfacing material applied.

The streets involved include: Poplar Row, Circle, Cherry, Crawford (Miller to Fuller and Okanogan to Methow), Orchard, Fuller, Gehr, Okanogan, Tacoma and Ninth streets.





United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO:

MAY 11 2006

A3615

Mr. Jim Bohn
3509 East Deer Road
Mead, Washington 99021

Dear Mr. Bohn:

The Office of the Secretary of the Interior has asked us to respond to your most recent letter (dated March 24, 2006) regarding the Stehekin Valley Road. It is clear we have a different interpretation of law, and do not agree with your interpretation of what motivated past actions by the National Park Service with respect to the Stehekin Valley Road.

We understand that you believe that the arguments and decision in United States v. Chelan County are flawed. However, that decision was never appealed. Since it has been nearly 13 years since the Court rendered its decision, we consider the matter settled.

The National Park Service has always understood that we have proprietary jurisdiction within Lake Chelan National Recreation Area and have conducted ourselves accordingly.

Thank you for alerting us to the fact that the Chelan County Sheriff never received a fully executed copy of our cooperation agreement. We can only assume that it was somehow lost in transit. Upon confirming that Sheriff Harum did not have a copy, we immediately sent one to him.

We are presently in litigation with WeavTel regarding the proposed telephone system. Thus we cannot comment on your observations concerning the authorities you believe that utility companies have to use road rights-of-way.

National Park Service intentions with respect to the future of the Stehekin Valley Road are clearly articulated in the Lake Chelan National Recreation Area General Management Plan that was finalized through a Record of Decision in August 1995. Our plan is to improve the road below High Bridge; not close it.

Thank you for reminding us of Regional Solicitor Neely's opinion of February 20, 1974. It does not change the fact that, absent a title examination that determines the full extent of interest Chelan County acquired from each private property owner when it established the right-of-way or other applicable law, our present approach is to respect the sub-surface estate as retained by the proper owner.




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We appreciate your interest in Stehekin and Lake Chelan National Recreation Area, and will continue to work with our park neighbors.

Sincerely,


for Fran P. Mainella
Director

21C 2/2



ROBERT G. DODGE
CAMILLE PETERSON
FOREMAN & ARCH, P.S.
701 North Chelan
Wenatchee, WA 98801
Telephone: 509/662-9602

Attorneys for Chelan County

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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAN 13 1993

JAMES A. LARSEN, CLERK
YAKIMA DEPUTY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff

v.

CHELAN COUNTY,

Defendant.

No. CS-92-0331-AAM

MEMORANDUM IN OPPOSITION
TO MOTION FOR PRELIMINARY
INJUNCTION

The Defendant, Chelan County, by and through its attorneys of record, Foreman & Arch, P.S., and Camille Peterson, submits the following Memorandum in Opposition to Motion for Preliminary Injunction.

Maintenance of Stehekin County Road #21 is the issue for the Motion for Preliminary Injunction before the Court. The United States claims ownership of the road and therefore the right to maintain the road. The United States seeks to enjoin Chelan County from performing routine road maintenance prior to a decision on the underlying ownership issue.

MEMORANDUM IN OPPOSITION
TO MOTION FOR PRELIMINARY INJUNCTION - 1

EXHIBIT N, PAGE 1 OF 8

Foreman & Arch
701 North Chelan Street
Post Office Box 3125
Wenatchee, Washington 98807-3125
(509) 662-9602

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STATEMENT OF FACTS



In 1970, Chelan County conveyed the interest it had in the Stehekin County Road #21 to the Bureau of Reclamation (see Exhibit 1 which is attached hereto and incorporated herein by this reference as if the same were set forth in full). This conveyance and the subsequent conveyances by Chelan County of sections of the Stehekin County Road have never been litigated by the United States and Chelan County. (see Exhibit 2 which is attached hereto and incorporated herein by this reference as if the same were set forth in full). Stipulations in Stehekin River Resort, Inc., et al., v. Chelan County have not legally determined the fee ownership of the road (see Exhibit 3 which is attached hereto and incorporated herein by this reference as if the same were set forth in full).

For example, the Deed from Chelan Electric Company to Chelan County conveys a right of way for highway purposes (see Exhibit 4 which is attached hereto and incorporated herein by this reference as if the same were set forth in full). A right of way for highway purposes is construed as an easement, not a fee interest. State ex rel York v. Board of County Commissioners, 28 Wn.2d 891, 897, 898, 903, 184 P.2d 577 (1947).

This is the only interest Chelan County could convey to the United States.

Another example is the Deed from Maxwells to Chelan Box and Manufacturing Company (see Exhibit 5 which is attached hereto and incorporated herein by this reference as if the same were

set forth in full) which excepts land along the Stehekin River from the conveyance. This exception is important because Chelan Box and Manufacturing Company conveyed the interest it had to the United States on October 5, 1970.

These are just two examples of the questionable ownership of the underlying fee and of the right of way of the Stehekin Road.

The Court Order involving Chelan County as a party and including Stipulations regarding road maintenance was entered on April 30, 1973 (see Exhibit 3 hereto). Paragraph X of this Stipulation states that the United States will maintain the roadways "in as good a condition as existed as of this date."

Property owners and residents of Chelan County have raised numerous objections to the United States and the National Park Service maintenance of the road (see Exhibit 6 which is attached hereto and incorporated herein by this reference as if the same were set forth in full). The conditions agreed to in the Order dated April 30, 1973, were not being met.

Because the conditions of the Court Order and Stipulation for road maintenance were violated, Chelan County on July 9, 1991, rescinded the conveyance and vacation of the road to the Bureau of Reclamation and the United States (see Exhibit 7 which is attached hereto and incorporated herein by this reference as if the same were set forth in full).

Chelan County, after obtaining all required permits, attempted to perform routine road maintenance on August 31 -

September 2, 1992. Its efforts were halted by a Temporary Restraining Order entered on September 3, 1992, in the United States District Court for the Eastern District of Washington. Chelan County contests the allegations of immediate and irreparable harm, probable success on the merits, and balance of hardship in its favor claimed by the United States.

STATEMENT OF LAW

The requirements that a plaintiff desiring a preliminary injunction must show are: (1) strong likelihood of success on the merits, (2) possibility of irreparable injury to the plaintiff if preliminary relief is not granted, (3) balance of hardship favoring the plaintiff, and (4) advancement of the public interest (in certain cases). (Citations omitted.) In this circuit, the moving party may meet its burden by demonstrating either (1) a combination of probable success on the merits and the possibility of irreparable injury, or (2) that serious questions are raised and the balancing of hardships tips sharply in its favor.

Los Angeles Memorial Coliseum Com'm v. National Football League, 634 F.2d 1197, 1200-01, (9th Cir. 1980).

A. Combination of Probable Success on the Merits and Possibility of Irreparable Injury.

1. Probable Success on the Merits: The underlying litigation in this case is United States v. Chelan County, an action to quiet title in the Stehekin Road. As referenced in the above Statement of Facts, research into the underlying fee ownership of the servient estates across which the right of way easement for parts of the Stehekin Road have been granted is ongoing. The fact that there have been conveyances by Chelan

1 County of its interest in the road (Exhibits 1 and 2 hereto) and
 2 Stipulations between Stehekin property owners and Chelan County
 3 (Exhibit 3 hereto) does not determine the ultimate issue of fee ←
 4 → ownership of the Road and/or the underlying property. The
 5 United States is using the existence of these conveyances and
 6 Stipulations as a basis for its claim of probable success on the
 7 merits. There is no evidence submitted of fee simple ownership
 8 → in the United States of all the property over which the right of ←
 9 way easement for the Stehekin Road lies. Success in the
 10 underlying action would appear to be determined at least in part
 11 by such evidence.

12 2. Possibility of Irreparable Injury: The United
 13 States claims that Chelan County, by performing this routine
 14 road maintenance, will cause irreparable harm and severe
 15 environmental and archaeological damage. The United States
 16 itself, through National Park Service maintenance, has performed
 17 rip-rap projects in the same area that Chelan County has
 18 attempted maintenance. The purported archaeological damage, if
 19 any, would already have been implemented by the United States
 20 itself.

21 Chelan County sought and obtained permits from all
 22 applicable agencies prior to beginning this maintenance project
 23 (see Exhibits 9-12 which are attached hereto and incorporated
 24 herein by this reference as if the same were set forth in full
 25 and the Affidavit of Chelan County Engineer, Lloyd Berry, dated
 26 January 12, 1993, which is served and filed concurrently

1 herewith). The conditions under which the State Department of
2 Ecology approved the Substantial Development Permit addressed
3 the environmental concerns. Chelan County will not cause
4 irreparable harm by this action (see Affidavit of County
5 Engineer, Lloyd Berry, dated December 28, 1992, which is is
6 attached hereto and incorporated herein by this reference as if
7 the same were set forth in full designated Exhibit 13).

8 There have been allegations that completion of this
9 project would jeopardize the designation of the Stehekin River
10 as a Wild and Scenic River. There are three definitions for the
11 Wild and Scenic River designation. A river that is "wild" is
12 "free of impoundments and generally inaccessible except by
13 trail, with watershed or shoreline essentially primitive and
14 waters unpolluted." A "scenic" river is one that is

15 free of impoundments, with shorelines and
16 watersheds still largely primitive and
17 shorelines largely undeveloped, but
18 accessible in places by roads. . . . Wild
19 and scenic rivers are established to
20 maintain the existing conditions --
21 including the natural resource values, the
22 scenery, the recreational uses, the
23 historical values, the local communities,
24 and the existing land use within the river
25 corridor. People have a very important,
26 active role as part of the river corridor
environment. Some of them may be landowners
who reside there on a year-round basis.

27 This information and definitions are taken from the "Questions
28 and Answers on the Wild and Scenic Rivers Program" information
29 prepared by the Forest Service and the National Park Service

~~EXHIBIT N, PAGE 6 OF 8~~ e

MEMORANDUM IN OPPOSITION
TO MOTION FOR PRELIMINARY INJUNCTION - 6

Foreman & Arch
701 North Chelan Street
Post Office Box 3125
Wenatchee, Washington 98807-3125

1 (see Exhibit 14 which is attached hereto and incorporated herein
2 by this reference as if the same were set forth in full).

3 The Stehekin River already has a road along its banks. The
4 National Park Service itself has previously maintained the same
5 area that Chelan County is attempting to maintain. The eventual
6 possible designation of the river as wild and scenic is not
7 jeopardized by this project. This road maintenance project is
8 in harmony with the policy of maintaining existing conditions as
9 pointed out by the National Park Service in its literature.

10

11 B. Serious Questions Raised and Balance of Hardships
12 Tip Sharply in Its Favor.

12

13 The serious questions raised about the possibility of
14 severe environmental damage are addressed by the conditions made
15 a part of the environmental permits issued by the State
16 Department of Ecology and the permission given the County by
17 Arlie Winthers and the Army Corps of Engineers to proceed with
18 this maintenance project. (See Affidavit of Lloyd Berry dated
19 January 12, 1993, served and filed concurrently herewith.)

19

20 The road is already in place and the United States itself
21 has implemented similar road maintenance projects. Any
22 archaeological damage would already have taken place prior to
23 the maintenance project attempted by Chelan County. The
24 environmental questions are answered by the conditions placed on
25 the Substantial Development Permit by the State Department of
26 Ecology.

~~EXHIBIT N, PAGE 7 OF 8~~ e

1 The balance of hardships tips clearly in favor of Chelan
2 County. There is a strong possibility that the area of the road
3 in question will wash out with high water from thaw and snow-
4 melt this spring. (See Affidavit of Lloyd Berry dated January
5 12, 1993, served and filed concurrently herewith.) Chelan
6 County residents and property owners who live above the
7 threatened area risk isolation and threat to their health,
8 safety and welfare if this preliminary injunction is granted.

9 Trial on the merits of this action has not yet been set.
10 If no maintenance is done on the road this spring, the balance
11 of hardship is very sharply tipped in favor of Chelan County
12 residents and property owners. There is a compelling public
13 interest which mandates maintenance of the road. They are the
14 parties exposed to irreparable harm if the Motion is granted.

15 The Plaintiff United States has not demonstrated a
16 combination of probable success on the merits and the
17 possibility of irreparable injury. It has not shown that
18 serious questions are raised and that the balance of hardship is
19 tipped sharply in its favor.

20 WHEREFORE Defendant Chelan County respectfully requests
21 that this Motion for Preliminary Injunction be denied.

22 FOREMAN & ARCH, P.S.

23
24 By: Camille Peterson
25 Camille Peterson, WSBA #020808
Attorneys for Defendant Chelan County

26 CHELACBL.M4

~~EXHIBIT N, PAGE 8 OF 8~~ e

MEMORANDUM IN OPPOSITION
TO MOTION FOR PRELIMINARY INJUNCTION - 8

Foreman & Arch
701 North Chelan Street
Post Office Box 3125
Wenatchee, Washington 98807-3125



United States Department of the Interior

OFFICE OF THE SOLICITOR
PORTLAND REGION, 1102 N. E. HOLLADAY ST.
P. O. Box 5621, Portland, Oregon 97208

~~Ex. R I~~
~~9~~

Page 1 of 2

In reply refer to:

March 16, 1970

Mr. E. R. Whitmore
Attorney at Law
P. O. Box 596
Wenatchee, Washington 98801

Dear Mr. Whitmore:

As you may have been informed we are considering a new approach to the transfer of the Stehekin Valley Road. The local branch of the title company raised some objection to a transfer through the Port District and it was necessary to abandon this idea. Faced with this dilemma I conferred at considerable length with Mr. William Noel, Divisional Manager and Vice-President of Pioneer National Title Company. He suggested that the conveyance should be made pursuant to Section 36.34.220 RCW and stated that the Company would issue a policy if such conveyance were made, subject only to certain exceptions on the portions acquired by prescription which the Government could accept.

I contacted the Bureau of Reclamation through their attorney, Mr. William Burpee, Field Solicitor, P. O. Box 8008, Boise, Idaho 83707. Mr. Burpee informed me that the Project Director was quite willing to accept the road as project related, in that it is used for water and snow measurement. Since these deeds are normally to the United States of America (although it does not matter if deed shows "acting by and through the Bureau of Reclamation"), and since the Bureau is a member of the same Department as the National Park Service, it will be an internal administrative matter for the Bureau to assign responsibility for maintenance of the road to the National Park Service for the reason they have personnel in the area to take care of it and the Bureau does not.

I believe that such a procedure will accomplish the purpose we wish and will raise no question as to the legality of the county's actions since this statute was expressly enacted to permit transfer of county properties to the Bureau of Reclamation.

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Page 2 of 2

If you concur and the commissioners agree I request that you prepare a quitclaim deed for the road. The deed would then be mailed to Mr. Burpee as attorney for the Bureau of Reclamation. I believe Chelan County has made previous conveyances to the Bureau of Reclamation and any previously approved deed form, or any statutory quitclaim deed form, would be acceptable. In the event you do not have a copy of the description of the Stehekin Road I enclose a copy of the survey made by a registered engineer in the employ of the National Park Service. Because of the isolation of the area, there may be some minor errors, but they would be trivial in extent and should cause no one any difficulty.

Thank you for your cooperation.

Sincerely,

E. E. Grant

Edward E. Grant
Attorney

Enclosure

cc: Keith Watkins, Realty Officer
National Park Service
Doneen Building, Room 533
5 North Wenatchee Avenue
Wenatchee, Washington 98801

Roger J. Contor, Superintendent
North Cascades National Park
Sedro Woolley, Washington 98284

18
2/2

UNITED STATES GOVERNMENT

Memorandum

LACH
03-178

TO : Acting Chief, Office of Land Acquisition and Water Resources, WSC
Attention, A.W. Gray
DATE: January 15, 1970

FROM : Realty Officer, Land Acquisition OFFICE, NOCA

SUBJECT: Stehekin Road Survey

Pursuant to our telephone discussion, I am forwarding under separate cover, the Lenon tracings and miscellaneous engineering documents, maps, and what have you that was sent with the tracings for the survey of the Stehekin Road. The survey starts at the northerly boundary of Section 36, Township 33 North, Range 17 East, and proceeds northerly through the private properties to Bridge Creek.

We are also forwarding under separate cover the description prepared by the engineer from this point on. This should be reviewed and checked thoroughly from the field notes enclosed to see if this description is in order and without error. Also, we are forwarding the two instruments that give the description for the existing road connecting at the southerly end of the survey area and running southerly along the Lake to the southerly end of the road in front of the Stehekin Hotel.

Mr. Ed Grant, of the Solicitor's Office in Portland, is waiting on this description, and as it is completed, I will forward it to him; and he will prepare the necessary documents and issue the transfer from the County to the National Park Service via the Chelan County Port Commission.



1/6

EXHIBIT P, PAGE 1 OF 6

RECEIVED	
NATIONAL PARK SERVICE	
Wildlife Service Center Office of Land Acquisition & Water Resources	
JAN 19 1970	
REF. INFO.	DATE
1 CHIEF	
1 ASST. CHIEF	
1 ACQUISITION	
1 APPRAISAL	
1 GRANT & CONF.	
1 LOGS	
1 EXCHANGE	
1 BUILDINGS	
1 WATER RESOURCES	
1 FILE	

*Please expedite
review*
[Signature]
1/19

December 29, 1969

DEC 31 4 9:42

LACH
03-128

Memorandum

To: District Director, Northwest District
From: Civil Engineer, Mount Rainier
Subject: Stehekin Road Survey

The survey of the Stehekin Road, Lake Chelan National Recreation Area, and the calculations and drawings are now completed. I am sending the data directly to the Superintendent, North Cascades National Park for his review, and forwarding to Mr. Keith Watkins.

The drawings are to the same scale (full size, 1" = 400') as drawing number 168-30,001 so that all the data can easily be transferred by the Land Acquisition Office, WSC.

→ Suggestions for a description and the list of bearings and distances are also enclosed in the material sent to Mr. Contor.

(Sgt.) Lawrence E. Echols

Lawrence E. Echols

cc: Supt. North Cascades

Separate cover (Supt. North Cascades):

Field notes, 53 pages
Calculations, 8 sheets
Drawings, 4 sheets
Centerline Stehekin Road, Bearings and Distances
Misc. deeds, sketches and H.E.S. drawings

~~EXHIBIT P, PAGE 2 OF 6~~

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2/6

Description of Stehekin Road

A legal description could be written using the following data:

1. Stehekin to Ranger Station is covered in Description "B" of Quitclaim Deed, Blankenship to Chelan County, Book 203, page 40.
2. Stehekin to Brownfields is covered in Description "A" of Quitclaim Deed, Chelan Electric Company to Chelan County, Book 201, page 543.
3. Brownfields to end of Chelan Box and Mfg. Co. is covered by listing the Bearings and Distances from the calculation sheet of the centerline survey run by the National Park Service in November, 1969.
4. End of Chelan Box and Mfg. Co. to Rock Island Mining Claim is all in Federal Government land and not involved. It was never deeded to the County by the U. S. Forest Service.
5. Rock Island Mining Claim to Bridge Creek bridge is covered by listing the Bearings and Distances from the calculation sheet of the centerline survey run by the N.P.S. in November 1969.
6. Bridge Creek to Cottonwood Creek campground is all in Federal Government land and was never deeded to the county by the U. S. Forest Service.

*INCLUDES
BANK PROP.* →



EXHIBIT P, PAGE 3 OF 6

19
3/6

The Stehekin Road centerline is described as follows:

Beginning at a point in the west boundary of the east one-half of the east one-half of the northwest quarter of the northwest quarter of Section 36, Township 33 North, Range 17 East, Willamette Meridian, 30 feet south of the south line of Section 25, said point being the center of the right-of-way described in a quit claim deed from the Chelan Electric Company to Chelan County dated November 3, 1927 and recorded in Book 201, Page 543, thence north $37^{\circ} 24'$ west 187.2 feet, thence north $23^{\circ} 41'$ west 1,332.1 feet, thence north $39^{\circ} 50'$ west 692.2 feet to a point on the east boundary line of Section 26, Township 33 North, Range 17 East, W.M., distant 720.7 feet south of the east quarter corner of Section 26, thence north $39^{\circ} 50'$ west 434.2 feet, thence north $48^{\circ} 40'$ west 533.2 feet to a point on the north line of the southeast quarter of Section 26, 643.1 feet west of the east quarter corner of Section 26, thence north $32^{\circ} 39'$ west ^{550.6}~~530.6~~ feet, thence north $15^{\circ} 10'$ west 239.7 feet, thence north $2^{\circ} 46'$ west 335.2 feet, thence north $1^{\circ} 58'$ east 277.1 feet, thence north $13^{\circ} 14'$ west 538.7 feet, thence north $40^{\circ} 46'$ west 468.1 feet, thence north $6^{\circ} 4'$ west ~~148~~ 413.2 feet to a point on the north line of Section 26, 1321.8 feet east of the north quarter corner of Section 26, thence north $6^{\circ} 4'$ west 148.1 feet, thence north $39^{\circ} 4'$ west 746.1 feet,

EXHIBIT P, PAGE 4 OF 6



thence north $67^{\circ} 38'$ west 426.0 feet, thence north $50^{\circ} 59'$ west 351.3
 feet, thence south $52^{\circ} 42'$ west 313.6 feet, ^{thence south $84^{\circ} 6'$ west 597.2} thence north $68^{\circ} 55'$ west
 439.9 feet, thence north $34^{\circ} 43'$ west 727.2 feet, thence north $34^{\circ} 1'$
 west 730.0 feet, thence north $63^{\circ} 26'$ west 196.3 feet, thence north
 $47^{\circ} 6'$ west 540.5 feet, thence north $57^{\circ} 56'$ west 298.1 feet, thence north
 $52^{\circ} 38'$ west 684.7 feet, thence north $37^{\circ} 34'$ west 341.8 feet, thence
 north $23^{\circ} 57'$ west 710.6 feet, thence north $57^{\circ} 48'$ west 134.1 feet,
 thence north $66^{\circ} 40'$ west 244.8 feet, thence north $35^{\circ} 10'$ west 194.0
 feet, thence north $59^{\circ} 38'$ west 245.1 feet, thence north 37° west 263.4
 feet, ^{thence north $44^{\circ} 43'$ west 598.3 feet} thence north $44^{\circ} 20'$ west 412.0 feet, thence north $56^{\circ} 10'$ west
 282.6 feet, thence north $38^{\circ} 15'$ west 300.5 feet, thence north $19^{\circ} 39'$
 west 609.9 feet to a point that bears north $87^{\circ} 46'$ east distant 51.5'
 from corner number 4, H.E.S. number 148, thence north $71^{\circ} 56'$ west
 285.6 feet, thence south $87^{\circ} 11'$ west 392.4 feet, thence north $62^{\circ} 12'$
 west 753.3 feet, thence north $44^{\circ} 12'$ west 866.3 feet, thence north
 $79^{\circ} 33'$ west 705.6 feet, thence north $68^{\circ} 56'$ west 201.7 feet to a
 point that bears south $40^{\circ} 40'$ west distant 70.3 feet from corner
 number 10, H.E.S. number 148, thence north $68^{\circ} 56'$ west 228.2 feet, thence north-58
 north $58^{\circ} 23'$ west 819.2 feet, thence north $35^{\circ} 32'$ west 656.8 feet to
 a point that bears north $54^{\circ} 41'$ east distant 175.3 feet from corner
 number 3, H.E.S. number 233, thence north $61^{\circ} 43'$ west 806.4 feet,
 thence north $75^{\circ} 7'$ west 298.9 feet, thence north $15^{\circ} 6'$ west 182.0 feet,
 thence north $56^{\circ} 38'$ west 780.9 feet to a point which bears south $71^{\circ} 9'$
 west distant 326.7 feet from corner number 2, H.E.S. number 233, thence
 north $47^{\circ} 15'$ west 674.1 feet, thence north $65^{\circ} 7'$ west 1,465.1 feet to

EXHIBIT P, PAGE 5 OF 6

UNITED STATES

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5/6

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a point which bears south $35^{\circ} 19'$ west distant 410.5 feet from corner number 1, H.E.S. number 149, thence north $65^{\circ} 7'$ west 195.4 feet, thence north $60^{\circ} 25'$ west 1084.8 feet, thence south $81^{\circ} 42'$ west 1065.8 feet, thence north $87^{\circ} 41'$ west 695.5 feet, thence north $74^{\circ} 44'$ west 932.4 feet, thence north $87^{\circ} 31'$ west 620.0 feet, thence north $49^{\circ} 30'$ west 481.0 feet, north $41^{\circ} 29'$ west 422.1 feet, thence north $64^{\circ} 49'$ west 378.9 feet, thence north $61^{\circ} 45'$ west 1024.1 feet, thence south $81^{\circ} 24'$ west 150.9 feet, thence south $52^{\circ} 18'$ west 425.2 feet, thence south $73^{\circ} 36'$ west 737.1 feet, thence north $83^{\circ} 19'$ west 421.8 feet, thence north $79^{\circ} 36'$ west 461.6 feet, thence north $83^{\circ} 25'$ west 838.5 feet, thence north $52^{\circ} 22'$ west 610.6 feet, thence south $88^{\circ} 13'$ west 882.1 feet, thence north $87^{\circ} 27'$ west 290.8 feet to a point that bears north $3^{\circ} 23'$ west distant 66.5 feet from corner number 6, H.E.S. number 150, at which point the road enters land formerly under the jurisdiction of the U.S. Forest Service and now under the Department of Interior, National Park Service.

Leaving the lands now under the jurisdiction of the Department of Interior, National Park Service and beginning at a point in the center line of the road on the south east end line of the Rock Island Mining claim which bears north $34^{\circ} 46'$ east distant 370.7 feet from the southwest corner of the Rock Island mining claim, thence north $39^{\circ} 19'$ west 251.8 feet, thence north $48^{\circ} 34'$ west 436.4 feet, thence north $29^{\circ} 53'$ west 349.6 feet, thence north $7^{\circ} 18'$ west 464.9 feet, thence north $3^{\circ} 45'$ east ^{141.6} ~~141.6~~ feet to a point on the northwest end line of the Rock Island mining claim which bears south $34^{\circ} 46'$ west distant 134.3 feet from corner number 1.

~~EXHIBIT P, PAGE 6 OF 6~~



Date OCTOBER 27, 1969

MINUTES OF THE MEETING OF THE BOARD OF CHELAN COUNTY COMMISSIONERS (MONDAY)

The Board met at 10:00 a.m. with all members present.

The minutes of the meeting of October 20, 1969 were read and approved as read.

Received request for budget transfer from the Planning Department for the sum of \$1,585.00. Moved by Commissioner Trefry, seconded by Commissioner Hower and carried unanimously that the Board authorize the budget transfer for the Planning Department as follows:

BUDGET TRANSFER
Planning Department \$1,585.00

Due to necessary expenditures unforeseen at the time of adoption of the 1969 budget, it is requested by George R. Volker that the following transfer (s) within the same category be made:

OFFICE OR DEPARTMENT: Planning

FROM: Salaries & Wages	TO: Salaries & Wages
Planning Aide II \$1,585.00	Extra Help \$1,585.00

Having approved the above transfer (s) the Board of County Commissioners hereby authorizes the County Auditor to execute said transfer (s) to be effective as of this date.

Dated at Wenatchee, Washington, this 27th day of October 1969.

B-4a

Received from the Aetna Insurance Co. new policy #34-77-96 for the Mary Kekot property. This policy had been approved by Chairman of the Board, April, 1969.

I-1a

At 11:00 a.m. bids for the West Malaga Road Guard Rail were opened and read:

Frank Gurney, Spokane,	\$25,373.75
H. M. Haneke Corp. Spokane	27,427.50

Moved by Commissioner Trefry, seconded by Commissioner Hower and carried unanimously that the bid for the West Malaga Road Guard Rail be awarded to the low bidder - Frank Gurney Inc. for the sum of \$25,373.75.

B-1a

Received request for budget transfer from the Sheriff's Department for the sum of \$384.07. Moved by Commissioner Hower, seconded by Commissioner Trefry and carried unanimously that the Board authorize the budget transfer for the Sheriff's Department as follows:

BUDGET TRANSFER
Sheriff's Dept. \$384.07

Due to necessary expenditures unforeseen at the time of adoption of the 1969 budget, it is requested by Richard Mickell, Sheriff that the following transfer (s) within the same category be made:

OFFICE OR DEPARTMENT: Chelan County Sheriff's Office

FROM:	TO:
Traffic #2 \$320.00	Extra Help \$384.07
Outpost Station 64.07	

Having approved the above transfer (s) the Board of County Commissioners hereby authorizes the County Auditor to execute said transfer (s) to be effective as of this date.

Dated at Wenatchee, Washington this 27th day of October, 1969.

B-4a

At 12 noon the Board recessed for lunch and reconvened at 1:00 p.m.

At 3:00 p.m. a hearing was held re: emergency in the Current Expense Budget - Prosecuting Attorney Department. No one appeared to protest. Moved by Commissioner Hower, seconded by Commissioner Trefry and carried unanimously that the Board pass RESOLUTION NO. 290-S. Re: emergency in the Prosecuting Attorney's office as follows:

RESOLUTION NO. 290-S
Emergency-Prosec. Atty. \$2,112.00

WHEREAS, an emergency exists in the Prosecuting Department of the 1969 Chelan County Current Expense Budget in the amount of \$2,112.00, such emergency due to increase in salary by the 1969 Legislature; and

WHEREAS, notice of hearing for said emergency appropriation was duly published in the Wenatchee Daily World and said hearing was duly held on October 27, 1969 at 3:00 p.m. and no one appeared to protest,

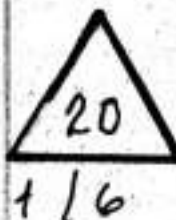
NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Chelan County Commissioners do hereby determine an emergency to exist and appropriate the amount of \$2,112.00 as follows:

Salaries & Wages, Prosecuting Attorney - \$1,989.81
Maintenance & Operation i-f Retirement 122.19
Total \$2,112.00

Dated at Wenatchee, Washington this 27th day of October, 1969.

At 3:30 Roger Center, Supt. of the North Cascades National Park, George Wagner, District Manager, Stehkin and several other representatives of the Park Service appeared to discuss the future of the road located in the Stehkin Valley.

continued*



Date: December 8, 1969

MINUTES OF THE MEETING OF THE BOARD OF CHELAN COUNTY COMMISSIONERS (continued)

Received and FILED copy of memo from the Joint Planning office re: Wenatchee Urban area water and sewer study. C-8a

At 3:00 p.m. a hearing was held re: emergency in the Sheriff's Department Budget. No one appeared to protest. Moved by Commissioner Trefry, seconded by Commissioner Hower and carried unanimously that the Board pass RESOLUTION NO. 600-E re: emergency in the Sheriff's budget as follows:

RESOLUTION NO. 600-E
Re: Emergency - Sheriff's Dept.

WHEREAS, an emergency exists in the Sheriff's Department of the 1969 Chelan County Current Expense Budget, within Maintenance and Operation in the amount of \$6,000.00, said emergency due to the increased inflationary trends that are reflected in higher costs; and

WHEREAS notice of hearing for said emergency appropriation was duly published in the Wenatchee Daily World and said hearing was duly held on December 8, 1969 at 3:00 p.m. and no one appeared to protest,

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Chelan County Commissioners do hereby determine an emergency to exist and appropriate the amount of \$6,000.00 as follows:

Maintenance & Operation	3f	\$2,000.00
	3j	4,000.00
Total		\$6,000.00

DATED at Wenatchee, Washington this 8th day of December, 1969.

Received and FILED letter from Monson, Nash, Putrell and Associates re: acceptance of construction of Wenatchee River County Park by Henry J. Gannon. Moved by Commissioner Trefry, seconded by Commissioner Hower and carried unanimously that the Board accept as complete the Henry J. Gannon contract for the Wenatchee River County Park. C-8a

Roger Conner of the U. S. Forest Service appeared to discuss the Forest Service objection to the removal of fill dirt on the Stehekin Valley Road to the head of Lake Chelan. He also discussed the legality of the County turning this road over to the Forest Service. No action was taken by the Board on this matter and the Forest Service will proceed on their own.

At 3:30 p.m. the following persons appeared to discuss the formation of a pest disease control Board: Bill Rushmore, Hans Marti, Leo Sax and Chuck Underwood. After the discussion of this matter it was moved by Commissioner Trefry, seconded by Commissioner Hower and carried unanimously that the Board would set a hearing date for this formation of pest control board on January 5th, 1970.

Moved by Commissioner Trefry, seconded by Commissioner Hower and carried unanimously that the Board authorize Bud Couch to use the garage on the County Right of Way at Granite Falls until January 1, 1971. County Engineer will write letter of authorization to Mr. Couch. Copy FILED. C-8a

Received requests for budget transfers from the following departments:

Assessor	-----	\$616.70
Clerk	-----	2,031.59
Garage	-----	210.00
Planning	-----	616.00
Prosecuting Attorney	-----	97.00
School Supt.	-----	1,600.00
Superior Court Judge	-----	300.00
Superior Court Probation	-----	341.67

Moved by Commissioner Hower, seconded by Commissioner Trefry and carried unanimously that the Board authorize the above transfers as follows:

OFFICE OR DEPARTMENT: School Superintendent
FROM: Salaries and Wages
Deputy School Supt. \$1600.00

TO: Salaries and Wages
School Supt. \$1600.00

OFFICE OR DEPARTMENT: Superior Court Judge
FROM: Salaries & Wages
Bailiff-Woman \$300.00

TO: Salaries and Wages
Add'l. Court Commissioner \$300.00

OFFICE OR DEPARTMENT: Superior Court Probation
FROM: Salaries and Wages
Probation Counselor I \$341.67

TO: Salaries & Wages
Probation Counselor II \$341.67

OFFICE OR DEPARTMENT: Assessor
FROM: Salaries & Wages
Extra Help \$16.70
Maintenance & Operation
3j 600.00

TO: Salaries & Wages
Assessor \$16.70
Capital Outlay
4d 600.00

OFFICE OR DEPARTMENT: Clerk
FROM: Maintenance & Operation
Laboratory Supplies 3d 2,031.59

TO: Capital Outlay
4d equipment 2,031.59

OFFICE OR DEPARTMENT: Garage
FROM: Maintenance & Operation
2i Utilities 210.00

TO: Salaries & Wages
Janitor 210.00

OFFICE OR DEPARTMENT: Planning
FROM: Salaries & Wages
Associate Planner #3 616.00

TO: Salaries & Wages
Extra Help 616.00

continued*



2/6

Date March 16, 1970

MINUTES OF THE MEETING OF THE BOARD OF CHELAN COUNTY COMMISSIONERS (continued)

Received and FILED from the U. S. Coast Guard public notice No. 70-6 re: proposed bridge over the Columbia River at Olds, Washington. C-8a

Received and FILED letter from the Washington State Association of Counties re: resolution concerning gas tax allocation percentages to counties. C-8a

Received and FILED copy of the State of Washington Department of Personnel Contract for participation of Local Government merit program (agreement between Chelan County and the State Department of Civil Defense. A-5a

* Received and FILED copy of letter from Roger Contor, Superintendent of the North Cascades National Park re: transfer of Stehekin Road. C-8a

Some time was spent checking and signing vouchers and the meeting adjourned at 5:00 p.m.

BOARD OF CHELAN COUNTY COMMISSIONERS

BENTON M. BANGS, CHAIRMAN

Claude A. Hoyer

CLAUDE A. HOYER

Harmer J. Trefry

HARMER J. TREFRY

ATTEST: *Earl Miller*

EARL MILLER, CLERK OF THE BOARD

20
3/6

Date March 23, 1970

MINUTES OF THE MEETING OF THE BOARD OF CHELAN COUNTY COMMISSIONERS (continued)

At 2:30 a hearing was held re: Local sales tax. No one appeared to protest. Moved by Commissioner Trefry, seconded by Commissioner Hower and carried unanimously that the Board pass RESOLUTION NO. 635-E re: local sales tax as follows:

RESOLUTION NO. 635-E
Re: Local sales tax

A RESOLUTION enacting a one-half of one percent sales tax.

WHEREAS the Washington State Legislature in its extraordinary session held in 1970 authorized counties to enact resolutions imposing a sales tax in the maximum amount of one-half of one percent; and

WHEREAS Chelan County is in need of additional revenue and the Chelan County Commissioners deem it to be the best interests of the county to impose said tax at the earliest possible date which is April 1, 1970;

NOW, THEREFORE, be it hereby resolved by the Board of the Chelan County Commissioners as follows:

Section 1: There is hereby imposed a sales of use tax, as the case may be, upon every taxable event, as defined in Section 3, Chapter 94, Laws of 1970, First Extraordinary Session, occurring within the County of Chelan. The tax shall be imposed upon and collected from those persons from whom the state sales or use tax is collected pursuant to Chapters 82.08 and 82.12 RCW.

Section 2: The rate of the tax imposed by Section 1 shall be one-half of one percent of the selling price or value of the article used, as the case may be.

Section 3: The administration and collection of the tax imposed by this resolution shall be in accordance with the provisions of Section 6, Chapter 94, Laws of 1970, First Extraordinary Session.

Section 4: There shall be allowed against the tax imposed by this resolution a credit for the full amount of any city sales or use tax imposed upon the same taxable event, as defined in Section 3, Chapter 94, Laws of 1970, First Extraordinary Session, upon which a tax is imposed by this resolution.

Section 5: The County hereby consents to the inspection of such records as are necessary to qualify the County for inspection of records of the Department of Revenue, pursuant to RCW 82.32.330.

Section 6: The County is hereby authorized to enter into such contract with the Department of Revenue of the State of Washington for the administration of tax as may be appropriate.

Section 7: Any seller who fails or refuses to collect the tax as required with the intent to violate the provisions of this resolution or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this resolution shall be guilty of a misdemeanor.

Section 8: This resolution shall take effect April 1, 1970.

DATED at Wenatchee, Washington this 23rd day of March, 1970.

* Received and FILED a copy of a letter from the U. S. Department of the Interior re: transfer of the Stehkin Road. A description of the Stehkin Road was also included. C-8a

* Received and FILED letter from Virgil L. Fellows re: the maintenance of the Stehkin Valley Road. No action was taken on this matter. C-8a

Received and FILED a copy of the minutes of the Chelan-Douglas District Board of Health for February 18, 1970 and March 18, 1970. C-8a

Received and FILED a letter from Bernice Bacharach re: agreement for Health District Services. No action was taken on this matter. C-8a

Received and FILED from the Water Pollution Control Commission news release and notice of intention to adopt and proposed rules and regulations for Development, Submission, and Adoption of Water Pollution Control and Abatement Plans for Sewage Drainage Basins. C-8a

Received and FILED from the State Department of Health Legislative Bulletin dated March 30, 1970.

Received and FILED memo from the State Department of Highways re: 1971 FAS Allocation to Counties. C-8a

Received and FILED a copy of the 1969 report of the County Juvenile Department. C-8a

Received and FILED a copy of letter from the County Road Administration Board re: organization chart/supervisory employees. C-8a

Received and FILED a copy of the proposed regulations for Snowmobile use. C-8a

Some time was spent checking and signing vouchers and the meeting adjourned at 5:00 p.m.

BOARD OF CHELAN COUNTY COMMISSIONERS

BENTON M. BAKER, CHAIRMAN

CLAUDE A. HOWER

ATTEST:

EARL MILLER, CLERK OF THE BOARD

HOMER J. TREFRY

20

4/6

Date March 30, 1970

MINUTES OF THE MEETING OF THE BOARD OF CHELAN COUNTY COMMISSIONERS (continued)

effective as of this date.

Dated at Wenatchee, Washington, this 30th day of March, 1970.

B-4a

Received and FILED letter from the Downtown Business Association re: endorsement of the Wenatchee Chamber of Commerce regional Planning Enabling Act.

C-8a

Received and FILED letter from the United States Forest Service re: fire hazard road closures.

C-8a

Received and FILED letter from the Washington State Liquor Control Board re: discontinuance of operations at Harverene Resort.

L2a

Received and FILED letter from the General Services Administration re: sale of the Cashmere Ranger site.

C-8a

Received and FILED from the State Highway Commission a "corrected report" re: 1971 F&S allocation to counties F&S fund statement.

C-8a

Received and FILED letter from the League of Women Voters of Chelan County re: meeting to be held April 3, 1970.

C-8a

Received and FILED the signed agreement with the Department of Revenue for administration of the local sales tax.

A-5a

Received and FILED the report of Cooperative Snohomish meeting held March 18, 1970.

C-8a

Moved by Commissioner Trifry, seconded by Commissioner Hower and carried unanimously that the Board approve and ordered FILED with the County Clerk, rider No. 10 - Hartford Insurance, Bond No. 3077415, County employees blanket bond adding the County Coroner.

I-1a

Moved by Commissioner Hower, seconded by Commissioner Trifry and carried unanimously that the Board accept the proposal of Craftsman Printing Inc. to furnish 1000 copies of the traffic code for the sum of \$270.90.

A-5a

Moved by Commissioner Trifry, seconded by Commissioner Hower and carried unanimously that the Board authorize an increase in the salary of the Custodian of Chelan County Rental property from \$75.00 to \$125.00 starting April 1, 1970.

* Received and FILED letter from the Chelan County Prosecuting Attorney re: Stehakin Valley Road.

C-8a

MOVED by Commissioner Trifry, seconded by Commissioner Hower and carried unanimously that the Board pass RESOLUTION NO. 627-E re: conveyance of the Stehakin Road as follows:

RESOLUTION NO. 627-E

A RESOLUTION authorizing the conveyance to the United States of the Stehakin Valley Road.

WHEREAS the United States has acquired title to virtually all of the property served by the Stehakin Valley Road and has included the same within the newly created North Cascades National Park thereby leaving said road to service virtually no citizens of Chelan County; and

WHEREAS said road is of value to the United States acting by and through the Bureau of Reclamation for use in making water and snow measurements and surveys; and

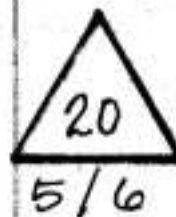
WHEREAS, by the laws of 1963, Chapter 4, the legislature has authorized counties to convey property to the United States for flood control, navigation and allied purposes and said road is no longer of value to the county for county purposes but if of value to the United States for said federal purposes;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF CHELAN COUNTY COMMISSIONERS as follows:

That Chelan County, a Municipal Corporation of the State of Washington convey to the United States of America, acting by and through the Bureau of Reclamation, by Quit Claim Deed the Stehakin Valley Road, the legal description to which is marked "Description of the Stehakin Road" attached hereto and by this reference made a part hereof.

DATED at Wenatchee, Washington, this 30th day of March, 1970.

SEE PAGE 221 for COPY OF DESCRIPTION OF THE STEHAKIN ROAD. ATTACHED TO PAGE 221.



Commissioners' Journal—Chelan County, Washington

Date March 30, 1970

MINUTES OF THE MEETING OF THE BOARD OF CHELAN COUNTY COMMISSIONERS (continued)

* Moved by Commissioner Trefry, seconded by Commissioner Hower and carried unanimously that the Board authorize the Chairman and the Clerk of the Board to negotiate the Quit Claim Deed for the Stehekin Road to the United States Bureau of Reclamation. Deed recorded in the Auditor's vault. C-Ba

Received and FILED letter from the Interstate Association of Public Land Counties re: meeting May 14 and 15 at Lakeview, Oregon. C-Ba

Received and FILED copy of a letter from the Parks Administrator to the Interagency Committee re: \$310.00 surcharge. C-Ba

The Board approved the new application No. 357299 for Class D license for the Chandelier Inn, Leavenworth, Washington. L-1a

Received and FILED letter from the Pierce County Utilities Department re: County Area Service Act. Copy of questionnaire as answered FILED.

Some time was spent checking vouchers and the meeting adjourned at 5:00 p.m.

BOARD OF CHELAN COUNTY COMMISSIONERS

BENTON M. HANES, CHAIRMAN

CLAUDE A. HOWER

HOMER J. TREFRY

ATTEST:

EARL MILLER, CLERK OF THE BOARD.

This is to certify that copies of the minutes of the March meetings of the Chelan County Commissioners were posted in the following places; one copy on the Bulletin Board near the museum, one copy in Memorial Park and one copy in the main lobby. These minutes were posted April 22, 1970.

EARL MILLER, CHELAN COUNTY AUDITOR

20
6/6

DEPARTMENT OF THE INTERIOR
CERTIFICATE OF INSPECTION AND POSSESSION



I, **Keith M. Watkins**, a **Realty Officer**
of the Dept of the Interior hereby certify that on the 22nd day of April, 19 70
I made a personal examination and inspection of that certain tract or parcel of land situate in the
County of Chelan, State of Washington
designated as Tract No. 03-128 and containing ----- acres, (proposed to be)
acquired by the United States of America in connection with the North Cascades National
Park Project, from County of Chelan

03-128

~~under construction proceeding entitled~~
~~Guidance~~

1. That I am fully informed as to boundaries, lines and corners of said tract; that I found no evidence of any work or labor having been performed or any materials having been furnished in connection with the making of any repairs or improvements on said land; and that I made careful inquiry of the above-named vendor and of all occupants, if any, of any land and ascertained that nothing had been done on or about said premises within the past 6 months that would entitle any person to a lien upon said premises for work or labor performed or materials furnished.

2. That I also made inquiry of the above-named vendor and of all occupants, if any, of said land as to his/their rights of possession and the rights of possession of any person or persons known to him/them, and neither found any evidence nor obtained any information showing or tending to show that any person had any rights of possession or other interest in said premises adverse to the rights of the above-named vendor or of the United States of America.

3. That I was informed by the above-named vendor and by all other occupants, if any, that to the best of his/their knowledge and belief there is no outstanding unrecorded deed, mortgage, lease, contract, or other instrument adversely affecting the title to said premises.

4. That to the best of my knowledge and belief after actual and diligent inquiry and physical inspection of said premises there is no evidence whatever of any vested or accrued water rights for mining, agricultural, manufacturing, or other purpose; nor any ditches or canals constructed by or being used thereon under authority of the United States, nor any exploration or operations whatever for the development of coal, oil, gas, or other minerals on said lands; and that there are no possessory rights now in existence owned or being actively exercised by any third party under any reservation contained in any patent or patents heretofore issued by the United States for said land; which are not intended to be left outstanding by reservation or exception from the estate being acquired or which have not been waived in writing.

5. That to the best of my knowledge and belief based upon actual and diligent inquiry there is no outstanding right whatsoever in any person to the possession of said premises nor any outstanding right, title, interest, lien, or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records or which is set out below.

6. That said premises are now wholly unoccupied and vacant except for the occupancy of
as tenant(s) at will, from whom disclaimer(s) of all rights, title, and interest in and to said premises, executed on the day of , 19 , has/have been obtained and the following:

Name	Address	Statement of Interest Claimed
------	---------	-------------------------------

7. The Estate conveyed to the Secretary of the Interior according to the Chelan County Title Company was an easement.

8. I have been informed by the Chelan County Engineer's Office that the Stehekin County Road was used by the Public continuously for more than Seven years prior to 1937, and that Chelan County maintained said road during APPROX during this period.

EXHIBIT L, PAGE 1 OF 1

UNITED STATES

309

(Name)

(Title)

(Name)

(Title)

DR 16

American Land Title Association
U. S. Policy Form—1963

NOCR
Chelan Co.

03-128
easement

POLICY OF TITLE INSURANCE

Issued by

P. 5-10/4

Pioneer National Title Insurance Company

719 SECOND AVENUE • SEATTLE, WASHINGTON 98104 • TELEPHONE 682-6600

PIONEER NATIONAL TITLE INSURANCE COMPANY, a CALIFORNIA corporation, herein called the Company, for a valuable consideration

HEREBY INSURES

THE UNITED STATES OF AMERICA

hereinafter called the Insured, against loss or damage not exceeding the amount stated in Schedule A, together with costs and expenses which the Company may become obligated to pay as provided in the Conditions and Stipulations hereof, which the Insured shall sustain by reason of:

any defect in or lien or encumbrance on the title to the estate or interest covered hereby in the land described or referred to in Schedule A, existing at the date hereof, not shown or referred to in Schedule B or excluded from coverage by the General Exceptions;

all subject, however, to the provisions of Schedules A and B and to the General Exceptions and to the Conditions and Stipulations hereto annexed; all as of the date shown in Schedule A, the effective date of this policy.

In witness whereof, PIONEER NATIONAL TITLE INSURANCE COMPANY has caused this policy to be authenticated by the facsimile signatures of its President and Secretary and a facsimile of its corporate seal to be hereunto affixed, but this policy is not valid until countersigned by either a duly authorized agent or representative of the Company.

PIONEER NATIONAL TITLE INSURANCE COMPANY

By

George B. Garber
President

By

Richard H. Houlett
Secretary



Countersigned and Validated

By *Janet L. Lohr*
Authorized Signatory



EXHIBIT M, PAGE 1 OF 8

UNITED STATES

304

SCHEDULE A

Premium \$ 22.50

Policy No. P-35949

Amount \$ 1,000.00

Effective

Date NOVEMBER 5, 1969, AT 8 A.M.

1. The estate or interest in the land described or referred to in this schedule, covered by this policy, is:

EASEMENT FOR HIGHWAY PURPOSES OVER AND ACROSS A STRIP OR PARCEL OF LAND 60 FEET IN WIDTH, THROUGH THE SECTIONS DESCRIBED AS PARCEL A BELOW, AS CONTAINED IN DEED DATED NOVEMBER 3, 1927, AND RECORDED NOVEMBER 18, 1927, IN VOLUME 201 OF DEEDS, PAGE 543, UNDER AUDITOR'S FILE NO. 160265.

AN EASEMENT FOR HIGHWAY PURPOSES OVER AND ACROSS A STRIP OR PARCEL OF LAND 60 FEET IN WIDTH THROUGH PARCEL B AS DESCRIBED IN DEED DATED DECEMBER 15, 1927, AND RECORDED DECEMBER 28, 1927, IN VOLUME 203 OF DEEDS, PAGE 40, UNDER AUDITOR'S FILE NO. 161305.

2. Title to the estate or interest covered by this policy at the date hereof is vested in:

CHELAN COUNTY, A MUNICIPAL CORPORATION

3. The land referred to in this policy is situated in the County of CHELAN
Washington, and is described as follows:

State of

PARCEL "A":
SECTION 31, TOWNSHIP 33 NORTH, RANGE 18, EAST, W.M. AND
SECTION 36, TOWNSHIP 33 NORTH, RANGE 17, EAST, W.M.

PARCEL "B":
GOVERNMENT LOT 3, SECTION 6, TOWNSHIP 32 NORTH, RANGE 18, EAST,
W.M.



~~EXHIBIT M, PAGE 2 OF 8~~

SCHEDULE B

This policy does not insure against loss or damage by reason of the following:

1. RESERVATION CONTAINED IN DEED
EXECUTED BY : CHELAN ELECTRIC COMPANY, A CORPORATION
RECORDED : NOVEMBER 18, 1927 AS TO PARCEL A, AND
DECEMBER 28, 1927 AS TO PARCEL B
VOLUME/PAGE : 201/543 AS TO PARCEL A, AND
203/40 AS TO PARCEL B
AUDITOR'S NO. : 160265 AS TO PARCEL A, AND 161305 AS TO
PARCEL B
AS FOLLOWS :
THE RIGHT, IN PERPETUITY, TO IMPOUND THE WATERS OF LAKE CHELAN
AND TO RAISE THE SAME TO THE ELEVATION OF 1100 FEET, STILL
WATER MEASUREMENT, ABOVE MEAN SEA LEVEL, AND THEREBY INUNDATE
AND OVERFLOW TO SAID ELEVATION THE ABOVE DESCRIBED PROPERTY AND
DAMAGE THE SAME BY WAVE WASH, EROSION, SEEPAGE, INUNDATION OR
ANY SIMILAR CAUSE, WHICH MAY RESULT FROM THE HOLDING OF SAID
WATERS UP TO SAID MAXIMUM ELEVATION OF 1100 FEET, STILL WATER
MEASUREMENT, ABOVE MEAN SEA LEVEL.
2. EASEMENT FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES
FOR : HIGHWAY OR THOROUGHFARE PURPOSES
IN FAVOR OF : UNITED STATES DEPARTMENT OF AGRICULTURE
RECORDED : APRIL 12, 1919
VOLUME/PAGE : 139/430
AUDITOR'S NO. : 73598
3. EASEMENT FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES
FOR : HIGHWAY OR THOROUGHFARE PURPOSES
IN FAVOR OF : UNITED STATES DEPARTMENT OF AGRICULTURE
RECORDED : NOVEMBER 30, 1925
VOLUME/PAGE : 189/193
AUDITOR'S NO. : 136529
AFFECTS : PARCEL A
4. QUESTION AS TO NATURE, EXTENT, AND INTEREST OF VESTEE AS ACQUIRED
AND HELD, AND ITS AUTHORITY TO SELL AND CONVEY SUCH INTEREST.

22
3/8

~~EXHIBIT M, PAGE 3 OF 8~~ e

FEB 10 1970

LI425(WSC)LW
NOCA
CHelan County
Trs Nos 03-128-A
and 03-128-B

Farrell
S. H. H.
OFF

03-128

Pioneer National Title Insurance Co.
203 Orondo Avenue
P.O. Box 290
Wenatchee, Washington 98801

Gentlemen:

Pursuant to our telephone conversation with Mr. Joseph Seabeck of your office, we are enclosing two title policies, Nos. P-35949 and P-35950.

Please condense these descriptions in one policy and designate them as Parcels A and B.

Also enclosed is your invoice. Please submit a corrected invoice reciting the new policy number.

Sincerely yours,

SHERMAN W. SWENSON

John E. Ritchie
Chief, Office of Land Acquisition
and Water Resources

Enclosures - 3

22
4/8

DJFarrell:ahf
2-10-70

EXHIBIT M, PAGE 4 OF 8

UNITED STATES

310



Office of the Attorney General
Washington, D. C. 20530

D-2007-607
2-10-10-607
11-10-607

July 2, 1970

Honorable Walter J. Hickel
Secretary of the Interior
Washington, D. C.

My dear Mr. Secretary:

→ An examination has been made of the title data relating to certain highway easements, Tract No. 03-128, North Cascades National Park Project in Chelan County, Washington. The interest of Chelan County in these easements is to be acquired by authority of existing legislation. ←
The file number of this Department is 33-49-1201-31.

The easements are described in the enclosed insurance policy No. P-35949, dated as of November 5, 1969, which was prepared by Pioneer National Title Insurance Company and which is satisfactory in form.

The insurance policy and accompanying data disclose the title to the highway easement to be vested in Chelan County, a municipal corporation, subject to:

1. Rights or claims of persons in possession, if any, not shown of record.
2. Mechanics' liens, if any, not shown of record.
3. Existing easements for canals, ditches, flumes, pipelines, railroads, highways, roads, telephone, telegraph, power transmission lines and public or public utilities.
4. Right to perpetually impound to waters of Lake Chelan and to raise elevation thereof as noted at item No. 1, Schedule B of the title policy.

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5/8

~~EXHIBIT M, PAGE 5 OF 8~~ e

5. Easements for highway purposes in favor of the United States noted at Items Nos. 2 and 3, Schedule B of the policy.

Prior to the consummation of this acquisition, the curative action necessary to effect the elimination of item No. 4, Schedule B, should be completed.

As a copy of the option was not submitted to this Department, the consideration for the purchase is not stated herein.

Prior to the consummation of this purchase, it should be definitely determined that the deed to the United States and the title insurance policy include all of the interest described in the option.

According to the administrative approval of your Department the interest in the easements is to be acquired subject to the easements referred to in objection No. 3 above, which are therefore waived.

When the above requirements and objections numbered 1, 2 and 4 have been met, a satisfactory conveyance from the above-named owner to the United States, duly executed under proper statutory authority, has been recorded, the purchase price has been paid, and a title insurance policy in approved form has been obtained showing the vesting of a valid title in the United States of America, the title to the interest in the highway easements will be approved subject to the easements referred to in objection No. 4 and any reservation contained in the option which may be made under existing statutes.

The insurance policy is enclosed.

Sincerely yours,

John N. Mitchell
Attorney General



EXHIBIT M, PAGE 6 OF 8

INDORSEMENT

Attached to Policy No. P-35949 AND P-35950

Issued by

Pioneer National Title Insurance Company

1. Schedule A of the above policy is hereby amended in the following particulars:

(a) Paragraph 1 of Schedule A is hereby deleted and the following is substituted:

1. The estate or interest in the land described or referred to in this Schedule covered by this policy is: EASEMENT FOR ROADWAY THROUGH SECTIONS OF LAND DESCRIBED BELOW, AS CONTAINED IN DEED DATED NOVEMBER 3, 1927, AND RECORDED NOVEMBER 18, 1927, IN VOLUME 201 OF DEEDS, PAGE 543, UNDER AUDITOR'S FILE NO. 160265, AND IN DEED DATED DECEMBER 15, 1927, AND RECORDED DECEMBER 28, 1927, IN VOLUME 203 OF DEEDS, PAGE 40, AUDITOR'S FILE NO. 161305.

(b) Paragraph 2 of Schedule A is hereby deleted and the following is substituted:

2. Title to the estate or interest covered by this policy at the date hereof is vested in:

THE UNITED STATES OF AMERICA

(c) Paragraph 3 of Schedule A is hereby deleted and the following is substituted:

3. The land referred to in this policy is situated in the County of CHELAN State of Washington, and is described as follows:

SECTION 31, TOWNSHIP 33 NORTH, RANGE 18, E.W.M.

SECTION 36, TOWNSHIP 33 NORTH, RANGE 18, E.W.M.

AND

GOVERNMENT LOT 3, SECTION 6, TOWNSHIP 32 NORTH, RANGE 18, E.W.M.



7/8

~~EXHIBIT M, PAGE 7 OF 8~~ e

P-35949 &
P-35950

Indorsement Continued

2. Schedule B of the above policy is hereby amended in the following particulars:

(a) Paragraphs numbered P-^{3 OF}35950 and P-^{4 OF}35949 of Schedule B are hereby deleted.

(b) Schedule B of the above policy is amended by adding the following paragraphs numbered
5 AND 6, inclusive.

* 5. RIGHTS OF REVERSION TO ADJOINING PROPERTY OWNERS UPON ANY VACATION
OF SAID ROADWAY, IN WHOLE OR IN PART.

* 6. RIGHTS OF THE PUBLIC IN AND TO SAID ROADWAY.

3. Subparagraph 2(d) of the General Exceptions of the above policy is hereby deleted.

4. The effective date of the above policy is hereby extended to the date shown below.

The total liability of the Company under said policy and this indorsement thereto shall not exceed, in the aggregate, the sum of \$1,000.00 and costs which the Company is obligated under the Conditions and Stipulations thereof to pay.

This indorsement is made a part of said policy and is subject to the Schedules, General Exceptions and the Conditions and Stipulations therein, except as modified by the provisions hereof.

Date: SEPTEMBER 18, 1970 AT 8 A.M.

PIONEER NATIONAL TITLE INSURANCE COMPANY

By

Richard H. Houlett

Secretary

22
8/8

~~EXHIBIT M, PAGE 8 OF 8~~

1 WILLIAM D. HYSLOP
United States Attorney
2 JAMES R. SHIVELY
Assistant United States Attorney
3 Post Office Box 1494
Spokane, Washington 99210
4 (509) 353-2767

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

APR 16 1993

5 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

6 UNITED STATES OF AMERICA,
7 Plaintiff.

8 vs.

9 CHELAN COUNTY a Municipal
10 Corporation of the State of
Washington,

11 Defendant.

NO. CS-92-0331-AAM

GOVERNMENT'S MEMORANDUM
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT

13 STATEMENT OF FACT

14 The North Cascades region has long been known as one of the
15 more scenic areas of the United States. Federal lands in the
16 region originally became part of the public domain in 1846 with
17 the establishment of the Oregon Territory. The area in and
18 around the village of Stehekin, located at the north end of Lake
19 Chelan, became a part of the Washington forest preserve in 1897.
20 As early as 1906 there were those who urged the creation of a
21 national park in the area around Lake Chelan. S. Rep. No. 700,
22 90th Cong., 2d Sess. (1968), reprinted in 1968 U.S.C.C.A.N. 3874,
23 3885. The continuing interest in preserving a portion of this
24 area in its natural state eventually resulted in the
25 establishment of the Lake Chelan National Recreation Area, Ross
26

27 PLAINTIFF'S MEMORANDUM IN SUPPORT OF
28 MOTION FOR SUMMARY JUDGMENT - 1

P30416ja.jss

EXHIBIT Q, PAGE 1 OF 12

1 to protect and conserve the resources and values of Lake Chelan
2 National Recreation Area.

3 STANDARD OF REVIEW

4 The moving party is entitled to summary judgment as a matter
5 of law where, viewing the evidence and the inferences arising
6 therefrom in favor of the non-movant, there is no genuine issue
7 of material fact. Fed. R. Civ. P. 56(c); Semegen v. Weidner, 780
8 F.2d 727 (9th Cir. 1985). "Only disputes over facts which might
9 affect the outcome of the suit under the governing law will
10 properly preclude the entry of summary judgment. Factual
11 disputes that are irrelevant or unnecessary will not be counted."
12 Anderson v. Liberty Lobby, 477 U.S. 242, 248 (1986). Summary
13 judgment is appropriate in this case because the Plaintiff has
14 failed to plead any material facts presenting a genuine issue.

15 DISCUSSION

16 A. CHELAN COUNTY HAS CONVEYED ITS INTEREST IN THE STEHEKIN
17 VALLEY ROAD TO THE UNITED STATES

18 The interest of Chelan County in the Stehekin Valley Road
19 prior to its quitclaim deed to the United States in 1970 was an
20 easement for passage and use for highway purposes. Finch v.
21 Matthews, 74 Wash. 2d 161, 168 (1968). An easement is a
22 interest in land. Bakke v. Columbia Valley Lumber Co.,
23 2d 165 (1956). An interest in land is conveyed by deed.

24 R.C.W.A. 64.04.010. A County may convey land to the United
25 States. R.C.W.A. 36.34.220. Chelan County does not dispute the
26 existence of the quitclaim deed in question. A quitclaim deed

27 PLAINTIFF'S MEMORANDUM IN SUPPORT OF
28 MOTION FOR SUMMARY JUDGMENT - 5

P30416js.jsa

EXHIBIT O, PAGE 5 OF 12

1
2 B. CHELAN COUNTY'S "FINAL ORDER OF VACATION" DATED MAY 11, 1970
3 OPERATED TO DIVEST CHELAN COUNTY OF ANY RIGHT, TITLE OR
4 INTEREST IN THE STEHEKIN VALLEY ROAD NOT CONVEYED TO THE
5 UNITED STATES BY QUITCLAIM DEED

6 The board of county commissioners were authorized to vacate
7 the Stehekin Valley Road. R.C.W.A. 36.87 et. seq. When a street
8 or roadway has been vacated, title reverts to the abutting
9 landowners. Bradley v. Spokane & Inland Empire R. Co., 79 Wash.
10 455, 461 (1914); Woehler v. George, 65 Wash. 2d 519, 524 (1965).
11 While it is not clear what, if any, effect the language with
12 respect to the National Park Service's assumption of jurisdiction
13 over the road had, it is clear that Chelan County lost whatever
14 interest it had in the road. Even though the United States may
15 not have acquired the right-of-way along all the remainder of the
16 Stehekin Valley Road by operation of the vacation, it clearly
17 acquired title to those sections of the roadway where it was the
18 abutting landowner and Chelan County surrendered whatever right,
19 title or interest it had at the time of the vacation.

20 C. CHELAN COUNTY HAS NOT OBTAINED ANY RIGHT, TITLE OR INTEREST
21 IN THE STEHEKIN VALLEY ROAD BY REASON OF ITS JULY 9, 1991
22 RESOLUTION

23 The authority and right of the United States to regulate,
24 administer and control its property comes from the property
25 clause. Kleppe v. New Mexico, 426 U.S. 529, 540 (1976); Collins
26 v. Yosemite Park & Curry Company, 304 U.S. 518 (1938). Congress
27 has exercised its power under the Property Clause to direct the
28 Secretary of the Interior to administer National Parks. Congress

PLAINTIFF'S MEMORANDUM IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT - 7

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