

**EH SPARKS STATUS REPORT**  
***Reported February 21<sup>st</sup>, 2021 to the Membership.***

The mediator for Court of Appeals of the State of Oregon has ordered reactivation and removed the case from the Settle Conference Program. This means the abeyance (temporary suspension) period has ended and this appeal will now proceed along scheduled timelines. The Association is now under the appellate clock. Each defendant will be soon. Association Counsel Michael Peterkin will prepare and deliver to the court the Plaintiffs Trial Transcript. During this next phase, each defendant will need to prepare and deliver their trial transcripts to the court as well.

<p>IN THE COURT OF APPEALS OF THE STATE OF OREGON</p> <p>THREE RIVERS LANDOWNERS ASSOCIATION, a nonprofit corporation, Plaintiff-Appellant,</p> <p>v.</p> <p>JEFFERSON COUNTY, a political subdivision of the State of Oregon, and RALPH DEMONTE, Trustee of The Demonte Family Trust, Defendants-Respondents,</p> <p>and</p> <p>ALLEN TRUST COMPANY, Trustee of the Herbert H. Anderson and Barbara B. Anderson Revocable Trust, Defendant.</p> <p>Jefferson County Circuit Court 16CV26227</p> <p>A174510</p> <p><b>ORDER REACTIVATING AND REMOVING CASE FROM SETTLEMENT CONFERENCE PROGRAM</b></p> <p>This case has been reactivated and removed from the Appellate Settlement Conference Program. The abeyance period pursuant to ORAP 15.05 has ended and this appeal will now proceed along scheduled appellate timelines.</p> <p>The Certificate of Preparation and Service of the Transcript is due on March 19, 2021.</p> <p>c: Michael W Peterkin Timothy G Elliott Gregory S Hathaway Jefferson County Transcript Coordinator</p> <p>dr</p> <p><b>ORDER REACTIVATING AND REMOVING CASE FROM SETTLEMENT CONFERENCE PROGRAM</b></p> <hr/> <p>REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section, Supreme Court Building, 1163 State Street, Salem, OR 97301-2563 Page 1 of 2</p>
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Even though the Settlement Conference Program is over, negotiations continue between DeMonte and the purchaser. It is our understanding that appraisals have been created to assist with the negotiations. We believe that the purchaser will present a

final offer to DeMonte. The Board continues to be hopeful a final agreement can be reached between the parties.

Order No. 0-124-20 was given by The Jefferson County Commissioners on December 23<sup>rd</sup>, 2020. Within that Order No. 2 states, “The County Road Official shall file with this Board a written report in accordance with ORS 368.346 (1)” which requires a finding of whether the vacation would be in the public interest. On February 10<sup>th</sup>, 2020, Carol Fuchs and I attended the Board of Commissioners Meeting via Zoom. Several questions were asked of the Board. Jeff Rasmussen, County Administrative Officer, asked both parties to put our question in writing to the Commissioners. Both myself and Carol Fuchs submitted our questions. Both letters are attached. On February 12<sup>th</sup>, 2021, Jeff Rasmussen provided me with the following response.

**randy.panek@gmail.com**

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**From:** Jeff Rasmussen <jeff.rasmussen@co.jefferson.or.us>  
**Sent:** Friday, February 12, 2021 4:33 PM  
**To:** randy.panek@gmail.com  
**Subject:** RE: Written Request to Board of Commissioners (February 10, 2021)  
**Attachments:** Ltr. R Panek to J. Rasmussen\_Written Request to Board of Commissioners (February 10, 2021).pdf

Randy,

After reviewing your questions, I have determined that due to a lawsuit that the County is a party to and since that lawsuit is currently at the Oregon Court of Appeals, and further that possible settlement negotiations are ongoing; that it is in the best interest of the County to refer your questions to County Counsel and Attorney Tim Elliot to determine when the timing is best and appropriate to respond.

Jeff

Jeff Rasmussen  
Jefferson County  
County Administrative Officer  
66 SE "D" Street  
Madras, OR 97741  
(O) 541.475.2449  
(C) 541.460.0889  
jrasmussen@jeffco.net

Since the Settlement Conference Program has completed and the purchaser will make one last offer, the Association, through counsel, has encouraged the County to move forward and put the road vacation on the calendar.

The privacy of our community and Association continues at risk in 2021. Your continued support is needed and appreciated.

**Further information will be provided when available. Updates and filings can be found on the Three Rivers Website at [www.3rrec.com](http://www.3rrec.com).**

**Randy L. Panek**  
**11245 SW Yucca Flats Lane**  
**Culver, Oregon 97734**

**SENT VIA EMAIL: [jrasmussen@jeffco.net](mailto:jrasmussen@jeffco.net)**  
**and Regular Mail**

February 10, 2021

Jeff Rasmussen  
Administrative Officer  
Jefferson County Oregon  
66 SE D Street, Suite A  
Madras, Oregon 97741

**RE: Questions for Commissioners from February 10, 2021 Board of Commissioners Meeting**

Jeff,

Below are the specific questions presented to the Board of Commissioners to respond to at the February 10, 2021 Meeting.

1. In the matter of two Vacation Petitions received by Jefferson County regarding certain portions of County Road No. 577 AKA E.H. Sparks Road Order No. 0-124-20 of December 23, 2020 my question is specific to Order No. 1. Section VI of the Fuchs, Bryant and Allen Trust Petition whereas the petitioner provided signatures of the abutting owners and a request for consideration an administrative vacation without hearing (ORS 368.351).

Question. Did the Comissioners receive a staff report and make a finding regarding this request. If yes, what was the finding. If not, why not.

2. In Order No. 2, the Commissioners ordered that County Road Official to file with the Board a written report in accordance with ORS 368.346(1) to include the following.
  - (a) A description of the ownership and uses of the property proposed to be vacated;
  - (b) An assessment by the county road official of whether the vacation would be in the public interest; and
  - (c) Any other information required by the county governing body.

Question. Has the Letter been written?\* Has the letter been received by the Commissioners? If not, what is the reason for the delay?

\*Per Carol Fuchs public testimony before the Commissioners today it is believed the letter was created in early December and that the County Road Official had informed the Commissioners of the status of the letter during the December 23<sup>rd</sup> meeting. Answering Mrs. Fuchs written request may answer question 2. above.

I look forward to receiving a written response from the Board of Commissioners. Thank you.

Respectfully,



Randy L. Panek  
11245 SW Yucca Flats Lane  
Culver, OR 97734  
541.420.9808 cell  
[randy.panek@gmail.com](mailto:randy.panek@gmail.com)

**Mobile: (541) 420-9808 Cell**

**Fax: (888) 337-5429**

**E-Mail: [randy.panek@gmail.com](mailto:randy.panek@gmail.com)**

**randy.panek@gmail.com**

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**From:** Carol Fuchs <fuchscarol@gmail.com>  
**Sent:** Wednesday, February 10, 2021 2:54 PM  
**To:** Randy Panek  
**Subject:** Fwd: road vacation

This is what I sent this morning

----- Forwarded message -----

From: **Carol Fuchs** <[fuchscarol@gmail.com](mailto:fuchscarol@gmail.com)>  
Date: Wed, Feb 10, 2021 at 9:54 AM  
Subject: road vacation  
To: Alexa Gassner <[alexa.gassner@co.jefferson.or.us](mailto:alexa.gassner@co.jefferson.or.us)>, Tim Elliott <[Tim@erwattorneys.com](mailto:Tim@erwattorneys.com)>, <[Mae.Huston@co.jefferson.or.us](mailto:Mae.Huston@co.jefferson.or.us)>, <[Wayne.Fording@co.jefferson.or.us](mailto:Wayne.Fording@co.jefferson.or.us)>, <[kelly.simmelink@co.jefferson.or.us](mailto:kelly.simmelink@co.jefferson.or.us)>, <[jrasmussen@jeffco.net](mailto:jrasmussen@jeffco.net)>

Good Morning,

Thank you for your time this morning as we try to move forward with our request to vacate a road that the county says exists on our property.

As I stated at the meeting I am aware that the Road Report prepared by Public Works is completed and has been completed since Dec. 1. My question is... Why hasn't the report been given to the commissioners and put on record?

My next concern is that Alexa Gassner has not responded to our attorney's request for an update and timeline for the vacation request. It was my understanding that Tim Elliot was handling the lawsuit with Three Rivers. In our view our request to vacate is a separate issue from the lawsuit. So that brings me to addressing this to Tim Elliot and Alexa Gassner. I would like them to contact Ed Trompke, our attorney, and give him an update and timeline. Being ignored is not OK and I feel that things are happening behind closed doors and not in public view as it should be. I hope I am wrong but without communication that is what I am left with to believe.

I appreciate the difficulty of this issue but please keep in mind the difficulty my husband and I are facing. We are in the middle of something that should never have happened and it has consumed us for the past 18 years. As we get older we want to simplify our lives and enjoy our retirement. This issue is like a thorn in our side and consumes time we don't want to waste. We thought that applying for the vacation separate from Three Rivers would help. Obviously it hasn't and has only cost more money to attorneys.

Thank you for your time. I anticipate hearing from you and our attorney hearing from you soon.  
Carol Fuchs

Ed Trompke email: [Ed.Trompke@jordanramis.com](mailto:Ed.Trompke@jordanramis.com)

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Carol