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To: [Jeffrey Delapena](#)
Subject: FW: Private landowners win \$5M for loss of property to Ecusta Trail
Date: Thursday, September 12, 2024 1:24:26 PM

More, thanks.

From: Clark County Citizens United, Inc. <cccuinc@yahoo.com>
Sent: Thursday, September 12, 2024 12:53 PM
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Subject: Private landowners win \$5M for loss of property to Ecusta Trail

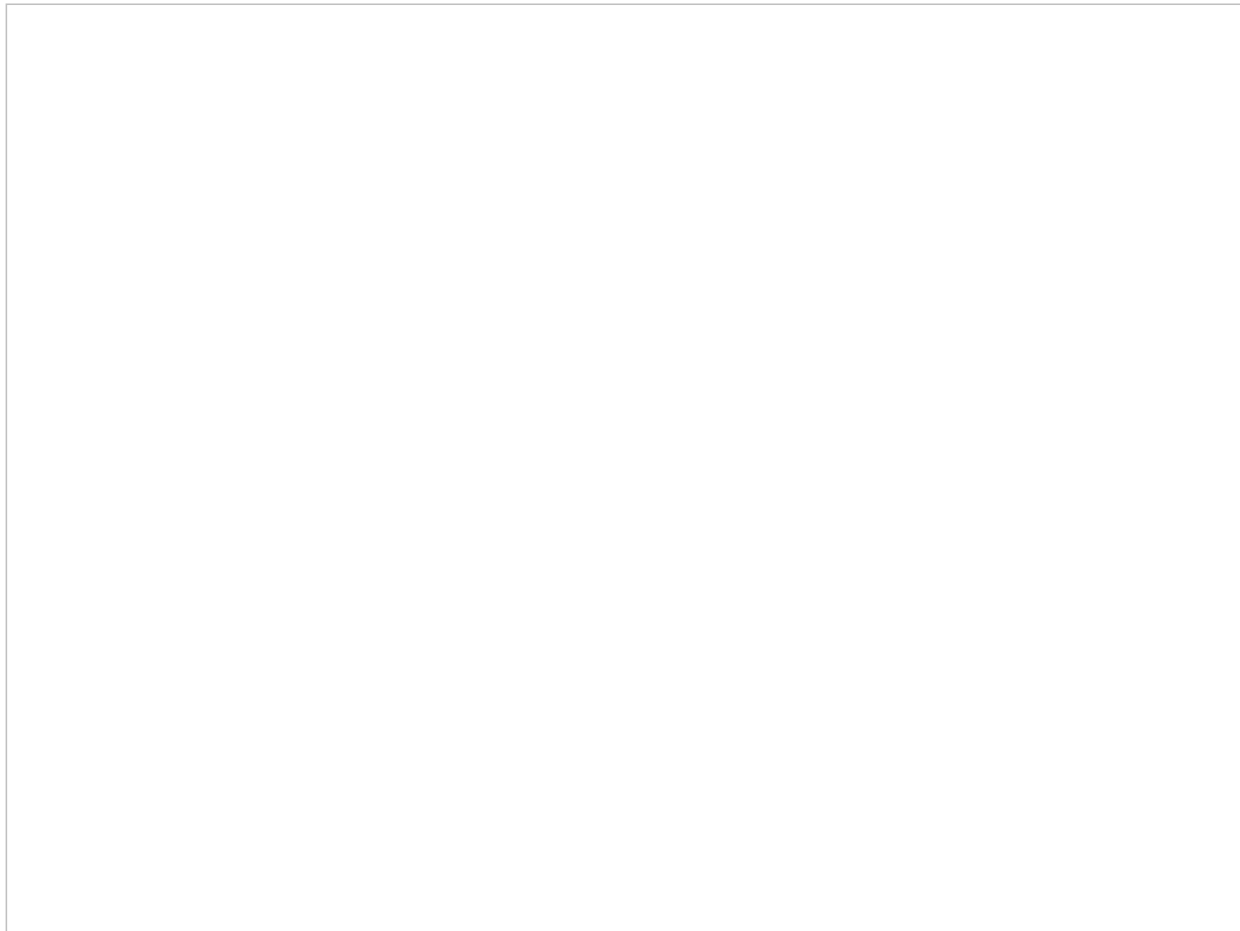
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FOR THE PUBLIC RECORD AND THE COMPREHENSIVE PLAN

Clark County Council
P.O. Box 5000
Vancouver, Washington 98666

September 12, 2024

Private landowners win \$5M for loss of property to Ecusta Trail



Roxy Goodwin looks out from her front porch at the Ecusta Trail, which cost her a buffer of cypress trees and a stone wall.

By Lightning Reports, Published: June 6, 2024

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More than 150 landowners have won \$5 million in compensation for land they lost in eminent domain actions for the Ecusta Trail, the law firm Lewis Rice of St. Louis announced Thursday.

Lindsay Brinton and Meghan Largent, attorneys for the firm's federal takings & rails to trails practice group, won the US. court of claims judgment of \$5,039,224 on behalf of 164 landowners in Henderson and Transylvania counties. The landowners brought the claims against the federal government for the taking of their property for the 19.4-mile Ecusta Trail, the hiking and biking trail between Hendersonville and Brevard that crossed the landowners' property.

"Many of these landowners were disheartened by the taking of their property for trail use," Brinton said. "They shared concerns of trespassing, loss of privacy, loss of river access and impact on farming operations. One was disappointed with the lack of collaboration with the contractor involved with trail development after her stone wall, gravel driveway and Leyland cypress trees were all removed with little communication about the process. We are pleased that we have been able to obtain the just compensation from the federal government that these individuals are entitled to."

The homeowner who lost a line of cypress trees along the railroad tracks, Roxy Goodwin, was upset not only at the removal of the buffer but also at the way the evergreens were cut down with only one day's notice. The *Lightning* has reached out to her for comment about the judgment.

Here are Brinton's responses via email to the *Lightning's* questions about the \$5 million judgment:

"We received 100 percent of the land value damages as derived by our appraisers," she said. "The government initially offered us zero compensation. They contested their liability altogether for this taking. Because this was an offer of judgment, it is not appealable. The Department of Justice will now submit this judgment to the United States Treasury Department, and they will send a wire transfer to our firm's client trust account for these damages. There will not be any appeal."

Although Lewis Rice had the largest number of claimants, other attorneys also represent landowners along the railbanked track.

"I don't believe any claims in any other cases have been resolved (or paid)," Brinton said.

Aware that condemnation of private land for public use can be a controversial topic, county officials emphasized that no eminent domain power was invoked to buy the rail corridor. (Conserving Carolina bought the property in 2021 and then leased the greenway path to the county for 150 years.)

"The property we purchased was the exact property the railroad owned and has had for 100 years. I have the 1927 map," County Engineer Marcus Jones said. "And the county by no stretch used eminent domain to make any of the purchase. No property was acquired for the trail by eminent domain. That's 100 percent correct and that's 100 percent in conflict with what those out-of-town attorneys are saying."

On June 28, 2021, the federal Surface Transportation Board issued a Notice of Interim Trail Use, allowing for the conversion of the railroad corridor formerly owned by Blue Ridge Southern Railroad, a division of Watco Companies, into the Ecusta Trail as allowed by the National Trails System Act. The following day, Brinton and Largent filed what would become the first and largest case regarding the Ecusta Trail rail-trail conversion: *Austin v. United States*. It alleged the conversion of the railroad corridor for public trail use violated landowners' property rights, namely, to regain full use and control of the land once it was abandoned for railroad purposes.

On May 31, 2024, the United States Court of Federal Claims awarded just compensation to the landowners, which also includes interest from the date of the taking of their property to the date of payment.

Lewis Rice's federal takings attorneys represent landowners throughout the United States pursuing takings claims against the federal government. The attorneys specializing in rail-trail cases focus on both proving the taking has occurred as well as establishing the value of the property that was taken.

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