

**GENERAL KING COUNTY STATEMENT REGARDING PROPERTY RIGHTS IN THE EAST LAKE
SAMMAMISH RAIL CORRIDOR**

Through a 1998 Quit Claim Deed, King County acquired all of the railroad's former property rights in the East Lake Sammamish Rail Corridor (ELSRC). The railroad owned most of the ELSRC in fee simple. In the limited areas where the railroad did not hold fee simple title, it owned a special type of property right called a "railroad easement." A railroad easement entitles the holder to the exclusive use and possession of the area on, above, and below the surface of the Corridor for railroad purposes and incidental uses permitted by Washington law. In sum, it is a special type of easement with almost all the characteristics of a fee, including the right to exclude others.

Because the ELSRC was railbanked under the federal Trails Act, Judge Pechman of the United States District Court, in the *Hornish* case, determined that the railroad easements in the ELSRC survived the cessation of railroad services and are now owned by King County. In addition, the court determined that the Trails Acts supplemented the railroad easement areas with the right to build and operate a regional trail. The rulings in *Hornish* are consistent with the rulings made by federal Judge Coughenour in the related *Kaseburg* matter. Although both the *Hornish* and *Kaseburg* matters are currently pending in the Ninth Circuit Court of Appeals, these rulings are immediately effective because the plaintiffs did not seek a stay. ***Through the 1998 Quit Claim deed and an associated survey, King County owns either a fee simple or railroad easement along the entire length of the ELSRC, which (with limited exceptions) varies in width***

from 50 to 200 feet. King County recently staked the boundary lines of the ELSRC along Segment 2B of the East Lake Sammamish Trail.

It is King County's obligation, as a public entity, to manage the ELSRC as a public asset. Limitations in the state constitution prohibit King County from allowing private use of the ELSRC unless there is an identifiable public benefit, which can include rental payments made under a revocable Special Use Permit (pursuant to King County Code §14.30). The decision to grant or deny a request for a Special Use Permit is discretionary with Parks, but special consideration may be given where a properly permitted structure dates back to the railroad's operation of the Corridor and it does not interfere with public needs. The ELSRC has been in operation for over 100 years and King County is committed to maintaining this asset for public use and enjoyment.