In this document, I make statements and accusations of criminal behavior by judges and others. These statements must be understood to be my opinion. I've been denied the right to legally establish their truth. The documentation I provide here will support my claims for the reader.

Skip this Introduction and go directly to ***Beres v. United States* (2005)**

Introduction and Analysis of
Beres v. United States (2005)

by John Rasmussen:

Background:

The four *Beres* opinions I present on my website resolve taking claims which resulted from the 1998 Railbanking of the East Lake Sammamish (ELS) right-of-way in King County, Washington. They are important to my website trailofshame.com because they properly construe the 1887 SLS&E Hilchkanum right-of-way deed to the Seattle Lake Shore and Eastern Railway (SLS&E) as an easement.

Beres v. United States (2005)
Beres v. United States (2010)
Beres v. United States (2011)
Beres v. United States (2012)

The above *Beres* opinions stand in stark contrast to the Ninth Circuit and Washington State opinions in which judges intentionally misconstrued that same Hilchkanum deed, stealing more than $10 million in ELS right-of-way land by dishonestly awarding it to King County. The three opinions listed below are criminal acts from the bench which cover-up the East Lake Sammamish Federal tax fraud scheme.

King County v. Rasmussen (2001)
King County v. Rasmussen (2002)
Ray v. King County (2004)

After my land was stolen and my property rights were destroyed in Ninth Circuit courts (*King County v. Rasmussen*), my neighbors Gerald and Kathryn Ray took the identical property rights issue through the Washington State Courts. (*Ray v. King County*) Their land was stolen and their rights were denied, too. Then, a number of East Lake Sammamish (ELS) landowners filed taking claims with the United States Court of Federal Claims. (*Beres v. United States*) The *Beres* opinions resolve those claims. The critical issue in both the earlier lawsuits and the *Beres* opinions was

determining whether the 1887 SLS&E right-of-way deeds conveyed easements or fee simple title to the Railway. In *Beres*, claims were made by forty-nine parties, representing more than eighty-four individuals. That group included Gerald and Kathryn Ray and twenty-three other individuals basing their taking claims on the Hilchkanum right-of-way deed. In Beres (2010), the claim by Gerald and Kathryn Ray was dismissed due to collateral estoppel, but the other twenty-three parties basing claims on the Hilchkanum deed were allowed to proceed. In spite of the Ninth Circuit and Washington State Hilchkanum opinions providing precedent that the Hilchkanum right-of-way deed granted fee simple title of the land underlying the right-of-way, Court of Federal Claims Judge Marian Horn decided that the Hilchkanum deed and all the other ELS deeds in *Beres* granted easements. In her well organized and carefully documented opinions, Judge Horn refused to accept the dishonest findings in *Ray v. King County* even after she was advised by the judges of our Washington State Supreme Court to use *Ray* as legal precedent. This supports my opinion that Ninth Circuit and Washington State judges intentionally committed crimes from the bench with their *Rasmussen* and *Ray* opinions. The refusal of our Washington State Supreme Court to correct *Ray,* implicates the highest court in our State in the East Lake Sammamish federal tax fraud scheme.

Introduction to *Beres v. United States* (2005)

In this first of the *Beres* opinions, *Beres v. United States* (2005), United States Court of Federal Claims Judge Marian Horn considers Warren and Vicki Beres' claim to ownership of the land under their portion of the ELS right-of-way. Their claim is based on the effect of the General Railroad Right of Way Act of 1875 and the patent issued for the same land to W.H. Cowie in 1892. This opinion deals with a different type of right-of-way deed than the other seven deeds considered in the combined *Beres* lawsuit. This right-of-way deed was created by federal statute, the General Railroad Right of Way Act of 1875. The other right-of-way deeds were obtained by the Railway from East Lake Sammamish landowners and homesteaders under Washington State/Territory common law.

It seems to me there are three basic issues settled in this opinion. First, the right-of way granted to the Seattle Lake Shore and Eastern Railway under the terms of the General Railroad Right of Way Act of 1875 is determined to convey an easement. Second, when the patent was issued to W.H. Cowie in 1892, ownership of the right-of-way land was transferred to Cowie, subject to the Railway's easement. Third, Warren and Vicki Beres are presumed successors in interest to Cowie, subject to later confirmation.

Here are two citations from *Beres* (2005) which explain the above.

"Under the facts at issue in the case currently before this court, **when the United States granted a right-of-way to the Seattle Railroad Company, pursuant to the 1875 Act, it granted an easement to the railroad for railroad purposes**, in keeping with the purpose of the 1875 Act. The 1875 Act indicated that future dispositions of such lands shall be disposed of "subject to" the right-of-way granted to a railroad. Act of 1875, at § 4. The language of the 1875 Act makes no statement reserving any property interest in the United States. Thus, **when the United States granted a land patent to William H. Cowie in 1892, the land transfer was subject only to the existing railroad right-of-way** by operation of the specific words of the 1875 Act. The only reservations made by the United States in the land patent to William H. Cowie were the mineral and water rights described above. As the Supreme Court has stated, "when a patent issues in accordance with governing statutes, all title and control of the land passes from the United States." Swendig v. Washington Water Power Co., 265 U.S. at 331 (citing United States v. Schurz, 102 U.S. at 396). Therefore, when the United States issued a land patent to William H. Cowie in 1892, it transferred to Mr. Cowie all property interests in the land other than those interests specifically reserved in the land patent quoted above. The statutory words of the 1875 Act are consistent with this result."
[Beres v. United States (2005) Page31] (My bold emphasis)

"The complete chain of title from William H. Cowie to the plaintiffs was not presented to the court for the purposes of this motion for summary judgment, and the United States reserves the right to raise challenges to the chain of title from Mr. Cowie to Mr. and Mrs. Beres. Nonetheless, **for the purposes of this motion for summary judgment, the plaintiffs are considered by both parties and the court to be successors in interest to a portion of the Government Lot 4 land patented to William H. Cowie, over which the Seattle Railroad Company's right-of-way traversed**. Thus, the transfer of land occurred as follows – the federal government granted the Seattle Railroad Company a right-of-way over federal land pursuant to the 1875 Act. The United States then patented to William H. Cowie a portion of land over which the right-of-way traversed. The plaintiffs are presumed successors in interest to William H. Cowie's land, and took their property subject to the railroad's right-of-way. The plaintiffs' property interests derive from the 1892 land patent given to William H. Cowie by the United States."
[Beres v. United States (2005) Pages 2 & 3] (My bold emphasis)

My accusations of dishonesty and statements of criminal behavior in this document must be understood as my opinion. I have been denied the right to legally establish these crimes as fact.

The overall result of this opinion is that Warren and Vicki Beres "own" the land under their portion of the East Lake Sammamish right-of-way and may proceed with their taking claim. The next opinion, which continues the resolution of their claim, is *Beres v. United States* (2012). Issues that still need to be settled are: Did a Tucker Act taking occur with the Railbanking of the BSNF East Lake Sammamish (ELS) right-of-way? Does the language in the deed, which describes the scope of the easement, support a taking? Does the chain of title lead from the original right-of-way deed to the Beres? What compensation is due for the taking?

Above, I write that the Beres "own" their right-of-way land. I put the word own in quotations because I'm confident that King County does not recognize that the Beres own the land under their portion of the right-of-way. I'm confident that King County does not recognize their right-of-way to be an easement as determined in this *Beres* (2005) opinion. If challenged, King County will state that *Beres* (2005) is a takings claim and not a quiet title decision. So, King County will claim that there is no resolution of title in *Beres* (2005). I wouldn't be surprised if King County now claims ownership based on adverse possession. King County has been falsely claiming ownership and occupying the right-of-way for almost twenty years now (in 2017). But most important, King County needs to continue to claim ownership of the ELS right-of-way land in order to cover-up its participation in the East Lake Sammamish Federal tax fraud scheme.

This opinion does not directly apply to the issues that I discuss on my trailofshame website. That said, I am very happy that Warren and Vicki Beres have found justice after many years of illegal threats, criminal actions, and harassment by a very dishonest King County Prosecutor, County Leadership, and judges in Washington State Courts. They have fought for their rights for years. A number of the documents that I present on my website were obtained from Vicki through her freedom of information requests.

Go to ***Beres v. United States (2005)***

My accusations of dishonesty and criminal behavior here must be understood to be my opinion.