

# Preserving Island Street Frontage Trees & Vegetation

-Property Rights-



IMPACT OF THE KC ROADS R.O.W. 'CLEAR ZONE' STANDARDS,  
KC R.O.W FRANCHISE AGREEMENT WITH PSE &  
PSE'S CHOICE TO IMPLEMENT BY 'EASEMENT'



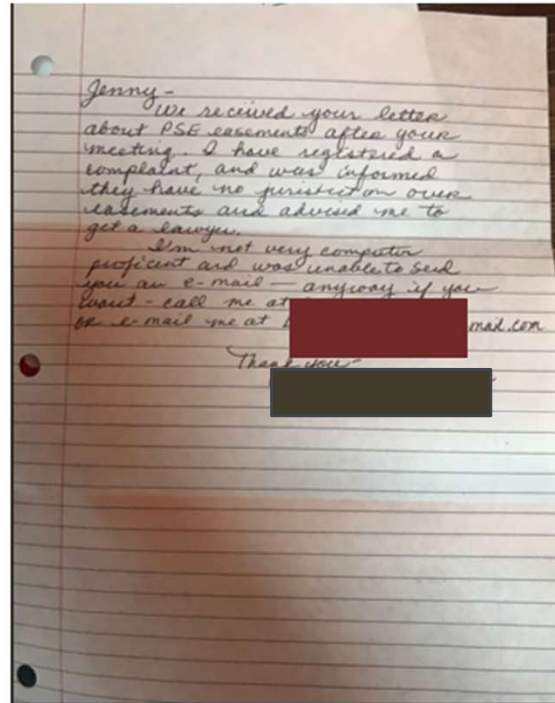
## “Responsible for what happens”

*“A true community is not just about being geographically close to someone or part of the same social web network. It's about feeling connected and responsible for what happens. Humanity is our ultimate community, and everyone plays a crucial role.”*

“The best way to predict future is to create it.”



# Area of focus



## EVERY POLE

# KC 'CLEAR ZONE' PROGRAM

Pole Pushback Program - 'clear of anything that *can't* break away'

[2016 King County Road Standards](#), sections 1.02 and 5.10. ...since at least 2007.

'10 feet back from edge of road or out of compliance'

'PSE's business decision.. BUT .. PSE must bring all non-compliant old poles into compliance.

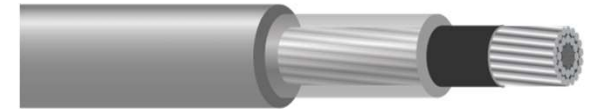
Options: Variance, Bury or Easement

"According to our ..franchise agreement ..PSE must submit a plan to bring ALL..non-compliant poles into compliance"

Many of PSE's poles were installed years ago when different clear zone width standards were in place. King County Code 6.27.060 requires all utility franchise agreements be consistent with King County Road Standards, which includes clear zone requirements. According to our current franchise agreement with PSE, the utility must submit a plan to bring all non-compliant old poles into compliance. PSE has three options to comply: 1) Apply for a variance to keep the poles as is (likely to be denied as they are not considered breakaway and there are options to relocate outside of the right of way). 2) Bury their utility lines underground. 3) Obtain an easement to relocate the pole onto private property.

Broch Bender, Communications/Customer Service Mgr,  
Road Services Division, KC DLS

'Tree Wire Project' is replacement of existing wire for an upgraded Southwire product 'tree wire' that is a sturdier, better-insulated wire said to fare well in storms, resist tree falls, and reduce the need for frequent or severe trimming of trees and vegetation. Southwire says it "minimizes the amount of space and hardware required for line installation".



Easement Program triggered by KC county  
'Clear zone' standards - in place since 2007,  
PSE/KC franchise agreement: Oct 2019

<https://www.southwire.com/wire-cable/covered-aerial-mv-camv-systems/15kv-acsr-camv-tree-wire/p/AL600V72>

## 'Tree Wire Project'

PSE is required to improve electricity reliability - the regulatory authority UTC identifies areas that must be upgraded according to metrics like complaints and regular outages

# PSE CHOOSES- Easements

- KC Franchise Fee Agreement – enacted by ordinance Oct 2019
- Upheld Supreme Court 2020
- PSE Real Estate Acquisition Team Leader Greninger – Easement Activity on Vashon began ‘5 yrs ago’ - 2019

<https://kingcounty.gov/en/legacy/depts/facilities-management/real-estate-services/using-county-real-property/utility-franchises>


compensation portion of the ordinance and for further proceedings consistent with this opinion.

(Slip Op. at 32-33). A copy of the Supreme Court’s decision is published at *King Cty. v. King Cty. Water Districts Nos. 20, 45, 49, 90, 111, 119, 125*, 194 Wn. 2d 830, 453 P.3d 681 (2019) and is attached to this order.

Accordingly, pursuant to the remand instructions from the Washington Supreme Court, it is hereby ORDERED as follows:

1. The Prior Order is vacated <sup>in part, consistent with the opinion of the Washington Supreme Court;</sup> and
3. Partial summary judgment is granted in favor of King County on the <sup>final</sup> grounds <sup>validity of the franchise compensation portion of Ordinance 18403,</sup> stated in the opinion of the Washington Supreme Court.

Dated this 14<sup>th</sup> day of May, 2020.

  
Hon. Susan J. Craighead  
Superior Court Judge

Disputed By:

# PSE CHOOSES- Easements

- Business decision
- For-profit
- Generic easement
  - No agreement with owner to cut trees
  - Trees/vegetation removal
  - No fences, no structures, no building
  - No grading

PROJECT TITLE: VAS-12 FDR TW 115 AVE 1.6 MI  
RW-127738, Project No.101134694, Parcel #:242302-9234 & 242302-9039

Make Warrant Payable To (if different than name noted above):  
 Remit Warrant To (if different than above):  
 Hold Warrant for Pick-Up and Delivery By: Authorized Right of Way Agent  
 Individual  Corporation  Partnership  Other

Type of Business  
 Initial  Supplementary  Final

In Full, Complete and Final Payment for the Title or Interest Conveyed or Released, as Fully Set Forth in the EASEMENT dated \_\_\_\_\_

|   |                           |                    |
|---|---------------------------|--------------------|
| For All Lands/Interests Conveyed: [1,650] Square Feet           | \$                        | 500.00             |
| For All Lands/Interests Conveyed: [1,650] Square Feet           | \$                        | 500.00             |
| For All Improvements: Landscaping Removal of 2 Fir Trees (9234) | \$                        | 750.00             |
| For All Damages:  | \$                        | 0.00               |
| Less Special Benefits:  | \$                        | 0.00               |
|   | <b>JUST COMPENSATION</b>  | <b>\$ 1,750.00</b> |
|   | <b>SUBTOTAL:</b>          | <b>\$ 1,750.00</b> |
|   | <b>FINAL SETTLEMENT:</b>  | <b>\$ 1,750.00</b> |
| Other Items: Incentive  | \$                        | 1,000.00           |
|   | <b>SUBTOTAL:</b>          | <b>\$ 2,750.00</b> |
| Deductions:   | - \$                      | 0.00               |
|   | <b>SUBTOTAL:</b>          | <b>- \$ 0.00</b>   |
|   | <b>AMOUNT TO BE PAID:</b> | <b>\$ 2,750.00</b> |

Right-of-Way Agent: Mark Anderson, LaBonde Land, Inc.  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Puget Sound Energy: Shawn Greninger, Real Estate Supervisor – Southwest Region

JND ENERGY, INC. and its Contractor shall remove certain trees located on Owner's above referenced property adjacent to - 115<sup>th</sup> Ave SW determined by PSE as necessary for the distribution of electric power as specified below:

Removal ("Work") to be done in a professional manner with due regard for safety. Specific Work to be performed includes:

Removal of seven (7) Fir trees located on the Property abutting 115<sup>th</sup> Ave SW, three (3) Fir trees, one (1) Birch tree, and one (1) Madrona tree located on the Property abutting 115<sup>th</sup> Ave SW.

Trees to be left on the Property, cut into manageable lengths. Maintain clearances from PSE's 12.5 kV power line, if necessary. Trees to be chipped and ( ) removed or ( ) left. If left, they shall be mutually agreed upon by the Owner and PSE/Asplundh. Trees to be removed from the Property to the extent reasonably practical. Trees to be removed by PSE. Trees to be trimmed and/or removed per King County Street Department standards. Trees to be removed from public road right-of-way. However, Owner shall allow PSE to use the easement area over and across the Property during normal daytime hours.

Owner shall compensate Owner in the amount of **\$750.00 for trees cut.**

Owner shall be responsible for any liability incurred by Owner as a result of the removal herein granted, but nothing herein shall require PSE to assume any such liability attributable to the negligence of Owner or the Contractor.

This agreement shall expire at completion of the PSE Project.

[https://drive.google.com/file/d/1UrXwbh\\_bgLfeqyKA8aC1H2AeyulgjFjO/view](https://drive.google.com/file/d/1UrXwbh_bgLfeqyKA8aC1H2AeyulgjFjO/view)

**6. Owner's Use of Easement Area.** Owner reserves the right to use the Easement Area for any purpose not inconsistent with the rights herein granted, provided, however, Owner shall not excavate within or otherwise change the grade of the Easement Area or construct or maintain any buildings or structures on the Easement Area and Owner shall do no blasting within 300 feet of PSE's facilities without PSE's prior written consent.

**4. Trees Outside Easement Area.** PSE shall have the right to cut, trim remove and dispose of any trees located on the Property outside the Easement Area that could, in PSE's sole judgment, interfere with or create a hazard to PSE's systems. PSE shall, except in the event of an emergency, prior to the exercise of such right, identify such trees and make a reasonable effort to give Owner prior notice that such trees will be cut, trimmed, removed or disposed. Owner shall be entitled to compensation for the actual market value of merchantable timber (if any) cut and removed from the Property by PSE.

# PSE Version #1 Dec 5, 2023

PSE RE Acquisition Lead-  
Greninger:

- Several (12) trees leaning or in decline – need removal
- For ‘electricity reliability/reduce tree outages’

““All Trees to be removed from ROW”  
several trees in need of removal (12)  
..leaning in .. in decline”

The purpose Lynnesha from LaBonde Land is contacting you is to schedule an in person meeting with you and others on 115<sup>th</sup>. The PSE Project Manager Heather Wohldmann is also available to meet with you to further explain the project.

As for trees on Pvt. Property PSE has secured easements and tree permits from several owners, some trees are planning to be removed near the power lines on Pvt. property as part of this PSE project. Trees within the road right of way will be removed from within the King County roadway with a street use permit issued by the County as part of this PSE job.

Please find attached an offer letter from PSE for an easement on your property as well as a tree permit, Sketch, W-9 and Property voucher. PSE's Forester has identified several trees that are in need of removal that are in the way of construction are leaning or in decline on your property which PSE targets in relation to system projects in our service territory. This project is to improve the electric reliability in this area on Vashon for you and your neighbors by reducing tree related outages on this circuit on Vashon Island.

Please review the offer, if you would like to meet with our contractor or PSE staff assigned to this project feel free to reach out. If you would like an attorney to review our offer PSE can reimburse your attorney fees up to \$750 per statute. Please confirm your correct mailing address for correspondence via the US Mail.

Sincerely,

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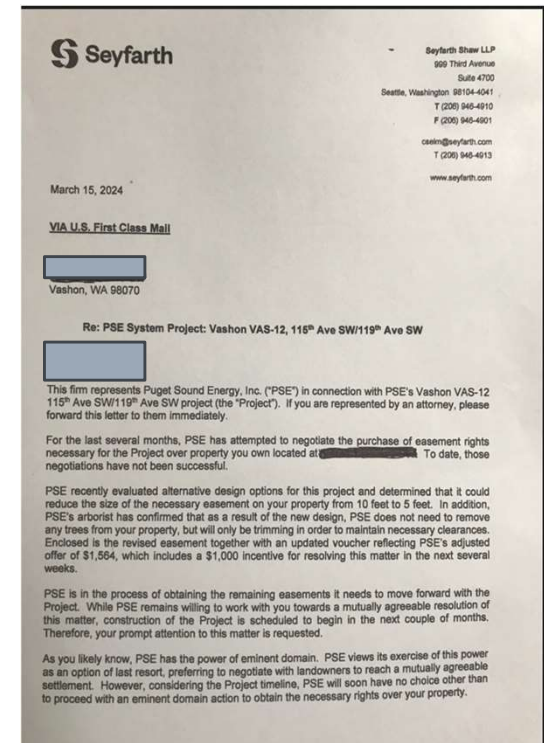


# PSE Version #2 Revised Easement Mar 15, 2024

PSE lawyers Seyfarth

- No trees removed (12 orig.)
- 3000 ft2 to 1500 ft2 easement
- "...considering the project timeline, PSE will soon have no choice other than to proceed with an eminent domain action to obtain the necessary rights over your property"

"evaluated alternative design options...reduce easement from 10 to 5 ft ....no need to remove any trees"



# Proposed Easement terms changed

Dec 2023

Mar 2024

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EG. 1: CUT 12 TREES, 10X120FT DOUG FIRS, \$750 - JUST COMPENSATION

EG 2: CUT 11 TREES,

Dec 5, '23:RE acquisition - Greninger

Eg 1: cut 12 trees, \$750 - all trees,

\$1k - 3500 ft<sup>2</sup> EASE'T

EG 1: CUT 0 TREES, \$564 SQ FT EASE'T. \$1K FAST SIGN

EG 2: CUT 1 TREE,

Mar 15.'24 PSE Lawyers - Seyfarth

Eg.1:"Alternative design options"

"1500 ft<sup>2</sup>-\$564. \$1k fast sign

Motion #1: For vote May 16, 2024

The Vashon-Maury Community Council (V-MCC) calls upon PSE to restore property rights enshrined in statute into new easement agreements entered into with Islanders, including updating the language of PSE's Standard Overhead Easement Clause #4 to mirror the language of RCW 64.12.035(1)(c). In cases involving potential threats to PSE's systems by vegetation, RCW 64.12.035(1)(c) requires that PSE "attempts written notice by mail... indicating the intent to act or remove vegetation and secures agreement from the affected property owner of record for the cutting, removing, and disposition of the vegetation." Right now, PSE's Standard Overhead Easement Clause #4 eliminates the requirement that PSE obtain, or even attempt to obtain, a property owner's agreement. Out of respect for Islanders' property rights, that should change.

## Cut any trees & change from statute ....

The Easement allows cutting without owner's agreement and in PSE's sole judgment. This is a removal of key wording in RCW 64.12.035 (c)