

NO. 85583-8

FILED AS  
ATTACHMENT TO EMAIL

**SUPREME COURT OF THE STATE OF WASHINGTON**

(Court of Appeals No. 63787-8-I)  
(King County Superior Court Cause No. 07-2-29545-3 SEA)

**CITY OF MERCER ISLAND**

**Petitioner,**

**vs.**

**SUSAN CAMICIA,**

**Respondent.**

RECEIVED  
SUPREME COURT  
STATE OF WASHINGTON  
2011 NOV -2 P 3:41  
BY RONALD R. CARPENTER  
CLERK

**RESPONDENT CAMICIA'S ANSWER TO BRIEF OF  
AMICUS CURIAE WASHINGTON STATE  
ASSOCIATION FOR JUSTICE FOUNDATION**

**John Budlong  
WSBA #12594**

**Howard Mark Goodfriend  
WSBA #14355  
Catherine Wright Smith  
WSBA #9542**

**THE BUDLONG LAW FIRM  
100 Second Avenue South  
Edmonds, WA 98020  
(425) 673-1944**

**SMITH GOODFRIEND, P.S.  
1109 1st Ave Ste 500  
Seattle, WA 98101-2988  
(206) 624-0974**

**Attorneys for Respondent Susan Camicia**

**ORIGINAL**

TABLE OF CONTENTS

I. INTRODUCTION. . . . . 1

II. ARGUMENT. . . . . 1

    A. Camicia Preserved This Issue For Review. . . . . 1

    B. The I-90 Trail Across Mercer Island Is An Integral Part  
    Of A Regional and Local Public Transportation System  
    That Was Built And Maintained Exclusively With  
    Federal and State Transportation Funds. . . . . 2

    C. RCW 4.24.210 Applies To Outdoor Recreation Trails,  
    Not To Public Transportation Systems. . . . . 5

    D. The *Chamberlain* Decision Should Be Disapproved. . . . . 9

IV. CONCLUSION. . . . . 12

Appendix

**TABLE OF AUTHORITIES**

**Washington Cases:**

*Chamberlain v. Dep't of Transp.*,  
79 Wn. App. 212, 901 P.2d 344 (1995)..... 9-11

*Gaeta v. Seattle City Light*,  
54 Wn. App. 603, 774 P.2d 1255 (1989)..... 11

*Keller v. City of Spokane*,  
146 Wn.2d 237, 44 P.3d 845 (2002). . . . . 1, 8

*Owen v. Burlington Northern and Santa Fe R.R. Co.*,  
153 Wn.2d 780, 108 P.3d 1220 (2005). . . . . 1

*Partridge v. City of Seattle*,  
49 Wn. App. 211, 741 P.2d 1039 (1987) . . . . . 11

*Riksem v. City of Seattle*,  
47 Wn. App. 506, 736 P.2d 275 (1987)..... 11

*Tennyson v. Plum Creek Timber Co.*,  
73 Wn. App. 550, 872 P.2d 524 (1994)..... 10

*Widman v. Johnson*,  
81 Wn. App. 110, 912 P.2d 1095 (1996)..... 11

**Statutes:**

49 U.S.C. §303(c) (“§4(f”)..... 3, 4

RCW 4.24.210..... 1, 2, 4, 5, 7-12

Title 77 RCW..... 5

RCW 77.15.750..... 5

RCW ch. 79A.....	7
RCW 79A.05.....	5
RCW 79A.05.010(4).....	5, 9
RCW 79A.05.140.....	5
RCW 79A.05.225(1)(b).....	5
RCW 79A.05.310.....	6, 7
RCW 79A.05.315.....	6, 7
RCW 79A.05.320(1).....	6, 7
RCW 79A.05.325(6).....	5, 6
RCW 79A.05.330.....	6, 7

## **I. INTRODUCTION**

Public transportation systems are not outdoor recreation lands. The City of Mercer Island is not entitled to immunity from liability for failing to exercise reasonable care in maintaining the I-90 trail, which is part of a public transportation system, and not "outdoor recreation" land within the meaning of RCW 4.24.210.

## **II. ARGUMENT**

### **A. Camicia Preserved This Issue For Review.**

Respondent Susan Camicia respectfully disagrees with amicus Washington State Association for Justice Foundation's ("the Foundation") statement that "Camicia does not appear to argue that RCW 4.24.210 is inapplicable to lands that are part of a public transportation system." Foundation Br. at 6, n. 4. To the contrary, Camicia argued that RCW 4.24.210 does not apply to public transportation systems because it does not "nullify [a municipality's] duty to keep [its] public transportation route in a reasonably safe condition for ordinary travel" in her Supplemental Brief at 1, citing *Keller v. City of Spokane*, 146 Wn.2d 237, 242-43, 44 P.3d 845 (2002) and *Owen v. Burlington Northern and Santa Fe R.R. Co.*, 153 Wn.2d 780,

786-88, 108 P.3d 1220 (2005). *See also* Camicia Supp. Br. at 13 ("[T]his Court has never extended recreational use immunity to a street road or highway that is dedicated to public use, not for recreation, but as a public transportation corridor."); Answer to Petition at 7-11.

Camicia's argument that RCW 4.24.210 does not abrogate a municipality's duty to keep its public transportation routes in a reasonably safe condition for ordinary travel is identical to the Foundation's argument that RCW 4.24.210 does not apply to Washington's public transportation system because such lands are funded, dedicated and used for public transportation, not "for the purposes of outdoor recreation."

**B. The I-90 Trail Across Mercer Island Is An Integral Part Of A Regional and Local Public Transportation System That Was Built And Maintained Exclusively With Federal and State Transportation Funds.**

The Foundation's comprehensive discussion of Washington's public transportation statutes, Foundation Br. at 10-15, amply illustrates that bicycle trails like the I-90 trail, which are built and maintained with public transportation funds, are an integral component of Washington's multimodal state, county and municipal public transportation systems. As the Foundation correctly asserts, "the portion of the I-90 involving Camicia's injury is part of a public transportation system." Foundation Br. at 6. In its October 2002

"Evaluation of the I-90 Bicycle and Pedestrian Path as a Potential Section 4(f) Resource" WSDOT confirmed that the entire I-90 trail, including portion on Mercer Island, is an integral component of a regional and local "multi-modal" public transportation system that was built exclusively with federal and state highway funds without any recreation funds:

**The 4(f) status of the I-90 path**

As the "officials having jurisdiction over" the I-90 bicycle and pedestrian path, WSDOT has determined that the major purpose of that facility is transportation. The path was built as part of a multi-modal transportation facility, using federal and state highway funds. No funds designated for recreational facilities were used in constructing the path and separate accounts were used to ensure the separation of recreational and transportation funds. ...

By providing a means of non-motorized access across Lake Washington, the path permits users to travel between Seattle and Mercer Island and access other areas in the Puget Sound Region. The path, in fact, is the only means for non-motorized access to Mercer Island and across Lake Washington. As such, it is an important link in the regional transportation system. While the path can be used for recreational purposes, it was developed and exists primarily for transportation, and serves as an integral part of the local transportation system.

CP 747-50. *See also* CP 772-774 (concluding that "the adjacent sidewalks" to the Park & Ride lot where Camicia was injured also were "not a publicly owned public park, recreation area, or wildlife and waterfowl refuge, or an historic site.")

As the Court of Appeals correctly stated, "there is no dispute that WSDOT designed and built the I-90 trail using federal and state highway transportation funds as a means of non-motorized regional transportation." 2010 WL 4457351 at 6. The City's annual fees for maintaining the I-90 trail across Mercer Island also are paid with WSDOT public transportation funds under the I-90 Turnback and Landscape Maintenance Agreement. CP 508-10. The entire I-90 trail, including the accident location, is an integral part of WSDOT's regional and local transportation system. If the I-90 trail only included the floating bridge, and not the Mercer Island section, it could not be the regional and local transportation system that WSDOT, the jurisdictional authority, intended it to be when it conveyed the portion of the trail at issue here to the City "for road/street purposes only." CP 624. But even if the §4(f) determination had applied only to the floating bridge, it would not change the fact that the entire I-90 trail is an integral component of a regional and local public transportation system. This Court should hold that RCW 4.24.210 does not apply to claims involving unintentional injuries to users of the trail because it is an integral part of a public transportation system, and not "recreational" land.

**C. RCW 4.24.210 Applies To Outdoor Recreation Trails, Not To Public Transportation Systems.**

Camicia agrees with the Foundation that RCW 4.24.210 should apply to recreational trails, but not to non-motorized public transportation systems like the I-90 trail that are built and maintained with public transportation funds. *See* Foundation Br. at 10. The Legislature made this distinction in RCW 4.24.210(5)(a), which distinguishes between non-motorized public transportation systems like the I-90 trail, which are built and maintained with state and federal transportation funds and fees, and recreational trails like the Milwaukee Road corridor, which are developed, operated and maintained by the state Parks and Recreation Commission with recreation funds, private contributions and exempt user license and permit fees.

The recreational use immunity statute provides: "(5) For purposes of this section, the following are not fees: (a) A license or permit issued for statewide use under authority of chapter 79A.05 RCW or Title 77 RCW...." RCW 4.24.210(5). RCW 79A.05 governs recreational use permits issued by the Parks and Recreation Commission, including user permits for the Milwaukee Road recreation trail, while Title 77 RCW governs licenses and

permits issued by the Department of Fish and Wildlife.<sup>1</sup> RCW 79A.05.010(4) provides that: “‘Recreation’ means those activities of a voluntary and leisure time nature that aid in promoting entertainment, pleasure, play, relaxation, or instruction.”

The Legislature's reference to those trails dedicated to recreational use provides a meaningful distinction from the public transportation system at issue in this case. In 1981, the State of Washington purchased a 213-mile land corridor from the Milwaukee Railroad Company. *See* note following RCW 79A.05.315. In 1989, management control over the Milwaukee Road corridor was transferred from the Department of Natural Resources to the Parks and Recreation Commission. RCW 79A.05.310-315. The Commission is required to “[m]anage the corridor as a recreational trail”, RCW 79A.05.320(1), and to “[m]anage the portion of the Milwaukee Road corridor... for recreational access limited to holders of permits issued by the commission.” RCW 79A.05.325(6). RCW 79A.05.330 also requires the Commission to encourage private contributions and exempt user permit

---

<sup>1</sup>*See e.g.* RCW 79A.05.325(6) (Milwaukee Road corridor use permits); RCW 79A.05.140 (permits for improvement of parks); RCW 79A.05.225(1)(b) (winter recreational parking space permits); RCW 77.15.750 (referencing various Fish and Wildlife licenses and permits).

revenues to develop, operate and maintain the Milwaukee Road recreation trail:

**79A.05.330. Recreation trail on Milwaukee Road corridor**

The state parks and recreation commission shall identify opportunities and encourage volunteer work, private contributions, and support from tax-exempt foundations to develop, operate, and maintain the recreation trail on the portion of the Milwaukee Road under its control.

These provisions of RCW ch. 79A show that the Legislature clearly knows how to extend recreational use immunity to an outdoor recreation trail like the Milwaukee Road corridor. The state purchased the Milwaukee Road corridor with non-transportation funds, RCW 79A.05.310-315; designated it as a "recreation trail," RCW 79A.05.320(1); developed and maintained the trail with recreation funds and private contributions rather than federal and state highway transportation funds, RCW 79A.05.330; and specifically declared that permit charges for using the trail are not "fees" for purposes of RCW 4.24.210(1). RCW 4.24.210(5)(a). By designating the Milwaukee Road corridor as a "recreation trail", the Legislature brought it within the ambit of "outdoor recreation" under RCW 4.24.210(1); by declaring that permit charges are not "fees," it ensured that a public entity that managed a

recreational trail for recreational use, and not as part of a public transportation system, would be entitled to recreational use immunity.

In contrast, there is no indication that the Legislature intended RCW 4.24.210 to apply to a regional and local public transportation system like the I-90 trail, which was built exclusively with state and federal highway transportation funds, without any recreation funds, and remains under WSDOT's continuing jurisdiction. Instead, municipalities have a common law duty to maintain public transportation routes in a reasonably safe condition for ordinary travel under *Keller v. City of Spokane*, 146 Wn.2d 237, 254, 44 P.3d 845 (2002). *See* Camicia Supp. Br. 7-8.

This Court can discern from the statute's plain language that the Legislature intended RCW 4.24.210 to apply to designated recreational bicycle and pedestrian facilities like the Milwaukee Road "recreation trail" that are built and maintained with recreation and private funds and exempted from the statutory "charging a fee of any kind therefor" exception, but not to non-motorized regional and local public transportation systems like the I-90 trail that are built and maintained exclusively with state and federal transportation funds and fees. But if the statute is strictly construed, as the Foundation argues it should be in its Brief at 9, 17, public transportation is

not "outdoor recreation" under RCW 4.24.210 because public transportation is not an "activit[y] of a voluntary and leisure time nature that aid[s] in promoting entertainment, pleasure, play, relaxation, or instruction." RCW 79A.05.010(4). Even if the I-90 trail is considered "outdoor recreation" land, charging the Washington State Department of Transportation a \$68,000+ annual fee, as the City does, to maintain the I-90 trail across Mercer Island so it can be used for public transportation and recreation, constitutes "charging a fee of any kind therefor." Since public transportation systems are outside the ambit of RCW 4.24.210, and since the City's \$68,000+ annual fee is within the statute's fee-charging exception, recreational use immunity is unavailable to the City.

**D. The *Chamberlain* Decision Should Be Disapproved.**

This Court should clearly and unambiguously distinguish between a local government's duty to maintain its public transportation system in a reasonably safe condition for the traveling public and a landowner's limited duty to maintain lands open to public recreation, a distinction that has not been clearly articulated in Court of Appeals decisions. This Court has never before addressed any of the provisions of RCW 4.24.210(1) that are at issue

on this appeal and therefore is free to adopt or disapprove the reasoning or result of any Court of Appeals decision construing the statute.

Division One below distinguished its earlier decision in *Chamberlain v. Dep't of Transp.*, 79 Wn. App. 212, 901 P.2d 344 (1995) on grounds that the State of Washington, unlike the City in this case, "had the authority to expressly dedicate the accident site to recreational use." 2010 WL 4457351 at 8. It is unclear from the *Chamberlain* decision, however, if the accident in that case occurred on the highway itself, or off the highway where the state had developed a public "scenic overlook" at Deception Pass. 79 Wn. App. at 220. The Foundation argues that "*Chamberlain* should have been resolved under a traditional negligence analysis," and its holding that RCW 4.24.210 applied "must be disapproved" if "land that is part of a public transportation system falls outside the ambit of RCW 4.24.210." Foundation Br. at 20.

Camicia agrees with the Foundation's analysis. This Court could distinguish *Chamberlain*, if the accident occurred at a "scenic overlook" recreation site that the state could permanently close off to public outdoor recreation. See *Tennyson v. Plum Creek Timber Co.*, 73 Wn. App. 550, 872 P.2d 524 (1994). However, this Court should disapprove of *Chamberlain* to the extent that its holding has been applied to provide immunity to

government for the care and maintenance of its highway and adjacent sidewalks. This Court should also disavow *Chamberlain* to the extent the *Chamberlain* court implied that immunity can depend on whether the injured person is using a public highway or sidewalk "for purposes other than outdoor recreation." 79 Wn. App. at 221.

As the Foundation argues in its Brief at 18-20, the distinction between recreational lands and roads that are part of a public transportation system provides a meaningful basis to distinguish other cases in which the Courts of Appeals have applied RCW 4.24.210 to roadways. In *Gaeta v. Seattle City Light*, 54 Wn. App. 603, 608, 774 P.2d 1255 (1989), the road where the plaintiff was injured was not a public highway or transportation "thoroughfare," but was the public access to lands by the Diablo Dam, which Seattle City Light had opened to public recreational use. *Widman v. Johnson*, 81 Wn. App. 110, 112, 912 P.2d 1095 (1996), applied RCW 4.24.210 to a private logging road that the landowner had left open to the public free of charge for recreational use, not to a public transportation system that the landowner charged a fee to maintain. *Riksem v. City of Seattle*, 47 Wn. App. 506, 736 P.2d 275 (1987) applied RCW 4.24.210 to Seattle's Burke-Gilman trail, which was described in *Partridge v. City of Seattle*, 49 Wn. App. 211,

214, 741 P.2d 1039 (1987), as "a former railroad track which was converted (improved) by the City to an asphalt trail for walkers, joggers, and bicyclists." Like the Milwaukee Road recreation trail or other "rails to trails" recreational lands, the Burke-Gilman trail was not opened as part of a public transportation system and therefore its owner was entitled to claim recreational use immunity under RCW 4.24.210.

#### **IV. CONCLUSION**

This Court should adopt the Foundation's reasoning and hold that that RCW 4.24.210 does not extend recreational use immunity to public transportation systems as a matter of law. If this Court declines to strike the City's immunity defense outright, then Camicia requests that the Court of Appeals decision be affirmed and the case remanded for trial to resolve the material fact issues as to whether the City had authority to designate the I-90 trail as recreational land or to "allow" or disallow members of the public to use it for transportation or outdoor recreation purposes.

RESPECTFULLY OFFERED this 2<sup>nd</sup> day of November, 2011.

THE BUDLONG LAW FIRM

SMITH GOODFRIEND, P.S.



---

John Budlong  
WSBA #12594

---

For Howard Mark Goodfriend  
WSBA #14355  
For Catherine Wright Smith  
WSBA #9542

Attorneys for Respondent Susan Camicia

RECEIVED  
SUPREME COURT  
STATE OF WASHINGTON  
Nov 02, 2011, 3:40 pm  
BY RONALD R. CARPENTER  
CLERK

NO. 85583-8

---

RECEIVED BY E-MAIL

IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON  
(Court of Appeals No. 63787-8-1)  
(King County Superior Court Cause No. 07-2-29545-3 SEA)

---

CITY OF MERCER ISLAND,

Petitioner,

vs.

SUSAN CAMICIA,

Respondent.

---

APPENDIX

---

**John Budlong**  
WSBA #12594

**Howard Mark Goodfriend**  
WSBA #14355  
**Catherine Wright Smith**  
WSBA #9542

**THE BUDLONG LAW FIRM**  
100 Second Avenue South  
Edmonds, WA 98020  
(425) 673-1944

**SMITH GOODFRIEND, P.S.**  
1109 1st Ave Ste 500  
Seattle, WA 98101-2988  
(206) 624-0974

**Attorneys for Respondent Susan Camicia**

ORIGINAL

## APPENDIX

### RCW 4.24.210. Liability of owners or others in possession of land and water areas for injuries to recreation users--Limitation

(1) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowners, hydroelectric project owners, or others in lawful possession and control of any lands whether designated resource, rural, or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting, fishing, camping, picnicking, swimming, hiking, bicycling, skateboarding or other nonmotorized wheel-based activities, hanggliding, paragliding, rock climbing, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, kayaking, canoeing, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefor, shall not be liable for unintentional injuries to such users.

(2) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowner or others in lawful possession and control of any lands whether rural or urban, or water areas or channels and lands adjacent to such areas or channels, who offer or allow such land to be used for purposes of a fish or wildlife cooperative project, or allow access to such land for cleanup of litter or other solid waste, shall not be liable for unintentional injuries to any volunteer group or to any other users.

(3) Any public or private landowner, or others in lawful possession and control of the land, may charge an administrative fee of up to twenty-five dollars for the cutting, gathering, and removing of firewood from the land.

(4)(a) Nothing in this section shall prevent the liability of a landowner or others in lawful possession and control for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted.

(i) A fixed anchor used in rock climbing and put in place by someone other than a landowner is not a known dangerous artificial latent condition and a landowner under subsection (1) of this section shall not be liable for unintentional injuries resulting from the condition or use of such an anchor.

(ii) Releasing water or flows and making waterways or channels available for kayaking, canoeing, or rafting purposes pursuant to and in substantial compliance with a hydroelectric license issued by the federal energy regulatory commission, and making adjacent lands available for purposes of allowing viewing of such activities, does not create a known dangerous artificial latent condition and hydroelectric project owners under subsection (1) of this section shall not be liable for unintentional injuries to the recreational users and observers resulting from such releases and activities.

(b) Nothing in RCW 4.24.200 and this section limits or expands in any way the doctrine of

attractive nuisance.

(c) Usage by members of the public, volunteer groups, or other users is permissive and does not support any claim of adverse possession.

(5) For purposes of this section, the following are not fees:

(a) A license or permit issued for statewide use under authority of chapter 79A.05 RCW or Title 77 RCW;

(b) A pass or permit issued under section 3, 4, or 5 of this act; and

(c) A daily charge not to exceed twenty dollars per person, per day, for access to a publicly owned ORV sports park, as defined in RCW 46.09.310, or other public facility accessed by a highway, street, or nonhighway road for the purposes of off-road vehicle use.

**CREDIT(S)**

[2011 c 320 § 11, eff. July 1, 2011; 2011 c 171 § 2, eff. July 1, 2011; 2011 c 53 § 1, eff. July 22, 2011; 2006 c 212 § 6, eff. June 7, 2006. Prior: 2003 c 39 § 2, eff. July 27, 2003; 2003 c 16 § 2, eff. July 27, 2003; 1997 c 26 § 1; 1992 c 52 § 1; prior: 1991 c 69 § 1; 1991 c 50 § 1; 1980 c 111 § 1; 1979 c 53 § 1; 1972 ex.s. c 153 § 17; 1969 ex.s. c 24 § 2; 1967 c 216 § 2.]

**79A.05.010. Definitions**

The definitions in this section apply throughout this title unless the context clearly requires otherwise.

(4) "Recreation" means those activities of a voluntary and leisure-time nature that aid in promoting entertainment, pleasure, play, relaxation, or instruction.

**CREDIT(S)**

[1999 c 249 § 101.]

**RCW 79A.05.315. Milwaukee Road corridor--Transfer of management control to commission**

Management control of the portion of the Milwaukee Road corridor, beginning at the western terminus near Easton and concluding at the west end of the bridge structure over the Columbia river, which point is located in section 34, township 16 north, range 23 east, W.M., inclusive of the northerly spur line therefrom, shall be transferred by the department of natural resources to the state parks and recreation commission at no cost to the commission.

**CREDIT(S)**

[1989 c 129 § 1; (2000 c 11 § 38; 1996 c 129 § 7 expired July 1, 2006); 1984 c 174 § 2. Formerly RCW 43.51.405.]

**Purpose**--1984 c 174: "The purpose of RCW 43.51.405 through 43.51.411 and 79.08.275 through 79.08.283 is to set forth the state's policy regarding the approximately two hundred thirteen-mile corridor of land purchased by the state from the Milwaukee Railroad Company under section 17(21), chapter 143, Laws of 1981." [1984 c 174 § 1.]

Laws 1999, ch. 249, § 1601, eff. July 25, 1999, recodified § 43.51.405 as this section.

#### **RCW 79A.05.320. Milwaukee Road corridor--Duties**

The state parks and recreation commission shall do the following with respect to the portion of the Milwaukee Road corridor under its control:

- (1) Manage the corridor as a recreational trail except when closed under RCW 79A.05.325;
- (2) Close the corridor to hunting;
- (3) Close the corridor to all motorized vehicles except: (a) Emergency or law enforcement vehicles; (b) vehicles necessary for access to utility lines; and (c) vehicles necessary for maintenance of the corridor, or construction of the trail;
- (4) Comply with legally enforceable conditions contained in the deeds for the corridor;
- (5) Control weeds under the applicable provisions of chapters 17.04, 17.06, and 17.10 RCW; and
- (6) Clean and maintain culverts.

#### **CREDIT(S)**

[2000 c 11 § 39; 1987 c 438 § 39; 1984 c 174 § 3. Formerly RCW 43.51.407.]

#### **RCW 79A.05.325. Milwaukee Road corridor--Additional duties**

The state parks and recreation commission may do the following with respect to the portion of the Milwaukee Road corridor under its control:

- (1) Enter into agreements to allow the realignment or modification of public roads, farm crossings, water conveyance facilities, and other utility crossings;
- (2) Regulate activities and restrict uses, including, but not limited to, closing portions of the corridor to reduce fire danger or protect public safety;
- (3) Place hazard warning signs and close hazardous structures;
- (4) Renegotiate deed restrictions upon agreement with affected parties; and

(5) Approve and process the sale or exchange of lands or easements if such a sale or exchange will not adversely affect the recreational potential of the corridor; and

(6) Manage the portion of the Milwaukee Road corridor lying between the eastern corporate limits of the city of Kittitas and the eastern end of the corridor under commission control for recreational access limited to holders of permits issued by the commission. The commission shall, for the purpose of issuing permits for corridor use, adopt rules necessary for the orderly and safe use of the corridor and the protection of adjoining landowners, which may include restrictions on the total numbers of permits issued, numbers in a permitted group, and periods during which the corridor is available for permitted users. The commission may increase recreational management of this portion of the corridor and eliminate the permit system as it determines in its discretion based upon available funding and other resources.

**CREDIT(S)**

[1989 c 129 § 3; 1984 c 174 § 4. Formerly RCW 43.51.409.]

**RCW 79A.05.330. Recreation trail on Milwaukee Road corridor**

The state parks and recreation commission shall identify opportunities and encourage volunteer work, private contributions, and support from tax-exempt foundations to develop, operate, and maintain the recreation trail on the portion of the Milwaukee Road under its control.

**CREDIT(S)**

[1984 c 174 § 5. Formerly RCW 43.51.411.]