

State of Nevada

Real Estate Division

RE: NRED v. Sierra Ranchos Property Owners Association

Case No. 2018-1663

Please review the following information and supporting documentation with regards to the matter of NRED v. Sierra Ranchos Property Owners Association, Case No. 2018-1663.

My name is Greg DeFehr, I currently sit on the board of Sierra Ranchos Property Association (SRPOA). I am informing the commission that as of 5/11/2022 SRPOA does not have a licensed community manager. I received the attached contract termination letter from Controlled Resources Management Group, Inc. (CRMG) along with two intervention affidavits and email correspondences (Binder 1, Doc. 1). As I read his explanation for the termination I recalled similar explanations from the other community managers SRPOA has had since NRED Case No. 2018-1663.

First was OPUS 1, Tanya Bates, she gave an explanation for her not continuing the contract that cited aggressive behaviors of the membership. When I spoke directly with her she informed me that the aggressive behaviors were more of an explanation put together because of Tony Boggs aggressive behavior, not the general membership. She explained that the real reason was, then SRPOA President William Roth wasn't taking her professional advice and was doing things that could jeopardize her licensing. She stated that the Association documents she had received were in complete disarray. She was spending a lot of her time trying to build ledgers and accounts for the Association. She was given DCCR's that outlined the membership, but was receiving payments from people not in it. We talked about rumors in the community, rumors that suggested the 2004 DCCR's were never lawfully executed, that the Association arbitrarily let certain properties out, and that the Association had actually expired in 1998. Tanya explained that a continued relationship with SRPOA wasn't in the best interest of her company.

Next was Terra West, managers Dawn Osterode and Jennifer Gibbs. I became a board member in 2021, right after OPUS 1 quit. I had launched a recall campaign of William Roth in 2020 and successfully obtained enough signatures to require a recall election (Binder1, Doc. 2). William Roth never scheduled the recall election. When Terra West took over as community managers they were unaware that a lawful petition was submitted. When I informed Terra West that a petition was submitted, they informed Mr. Roth that a recall election was required. William Roth decided to quit, instead of facing a recall election (Binder1, Doc. 3). He came right back though with the new board because there were only three candidates and no election was required. Mr. Roth's character with Terra West was questioned right out the gate, Terra West learned in a public meeting that SRPOA was operating under a stipulation order from the State of Nevada. Mr. Roth did not inform them of the stipulation order before they negotiated a contract. Terra West requested access to SRPOA legal counsel, and Mr. Roth refused them access. Terra West decided to quit just before the new board was seated (Binder 1, Doc. 4). Once the new board was seated, Loren Pierce and I asked Terra West to stay on. They agreed so long as we provided

them access to legal counsel when addressing SRPOA legal issues. Loren and I worked together with Terra West to address the community's issues. Terra West was receiving payments from properties not listed in the 2004 DCCR's and not receiving payments from properties they thought were included (Binder 1, Doc. 5). The same thing happened to OPUS 1. There were plenty of questions as to why this was happening in the Association. That's when I told them about those rumors. The board agreed that those questions needed to be handed over to the Association's counsel.

Counsel was tasked with one question, "Who is a member of the Association?" After an exhaustive search, counsel could not derive a definitive answer to that question (Binder 1, Doc. 6). They researched the public recordings, the official documents of the Association, and the historical documents of the Association. What counsel did find was that the Convents, Conditions, and Restrictions governing Sierra Rancho Property Owners Association expired, January 1st, 1998, on pages 18 and 19 of the DCCR's (Binder 1, DOC 7). No records were ever found that these restrictions were extended by the community. The language of this document called out for the WRITTEN CONSENT of 51% or more to modify the current document, not for the creation of a new one. The new restrictions filed in 2004 do not contain the written consent of any property owners (Binder 1, DOC 8), but rather cited an election were 51% or more agreed to impose restrictions on property owners who didn't vote for the restrictions. Nevada law requires that 100% of the property owners must agree to new restrictions. This is a clear violation of property owner's rights who didn't agree. There are no records of who voted for or against these restrictions. SRPOA has never gotten 51% of its membership to vote on anything, before or since this vote. No one claims that they got 100% to agree to those restrictions. This is what Association counsel refers to as an existential problem. It should not be on the property owner to hire an attorney and incur expense, when it is the Association that claims it has the right to collect. I believe there is still another problem beyond this. The new restrictions do not say they are new restrictions. Even someone agreeing to them could have been misled into thinking they were just continuing the old restrictions. These new restrictions might very well have been well meaning attempts to address community problems, but they fall way short of being legal documents that could cost someone their property because they fell short on payments or wanted to protest the lack of road maintenance. Consider the properties located on Red Rock Rd, they are serviced by a paved county road. They do not use our roads for ingress or egress, some of them have to lease land from BLM for access to their properties. Why would they agree to new restrictions if they thought they didn't have to? They couldn't even be compelled in court to pay a maintenance agreement because they are not benefiting from our roads. They don't know this and when they learn it they are faced with a \$20,000.00 bill to ask the court to review this. Terra West, independently sought counsel on this matter and agreed to continue managing this community as long as the board continued to seek a lawful resolution. A new board was elected in 2021, and accusations of illegalities from William Roth and Joy Marvin towards Terra West began shortly after. Terra West decided that the new board wasn't moving towards legal remedies of the Associations existential problems and terminated the contract.

The commission should consider the existential problem, no clear claim to impose restrictions, including exercising provisions of the restrictions that allow for billing, assessments, collections, and foreclosures. How would this Association fair in a foreclosure court? Collection companies are subject Federal laws, especially surrounding reporting negative items to credit bureaus. How would collection companies fair when challenged in court. Insurance companies provide coverages based on risk. Has this Association accurately reported its risk assessment to our carrier? Nobody is suggesting that this Association has

the same risk of an Association with sound DCCR's. Rather they have only said to pretend like it does until a property owner litigates the issue. That not a sound position if you are a legal entity doing business with a questionable entity? This Association has failed to accurately report its legal conditions to any entity when negotiating a contract. What would these lawful businesses do if they knew about the existential problem? Tom DeFalco of CRMG, said it best and most directly in his contract termination letter, "Several issues, which were not disclosed to me in our initial discussions, pose potential liability concerns to our company." What legal company would knowingly choose to handle the issues of our Association? Especially when this information is deliberately kept from them.

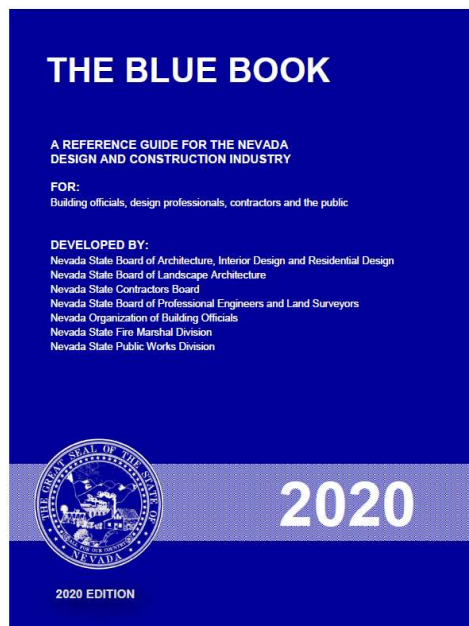
What I am about to tell you requires some understanding of construction processes and regulatory permitting processes. I am assuming the commission has been exposed to these processes or you wouldn't be setting where you are. I worked for 16 years in property management. I worked for 10 years as a construction superintendent. I am now a design engineer for AT&T. I currently work closely State, County, and local agencies on public works projects. I work with private contractors on different projects they are constructing. I review right of ways, easements, and obtain permits across multiple jurisdictions in Nevada and California. Another reason this Association will never be able to comply fully with Case No. 2018-1663 is William Roth. Mr. Roth was planted into this community to prevent the discovery of damages caused to this community by Don Lingle. This part gets exhaustive, so I will do my best to keep to the points and provide supporting documents.

On September 26th, 2019 Don Lingle gave William Roth interest in a vacant lot within our community (Binder 1, DOC 9). Also on September 26th, 2019 the State of Nevada recorded Case No. 2018-1663 (Binder 1, DOC 10), effectively firing Don Lingle from being able to perform work for our community. Mr. Lingle had been paid by the Association \$2300 a month for nearly 17 years. On September 24th, 2019 Washoe County cited SRPOA for illegal construction activities performed by Don Lingle (Binder 1, DOC 11). The violations are a fact the original commission filing 2018-1663 were not aware of or did not address in the original case. I raised concerns about those excavations because they were changing the natural flow of water in the valley and increased flooding where it hadn't occurred before. The cost of restoration for these damages will be extensive. A quote from a local engineering firm topped \$100,000.00 to get the ball rolling. Mr. Lingle is responsible, so is the Association (Binder 1, DOC 12). What has Mr. Roth accomplished since Mr. Lingle gave him interest in his property and access to our community?

In July of 2020, Mr. Roth proposed to install larger culverts across Dry Valley (Binder 1, DOC 13) (without obtaining a permit or hiring an engineer). OPUS 1 disagreed with him on this, but he pushed it forward until I questioned him on it in open meeting on July 20th, 2020 (Binder 1, DOC 14). Mr. Roth was not unable to answer simple questions like what was the volume of water he was attempting to control at this location and will a 48" culvert handle that volume of water when you raise the road 18" to account for larger culverts. Clearly Mr. Roth wasn't understanding the full impact of his plan. Additionally, I voiced objections to Mr. Roth acting as the contractor on this project. He hired a licensed contractor, but negotiated the contract in such a manner as to assume all responsibility for the project, hiring the contractor as labor only. An act that defeats the need for a licensed contractor, and only satisfies the State's requirement (2018-1663) that you hire one. I contacted Kevin Costa, Washoe County Code Enforcement and they notified Mr. Roth that installing those culverts would require a grading permit (Binder 1, DOC 15). Mr. Costa also recommended to me that I contact the State Contractors Licensing board, I did not. Contractors are hard enough to get out here.

My contact with the County stirred up those previous violations SRPOA was ignoring and had done nothing with to date. Mr. Costa told me he would send out a warning about the new proposal, and resend the current violations for excavations on Panhandle Rd. and Wrangler Rd. I asked Mr. Costa about the two other excavations on Buckboard Cir. and Horseshoe Cir. Mr. Costa said he would stick with the most recent excavations, but the Association could always include those in any permits they submit to the County.

It was now a year after, and Mr. Roth eventually decided to apply for a permit with the County (Binder 1, DOC 16). Mr. Roth called this an "Omnibus Road Grading Permit." He stated that it was to address the violations as well (Binder 1, DOC 17), but nowhere in his application does the application state that it addresses violations. The application Mr. Roth filed with the County violated at least one County code and several professional standards as determined by the 2020 Nevada Blue Book (Binder 1, DOC 18).



Only a licensed contractor may apply for a permit in the State of Nevada (Binder 1, DOC 19). There is a limited exception for actual property owners. Mr. Roth's is not an owner or a licensed contractor. Mr. Roth's application has an engineer's name on it, Shaun Smith. I spoke with Mr. Smith. He was completely unaware that Mr. Roth had used his name. On Mr. Roth's application he list himself as the architect, but Mr. Roth has no such credential. Mr. Roth never included this application as an official Association document in any of the Association records for nearly a year. He waited until requested to do by the membership and not without weeks of delay. Upon presentation, Mr. Roth stated that this document was only a draft (Binder 1, DOC 20), but the words DRAFT appear nowhere in the actual application. Page 18 of the Nevada Blue Book (Binder 1, DOC 21) states that interim documents submitted to building officials must delineate the limited purpose for which they are submitted. This application

could never have produced a permit, nor could it have ever addressed the current violations. Please review two documents, the violations the County filed against SROPA (Binder 1, DOC 11) and Mr. Roth's application (Binder 1, DOC 20), aka his genuine attempt to resolve those violations. The violations clearly state under the section "The actions you must take to correct this violation" that you are to communicate to the County, "this is in regards to a violation" when communicating with the County on the subject. Mr. Roth cannot produce a single document where he communicates that his application is to address the violations. What Mr. Roth finally submitted to the Association, as his application is a broken document. His actual application was submitted online and what he furnished the Association is just the first page of that. The rest of the document is just what he claims he sent. When I contacted the County I learned that the County recycles the permit numbers. So the permit number Mr. Roth claims was his returns to a different permit. So much for Mr. Roth's ability to keep accurate Association records. What I can say about this is that nowhere in the documents Mr. Roth finally submitted (Binder 1, DOC 20) does it say it addresses current violations.

Mr. Roth's deceptiveness and omissions produced the result he wanted. The County told him that a permit to perform surface grading or road maintenance wasn't required (Binder 1, DOC 22). This is truthful, road maintenance doesn't require a permit and that is all that Mr. Roth let them believe. He then took the response from the County and told the Association we have no unresolved issues (Binder 1, DOC 23, & 17) with the County. When it was proven that the violations remain outstanding, he then said he doesn't understand how the County closes its cases (Binder 1, DOC 24). These violations are still active. Mr. Costa contacted me last week and I updated him on the Associations status, no engineer, no licensed contractor, no meetings discussing resolution of the violations at all. Mr. Costa is moving forward with the application of penalties and fines against SRPOA (Binder 1, DOC 25).

Please review DOC 12 for supporting information on this paragraph. The violations only addressed two excavations in the community, but there are many more. Mr. Boggs, while on the board obtained used culverts and installed them throughout the community with the help of Don Lingle. Since these are used culverts finding where they were illegally installed is very difficult. Don Lingle excavated around the western part of Horseshoe Cir. terminating his excavation with a 200 ft. ditch dug straight onto a vacant lot, APN 078-131-04. This owner lives out of state. This excavation diverts the drainage waters from Ross Creek on to the lot and then to Panhandle Rd. and was the first diversion done before 2017. The next excavation was done by Tony Boggs, around Buckboard Cir. Don Lingle installed two of those illegal culverts across Buckboard Cir. at the intersection of Wrangler Rd. and one just east of there. While this spot was passable with a vehicle during the winter of 2018 & 19 it is no longer passable during the rains. The next excavation was on Panhandle Rd., Don Lingle dug ditch along the side of Panhandle Rd. to relieve the waters from Ross Creek he added earlier. This excavation resulted in a massive erosion of the new ditch. The sediments from this erosion washed down to the intersection of Panhandle Rd. and Rattlesnake Rd., visible in aerial photography today. This intersection isn't passable anymore and is closed to vehicle travel. Don Lingle excavated along Wrangler Rd. next. The ditches were so big and dangerous. People felt like they would get trapped in them. We got together and contacted the County about the excavations. The County cited SRPOA for the work Don Lingle did on Panhandle and Wrangler.

My attachments to this letter are not just documents and pictures. They are evidence of a crime. Illegally diverting water onto a person's private property is a horrible crime forcing innocent people to incur excessive expense to correct the problems. This community has been doing this for decades. Without legal intervention there is nothing to stop them. Because the excavations occurred at the source of the water and continued downstream, the devastation moved with each occurrence. I've never seen anybody address flooding issues like this. Starting at the waters source and just moving it from one person's property to another. When properly addressed, you start where the water is going to go and build it big enough to handle it. Moving towards the water so that when you get to the water source it can exit safely. In Mr. Roth's 6-16-2021 Statement (Binder 1, DOC 17), he mentions a property owner by name, Ian Harthorn. Pay attention to this segment and keep in mind what I am saying about all of this.

Ian Hartshorn purchased this home from Don Lingle's daughter, Sabrina Brin. Mr. Roth is telling them

B. Status Update on Washoe County Violations.

Are there any New (2021) violations from Washoe County (?) or are we just revisiting the Panhandle Road (WVIO-ENG19-0029) and Wrangler Road (WVIO-ENG19-0030) Notices from Sept. 2019 ? Since Mr. Costa did not respond to me for most of 2020, I requested an Administrative Hearing on this matter in August of 2020, which induced Mr. Costa to contact me (after months of no response) and request a face-to-face meeting with me - IF and only IF - I cancelled the Administrative Meeting request, which I did. Perhaps it was a mistake for me to agree, as he seems to have kept no record of our meeting (per W. West of Washoe County Engineering), at which we agreed that I would submit an Excavation Permit Application, (WBLED20-10361) which was withdrawn by Washoe County CSD Planning on Nov. 4th, 2020 as "... Not required at all ..."

According to Ian Hartshorn and Waste Management Inc., the section of Panhandle Road



that there are no issues with the County regarding his flooding. On Facebook, Don Lingle is offering to fix the issue for a fee. Mr. Roth acknowledges that Waste Management refuses to provide services to

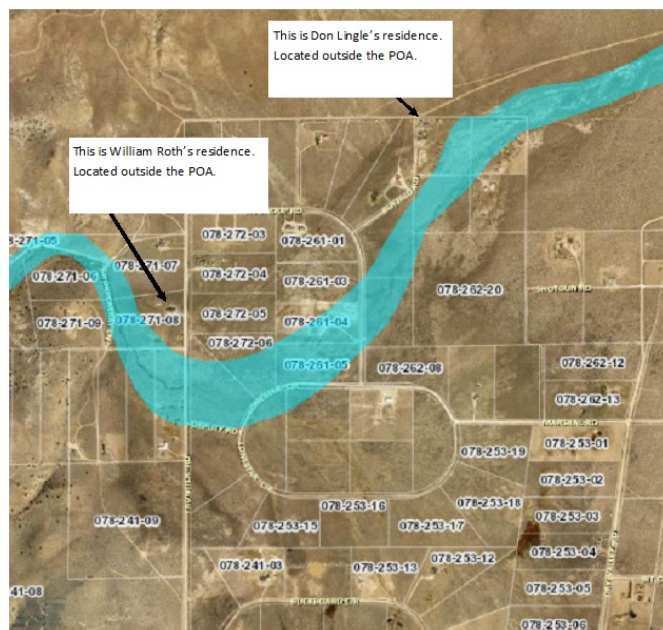
accessing the Hartshorn residence remains very muddy and dangerous, as was the case after flooding in 2019. Waste Management is refusing to collect from this location. This section of road needs to be rebuilt with widening and a heavy rock base. A similar issue often exists on Roundup Road (rebuild estimate from Dyer in 2020 ~ \$ 15,000).

these people. Mr. Roth states that adding rock and building up is the solution to their issues. Have you ever trans-versed a river bed? That is what Mr. Roth is proposing to do. Mr. Roth is not an engineer. Mr. Roth's statement to these members is harmful, deceptive, and omits facts that he should be fully aware of. I really feel for these people, I have to deal with the damaged caused by Mr. Lingle when we get a heavy rain, they deal with it every day. The photo on the left is Panhandle Rd. today.

Additionally, Mr. Roth is proposing building up Roundup Rd. This road is in an official flood plain. There are no provisions under County code that allow for construction activities to occur there without civil engineering and a permit. Mr. Roth's suggestion that \$15,000 is all he needs is grossly underestimated or he intends to do it illegally.

Section 110.416.40 Application Requirements for Permits. Any person desiring to construct, locate, extend, convert or alter a structure or alter any land within any flood hazard area must obtain a building permit, grading permit and/or a special use permit. The Washoe County Department of Public Works shall determine whether the proposed development is within any flood hazard area. If the development is within any flood hazard area, the procedures and requirements set forth in Sections 110.416.45 to 110.416.80, inclusive, must be satisfied before either a building permit, grading permit, and/or a special use permit, is issued.

Mr. Roth continues to tell the community that he is an engineer. He produces emails from engineers, and even a report from an engineer dated 2003. I have read all of them, and I ask that you inquire of them as well. Everyone clearly states that a geotechnical investigation is required. William Roth omits this from every communication to the community. Instead his interactions with these professionals are cursory and inquisitive, and end before any contracts are signed, payments sent, or in depth study occurs. Then Mr. Roth produces fragments of these communications for the community and tells everyone that they agree with his ideas



and engineering is not required or violations have been resolved. All are factual lies. The County will not resolve the violations without an engineered fix and a licensed contractor. The following emails were only recovered after a yearlong attempt to see Mr. Roth's permit application, and then only after members demanded it in an open board meeting, and not without a prolonged delay by Mr. Roth to finally produce them. This application should have been made available to the Association from day one, and entered into the Associations official documents for record keeping. As a result of Mr. Roth's delay, the actual application is completely lost, yet he puts together incriminating documents and submits them as the actual application. This is a common complaint among all the community managers regarding Mr. Roth, activities occurring outside of the Associations processes then learning about them because Mr. Roth later makes some written statement mentioning the activities as an explanation or defense, thus creating another paper trail to go chasing down.

In these emails, Mr. Smith says that no engineering is required because Mr. Roth submitted nothing to him that required engineering. Like a written violation from the County? Mr. Smith goes on to suggest that if the County requires engineering perhaps there is a written request. **Maybe a written violation from the County?** Then there's the ultimate suggestion, a geotechnical investigation. Every engineer's report I have read in regards to this community asks for the same thing.

From : Shaun Smith <ssmith@blackeagleconsulting.com>
Subject : RE: Additional Assistance RE: Grading Permit ?
To : President-SRPOA <sierraranchospoa@rtci.net>

Wed, Sep 30, 2020 08:17 AM
3 attachments

Good Morning William,

Based on the information provided in the Minor Grading Permit application, I don't believe an engineers stamp will be required. There is really no engineering calculations or judgement being provide in the application. If the County requires an engineers stamp upon review, I would assume that requirement would come with a request for additional design parameters (i.e. geotechnical investigation, structural section design, hydrologic analysis, etc.). I would be happy to review the request and provide a proposal for the work. In the meantime, attached is a our standard rate sheet for services.

Respectfully,

Shaun A. Smith, P.E.



President

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From : Shaun Smith <ssmith@blackeagleconsulting.com>
Subject : RE: Detail on Minor Grading Permit development
To : President-SRPOA <sierraranchospoa@rtci.net>
Cc : Panchalingam Vimalaraj <pvimalaraj@blackeagleconsulting.com>

Thu, Sep 17, 2020 05:31 PM

5 attachments

Hi Bill,

I took a quick look at the proposed permit package and made a couple of suggested edits (see redlines attached). I think the package reads well, but I can't tell you if your design (3"-4" of aggregate base over native subgrade) is a sufficient structural section without further analysis. If it is your goal to simply obtain a grading permit for private improvements, I would recommend removing some of the references to existing site materials (sometimes less is more). If you are looking for recommendations related to the improved structural section, we can prepare a proposal to perform a geotechnical investigation. I hope this information is helpful.

Respectfully,

Shaun A. Smith, P.E.



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Only a civil engineer can tell you that Don Lingle diverted the waters of Ross Creek. William Roth has opposed any engineering in this valley from day one. Don Lingle took actions to give Mr. Roth access to our community that he otherwise would not have.

It is not as simple as do you side with Mr. Roth or Mr. DeFehr. The community is divided, but not along the lines you might think. Out here there are properties that get flooded and there are properties that don't. The County allowed the division of these lots without an engineer's plan for drainage. The water only affects all of us because of the common roads, not every individual property gets inundated with water. There are people who think that only the roads should be maintained and they resist any engineering for drainage. Most because of the cost, but some because engineering would shed light on the illegal activities of this Association over the past two decades.

Loren Pierce and I worked together with the community manager (Binder1, DOC 26). We both respected their knowledge and expertise. We are not community managers, we never pretended to be one (Joy Marvin), only one of us is an engineer, but not the kind we need. We really tried our best to do what this community needed. In my time on the board, I learned that \$50,000.00 is not enough money. Ms. Briggs confirmed that with me. I completely understand her position on that. It is truthful all the way around, it's not enough for the State or the Association, but it's just to give unscrupulous people something to chase after. We all know it will take over 20 years of focus and commitment for that dollar amount to produce roads. Unfortunately our current legal documents are not the proper vessel for that kind of operation.

What do I believe should be done? My first and foremost request is that the State take the Association in a receivership, and assist us in completing the required tasks to repair and improve our community. An alternative suggestion is that State require the Association to provide the legal proof of the individual encumbrment of each lot from the 2004 DCCR's or obtain such encumbrment from current lot owners. Allow the Association to continue on a volunteer fashion, payments at the discretion of the lot owner, until signatures are lawfully obtained. Funds would seriously diminish, but an accurate count of

who agrees with it would be known quickly. For decades the Association has lied to this community and directly caused members harm. It is not unreasonable that the community would reject an Association, but it is also one way the community has to address its needs. The community would be forced to come together and develop a plan that meets its needs. There is still a path to legally mandatory compliance, litigation for road maintenance agreements. It's a costly and long road, but at some point the Association will have deal with it. Even in its current state, there are dozens of lots not in the 2004 DCCR's that would fall under the legal requirements of a road maintenance agreement but pay nothing now. Out here it's like a status thing, "Oh, I'm not in your Association." When I hear that I'd have more respect if they would followed it up, thank you for the roads, but given the condition of the roads I'd also be embarrassed.

On the subject of William Roth. In 2021 I submitted an invention affidavit that was accepted by the State. There are volumes of documents this commission should review in this affidavit. In the interest of keeping this statement as small as possible, I have included only the legal opinion of Association counsel (**Binder 1, DOC 27**) on which the affidavit was based. Since both legal opinions are the duly purchased property of the Association, and part of its official records, I feel it is my duty to provide them to the proper agency governing this Association.

Please take into consideration the arguments I have presented today. I assure you it was with great effort to minimize the volume of materials and try to present an understanding of the issues. If there is anything in these documents you feel I have not properly provided the support for please ask me. It was not due to a lack of supporting documentation, but rather an overwhelming volume of it. Thank you for your time and considerations.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg DeFehr", with a horizontal line extending to the right.

Greg DeFehr