

# Edit Referral

## H-23-423 Referral Information

**Hotline ID:** H-23-423

**Date of Submission:** 10/1/2023

**Entity Type:** Local

**Entity Category Type:** County

**Entity:** Clallam County

**Sub Entity Name:**

**Category:** Capital Projects/Construction

**1-2 sentence description of concern:** Location of funds intended to resurface public county road.

**Report Issued:** No

**Reporting Type:** Verbal Resolution

**Report Number:**

**Investigation Contracted:** No

**Contract Number:**

**Contract Name:**

**Billing Time Code:**

**Costs:**

**Public Records Request:** Yes

**Flag For Annual Report:** No

**Substantiated:** No

**ARRA:** No

**Action:** Referred to Audit Team - Consider Next Audit

**Audit Team:** Port Orchard

**Audit Team Contact:** strzalkaa@sao.wa.gov

**cc:**

**Referral Date:** 10/4/2023

**Action Taken:** No

**Response Date:**

**Report Date:**

**Follow Up Date:**

**Date Closed:** 12/8/2023

# Edit Referral

## H-23-423 Contact Information

**Hotline ID:** H-23-423

**Date of Submission:** 10/1/2023

**Submission Method:** Web

**Submission Type:** Citizen

**Staff:**

**Author(Last, First):** Tozzer , Jeff

**Address:** 1052 Jamestown Rd

**City:** Sequim

**State:** WA **Zip:** 98382

**Home Phone:**

**Work Phone:**

**Mobile Phone:** 2063005525

**Email:** jeff.tozzer@gmail.com

**Can Contact:** Yes

**Contact Preference:** Mobile Phone

**Anonymous:** No

**Waived Confidentiality:** Yes

Edit Referral



## H-23-423 Referral Details

Hotline ID: H-23-423

What state or local organization is involved?

Please identify the specific concerns you are hoping the audit will address.

Location of funds intended to resurface public county road.

Please provide a detailed description of the assertion or outstanding achievement, including who, when, where, what, how and how much.

1052 Jamestown Road Sequim, WA 98382 (206) 300-5525 jeff.tozzer@gmail.com October 1st, 2023 State Auditor Ms. Pat McCarthy Office of the Washington State Auditor Insurance Building, P.O. Box 40021 Olympia, WA 98504-0021 Dear Ms. McCarthy and the Washington State's Auditor's Office: Sequim and Dungeness residents have concerns that a multiagency, \$20 million dollar, decades long public works project will not be completed due to Clallam County Government prioritizing special interests ahead of the safety, needs, and rights of the greater community. Towne Road, a vital link that promotes transportation for thousands of area residents between Sequim and Dungeness, and has for over 80 years, is closed to through traffic due to a few active interest groups and one County Commissioner's decision. As a result, the mobility and freedom of movement for area residents has been restricted. The Towne Road Setback Levee project, part of the Dungeness River Floodplain Restoration just north of Sequim, is a project that has required collaboration between County and Tribal governments as well as the Department of Ecology (DOE) and other US Government Agencies. The project removed a 1960s era Army Corps of Engineers dike, which constricted the Dungeness River, and built a levee slightly east thus restoring 175 acres of salmon habitat. The County's intent throughout the project was to move "old" Towne Road, which cut through the new floodplain, and relocate it atop the new levee. In the summer of 2022, the original dike was unexpectedly breached by the Jamestown S'Klallam Tribe before the new levee was complete. This exposed the downriver community to possible flood risk in the coming winter and Towne Road was temporarily closed. The County declared an emergency and funds were appropriated to accelerate the completion of the new levee. If not for the breach, Towne Road would not have closed for a single day. Clallam County, the Jamestown S'Klallam Tribe, and the DOE continued collaborating into 2023. Grants from the DOE and the Recreation and Conservation Office relieved Clallam County of most financial liability however, the DOE grant's expiration of June 30th, 2023 loomed. The only vehicle access atop the levee (apart from work crews) was granted to one farm whose driveway branched off the newly elevated Towne Road roadbed. The County promised that a straightened, widened new Towne Road would reopen atop the levee on September 30th, 2023. During a February 27th, 2023 Clallam County Board of Commissioners' Work Session, District 1 Commissioner Mark Ozias stated that he had received concerns from "several hundreds of people, across multiple petitions" requesting that Towne Road be permanently closed. These petitioners cited that the reduction of through traffic during the temporary closure had benefited the livability of their neighborhood. The Commissioner stated he received "exactly one phone call from someone who was interested in reopening it." Additionally, the farmer with the sole driveway was on record as wanting to keep the road permanently closed. County staff attending the meeting immediately raised concerns that the DOE could revoke, or possibly repossess, funds if the conditions of the grant were not fulfilled (namely that the levee be surfaced and opened as a road). County Biologist Cathy Lear suggested that "the roadbed" was finished, and paving the surface could be considered merely "an improvement." There was concern that the recent discovery of contaminated soil could be a financial setback, but county leaders were certain the DOE would cover that contingency. Biologist Lear and Commissioner Ozias countered that funds meant for resurfacing Towne Road could be redirected into creating parking areas and boardwalks through the salmon habitat. The Chief Engineer of the Roads Department urged county leaders to move expeditiously toward completion, especially after so many years and delays. He warned that if the DOE grant expired, and the roadbed wasn't resurfaced by June 30th, the County would have to "reach deep" into the roads budget and completion could be delayed by years. At the meeting, Commissioner Ozias apologized to the experts who were urging that he move forward with completing the project, and he held steadfast in his reasoning that hundreds of signatures and the farmer's wishes obligated him to pause the project. "I'm very hesitant to move forward with a standard width of two-way road. I appreciate the availability of grant dollars right now, in most case scenarios that being enough to complete the project, but it's not a surprise to me that once, with the way the project unfolded, and the public had the opportunity to not have the road there, and to get a sense for what that's like, it's not a surprise at all to see so much of a groundswell of support for not reconnecting that space." The Road Department's representative expressed wishes to follow the original intent and open the levee surface as a County road. Commissioner Ozias again raised concerns about the desire to keep the levee as private access to the farmer's driveway. He concluded, "At this point, given that it has not been clearly identified as a tsunami route, that the vast majority of input that we have received has been, and apparently

even from the Eberles has been , keep the road closed [Eberle is the farmer]." Commissioner Ozias also raised concerns about headlights shining into resident's homes and the project was halted. On September 8th, 2023 the Commissioners announced a public meeting to solicit discussion about Towne Road's resurfacing project alternatives. They did this by sending letters to residents living within a one mile radius from the north end of the closure — a very small sampling of constituents who use Towne Road. For the first time, a vast majority of residents were learning that Towne Road would not be reopening. The notice said that due to the popularity of levee users recreating and viewing wildlife, road construction had been paused due to the "upswell of support" from petitions calling for the road's permanent closure. Four resurfacing options would be discussed at the meeting: the promised, paved two-lane paved road with wide shoulders, a two-lane paved road with a trail on one side, a one-lane southbound paved road with a wide trail beside it, or dedication of the entire 38 foot wide levee to the farmer's private paved driveway with a trail beside it. I submitted a public records request seeking petitions pertaining to Towne Road and received four. Of the signatures, 98 call for the permanent closure of Towne Road and 140 support its reopening. The "upswell of support" isn't reflected in the petitions nor is it consistent with a 2015 public survey which concluded a 2/3 majority wanted to see Towne Road reopened. To be clear, 122 of those petitions calling for the reopening of Towne Road weren't received until two weeks after the Commissioner's February 27th decision to pause — but I would argue that the community wasn't aware they needed to campaign to support the County's promise to reopen a public road. The lone farmer has publicly stated that he created a petition calling for Towne Road to be closed to through traffic, and he cites these signatures as the reason Commissioner Ozias paused the project. His petition has over 300 signatures and is on change.org but does not meet the criteria for petition submittal, nor was it disclosed in my public records request. Also, it wasn't started until after Commissioner Ozias' February 27th comments. If the private farmer's petition influenced a publicly elected official's decision to halt the project's completion, that petition is being shielded from public view. Possibly related, the farmer permitted Commissioner Ozias to place a large billboard in his field, which faces a busy road, supporting the Commissioner's re-election. The public meeting on September 26th was a debacle. Commissioner Ozias, County Biologist Cathy Lear, and Director of the Department of Community Development Bruce Emery contradicted each other and themselves over the course of two hours. Reasons for the project's incompleteness included funding uncertainty, an "upswell of support" to keep the road closed, soil contamination that the DOE paid for (or didn't pay for, depending who was answering questions), sloughing of the levee which was expected and accounted for, settling of the levee which was unaccounted for, slumping of other parts, inflation, and Covid. Community members left the meeting confused and doubtful that honest answers had been given by County staff. Additionally, our community's first responders have raised concerns about permanently closing a primary route in a rural area. In August, a family living on the north side of the closure was displaced when their home burned. When I questioned various EMS responders in our area about the response time to that disaster, our County Fire Chief said, "the added response time certainly added to the loss for that family." The community anticipated that this newly raised, enforced roadbed would be designated as a tsunami evacuation route for coastal communities to the north. The levee beneath the road can withstand a 10,000-year flooding event – an amount of water equal to a 100-year flood in the Dungeness River, times four, and it was constructed to withstand a river as big as the Mississippi. The County says the new levee hasn't been designated for tsunami evacuation and when asked at the meeting if the County has even applied for route designation, Biologist Lear replied, "No." I currently have an inquiry into the Army Corps of Engineers asking if a road atop the new levee would meet designation requirements, I am awaiting reply. The closure has hindered residents' mobility and raises concerns about tsunami evacuation, egress during other emergencies, and also fire department, ambulance, and police response times. There are other consequences to consider such as readjusting property insurance rates and the County's exposure to liability if it chooses to restrict and close such an important rural route. Community concerns are as follows: -Petitions, essentially a "popularity contest," cannot be a factor when determining if a planned, engineered, approved, budgeted, and green-lit public works project, invested in by multiple agencies, should be completed. A county should not "petition" their way out of fulfilling a federally funded and tax payer approved obligation. Further, the petition process was fragmented, biased and not properly conducted to ensure all citizens were informed of alternate considerations. -The county didn't post proper signage to inform the public about the meeting. Two small signs, each a laminated piece of printer paper, were staked beside the levee and quickly disappeared or blew away. Obviously, those signs were predominantly seen by those who enjoyed spending time on the levee. People accessed the top of the levee by passing posted warning signs that stated, "no pedestrians or vehicles allowed." The greater community was not made aware of the public meeting less than three weeks away. -The permanent closure of Towne Road would violate the Clallam County Comprehensive Plan. The removal of an existing roadway to provide a lower level of access is not an appropriate means of applying the intent of the plan and the Transportation Improvement Plan (2023-2028) promises to "reconstruct and relocate segment of Towne Road on top of completed relocated levee section." Additionally, rural routes are rarely, if ever, removed, without the opening of a new route. -Regarding the farmer, if a private special interest has influenced our publicly elected Commissioner with biased data shielded from public view, and the interests of the greater community have been compromised, constituents need to know. -

Residents want to know more about Clallam County's policies and procedures exercised when making these critically impactful decisions. Our County's guiding principles warrant scrutiny if one County Commissioner can cause the incompleteness of such a massive project resulting in financial burden to our rural county's tax base. When I began research two weeks ago, my public records requests were being fulfilled in two days — now requests are estimated to take three weeks which is after the closing of the public comment period on October 10th. County staff has refused to accommodate my request to review the DOE grant until after the public comment period closes, I can't even research what the grant specified in terms of road resurfacing. I urge you to revise the deadline for public comments, and pause the County Commissioners' decision, until after an investigation is completed. I fear the Commissioners will decide the fate of Towne Road before I gather important determining data. I'm asking for help in my search for transparency, accountability, and understanding. The interests, rights, and safety of this rural community need an entity larger than a concerned group of neighbors to advocate for answers. Sincerely, Jeff Tozzer

Sources: Dungeness River Floodplain Restoration:  
<https://www.clallamcountywa.gov/184/Dungeness-Floodplain-Restoration> Commissioner's February 27th Work Session (Towne Road discussion begins at 52:22):  
[https://clallam.granicus.com/player/clip/1674?view\\_id=2&redirect=true&h=872ebc977b0b006f4541ff967f535e7e](https://clallam.granicus.com/player/clip/1674?view_id=2&redirect=true&h=872ebc977b0b006f4541ff967f535e7e) Article about levee strength:  
<https://nwtreatytribes.org/jamestown-sklallam-tribe-builds-new-levee-for-dungeness-river/> I can also provide scans of the Towne Road petitions.

**How did this issue come to your attention?**

Public notice

**What employee(s), contractors, etc., were involved in the assertion or achievement?  
Please include employee titles if possible.**

Clallam County Commissioner Mark Ozias, Director of Department of Community Development  
Bruce Emery, Clallam County Habitat Biologist Cathy Lear

**Please provide the names of any witnesses to the assertion or achievement, if possible.**

**Please provide any additional details or comments that would help us understand your assertion or achievement.**

I want to know if the DOE grant required that the road be paved. I also want to know if it was appropriate for Commissioner Ozias and Habitat Biologist Lear to reappropriate funds meant for surfacing, to construct parking lots and trails.

# Edit Referral

**H-23-423**

**Activity**

**Log**

**Hotline ID:** H-23-423

Entry Date ▼	Log Entry
12/08/2023	Referral updated by 'JEANA Gillis (gillisj)'. --strzalkaa
12/07/2023	Referral updated by 'AMY Strzalka (strzalkaa)'. --strzalkaa
12/07/2023	Referral updated by 'AMY Strzalka (strzalkaa)'. --strzalkaa
12/07/2023	Filed PRR #6080 on behalf of the citizen on 10/23/23. Request is for audit workpapers related to this hotline. --strzalkaa
10/23/2023	Referral updated by 'AMY Strzalka (strzalkaa)'. --strzalkaa
10/23/2023	Communicated results to County via phone on 10/17 and to citizen via phone on 10/23. No issues noted. --strzalkaa
10/10/2023	Citizen sent two additional emails regarding his concerns. Added in supporting docs and incorporated into our review. --strzalkaa
10/04/2023	Referral updated by 'AMY Strzalka (strzalkaa)'. --strzalkaa
10/04/2023	Referral updated by 'JEANA Gillis (gillisj)'. --strzalkaa
10/04/2023	Task assigned to 'strzalkaa@sao.wa.gov'. Team notification email sent to: strzalkaa@sao.wa.gov
10/04/2023	Referral updated by 'JEANA Gillis (gillisj)'. Action changed from (not set) to Referred to Audit Team - Consider Next Audit.
10/04/2023	Called and spoke to citizen. Let him know many of his concerns were outside our authority, but got additional information on his concerns regarding things that are in our authority. Told him we'll look into it in current audit and circle back. --strzalkaa
10/03/2023	Referral updated by 'JEANA Gillis (gillisj)'. --strzalkaa

**From:** [Jeff Tozzer](#)  
**To:** [Strzalka, Amy \(SAO\)](#)  
**Subject:** Towne Road Levee Setback project  
**Date:** Monday, October 9, 2023 3:04:57 PM  
**Attachments:** [Pages from Six Year \(2023-2028\) Transportation Improvement Program \(TIP\)-2.pdf](#)

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External Email

Dear Ms. Strzalka,

I believe the County lost between \$1.2M and \$1.5M dollars when they decided to appease the petitioners and withheld the approval of a contract with the DOE to pave the roadway.

Below, the TIP shows an estimated \$1.2M would have been needed to complete the roadbed, and my research is leading to believe that those funds were lost when the grant expired on June 30th, 2023.

Jeff

**From:** [Jeff Tozzer](#)  
**To:** [Strzalka, Amy \(SAO\)](#)  
**Subject:** Towne Road Levee Setback Project (Sequim area)  
**Date:** Saturday, October 7, 2023 8:08:48 PM  
**Attachments:** [IMG\\_20231007\\_100316.jpg](#)  
[IMG\\_20231007\\_100242.jpg](#)

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External Email

Dear Ms. Strzalka,

Thank you for your call last week, you were very generous with your time and insight. Upon your advice, I've written to the Department of Ecology and am awaiting their reply (see email below).

My biggest question continues to be, "Where did the funds meant for resurfacing Towne Road go?" I've been able to follow the money up until August 15th of this year, and then it disappears. I'll attempt to summarize my research.

Last month I asked Department of Community Development Director Bruce Emery where the resurfacing funds had gone. He replied: *"A large portion of the grant funds available for the initial plan expired on June 30, 2023. As events transpired, the funds were re-directed to help defray costs of cleanup of the contaminated material found beneath the surface of Towne Road."* However, during the February 27th Work Session, County Staff were confident that the contingency related to soil contamination would be accommodated by the Department of Ecology's grant.

It is fairly routine for the Department of Ecology to cover costs related to contamination, and I'm certain project engineers anticipated the discovery of contaminated soil before removing a road that had been paved, tarred, oiled, and traversed for over 80 years. In fact, Commissioner Mark Ozias stated in August: *"The good news is that a few weeks ago we did learn that our application for these additional funds has been approved. After meeting with our elected Director of Community Development and our Public Works team, we are moving forward this summer with a variety of projects that are necessary regardless of final design (addressing a section of the levee that has settled, adding additional stormwater infrastructure, etc.) We are looking for responsive bids by August 15 (today!) for work to be completed before mid-October."* To me, that verifies that the DOE indeed covered the contingency and that Towne Road would be reopening in October.

Additionally, during the Work Session on February 27th which paused the project, County Engineer Donisi provided an agenda item summary stating that "no budget action is required" for Towne Road. The document states: *"The projected costs including appropriate contingencies and cost escalation factors for the Final Phase including relocation of the road (with 4 foot shoulders) are budgeted for 2023."* Engineer Donisi included a proposed schedule for "Towne Road Relocation" that would have completed resurfacing by June 30th. I've attached both these documents below.

Both the Commissioners office and the DCD office have provided conflicting information about the funds. Here is the data my research has provided:

- On February 27th, Commissioner Ozias paused the project. At this time, the DOE would have funded the resurfacing if it was completed by June 30th.
- By February 27th, if there was any concern about costs of removing contaminated soil, County staff was certain that the DOE would cover that contingency. Furthermore, the County Engineer confirmed funds had been secured for resurfacing, including contingencies and cost escalations, and he provided documentation.
- The DOE grant was due to expire on June 30th which would leave the County financially liable for resurfacing the road. I've found no documentation that the grant was extended.
- In August, Commissioner Ozias stated that additional funds had been approved and resurfacing should be completed by mid October.
- On September 8th County Commissioners publicly announced that they were considering various resurfacing options. Whichever option is chosen, funds will likely not be available for 2-3 years.

Without visibility to the grant, I still don't know if resurfacing Towne Road was necessary to fulfill the terms of that agreement. Regardless, the funds were available less than two months ago (August 15th) but I can't find where they've gone.

I hope I've helped you determine if this is within your office's scope. Please let me what further information I can provide.

Sincerely,

Jeff Tozzer  
Sequim



**From:** Jeff Tozzer <[jeff.tozzer@gmail.com](mailto:jeff.tozzer@gmail.com)>  
**Subject:** Towne Road Levee Setback (Sequim area)  
**Date:** October 5, 2023 at 5:01:16 AM PDT

To: [joenne.mcgerr@ecy.wa.gov](mailto:joenne.mcgerr@ecy.wa.gov)

Dear Ms. McGerr,

I'm a resident of Sequim trying to learn more about the closing of a rural road that was planned to reopen on September 30th but didn't. I believe you worked on the Towne Road Levee Setback project just north of Sequim which was funded, in part, by a DOE grant. The roadbed is finished, but County leaders are offering various reasons why the road cannot be opened. I'm hoping you are able to clarify a few things since I don't have visibility to the DOE grant.

Did the DOE grant specify that, to complete the project, the levee (future roadbed of Towne Road) must be surfaced in order to fulfill the grant requirement? There was some discussion that the project was considered "completed" when the roadbed was finished, and surfacing would be only an "improvement." In other words, did Clallam County completely fulfill the grant's deliverables in the DOE's view?

Were any DOE funds revoked, or even repossessed, by the County failing to meet any DOE expectations?

Also, contaminated soil was discovered while removing the "old" Towne Road surface. Was the removal of the contaminated soil covered by a contingency allocated by the DOE, or was Clallam County responsible for this cost? I've received conflicting answers from County staff.

Towne Road served as a vital link for thousands of residents between Dungeness and Sequim and I'm trying to find out why it isn't opening as promised. I thank you in advance for any information you are able to share.

Sincerely,

Jeff Tozzer  
Sequim, WA  
206-300-5525