

No. 85905-1

WIGGINS, J. (dissenting) — This case presents substantially the same questions as *Jongeward v. BNSF Railway*, No. 85781-4 (Wash. May 31, 2012). In that case, I dissented because the majority approach virtually eliminates liability for “casual or involuntary” trespass, which our timber trespass statutes plainly contemplate. See former RCW 64.12.030 (Code of 1881, § 602) and RCW 64.12.040. I explained that the ejusdem generis rule and strict construction for penal statutes simply have no application to our timber trespass scheme. Further, the historical distinction drawn by the majority is not supported by the statute’s history or text. For the reasons set forth in my dissenting opinion in *Jongeward*, I also dissent in this case.

I respectfully dissent.

AUTHOR:

Justice Charles K. Wiggins

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WE CONCUR:

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Justice Debra L. Stephens

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Justice Tom Chambers

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