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**PETITION TO RELOCATE AND ABANDON PORTIONS OF THE  
DISPUTED RIGHT-OF-WAY OF ADOBETOWN ROAD AND  
ESTABLISH A COUNTY ROAD RIGHT-OF-WAY ALONG  
PORTIONS OF TELEGRAPH ROAD AND PORTIONS OF  
BUREAU OF LAND MANAGEMENT ROAD**

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TO PROVIDE NEW, CLEARLY IDENTIFIABLE, SAFE, MOTARIZED ACCESS TO THE BLM, the persons who have signed this petition, who are at least ten landowners in Road District No.1, Madison County, hereby petition the Board of County Commissioners of Madison County to abandon the entirety of the unused, unmaintained, disputed right-of-way along Adobetown Road, also designated County Road #71 ("Adobetown Road"), and all portions as historically recognized in Madison County Road District No. 1 and relocate or replace the abandoned right-of-way by establishing a 60-foot wide county road right-of-way along portions of Telegraph Road and portions of an unnamed Bureau of Land Management road also in Madison County Road District No. 1.

The existence, location and length of the Adobetown Road are disputed, as evidenced by the September 9, 2019 Recommendations of the Madison County Road Review Committee and other historic documents. Exhibit N to the Recommendations is a December 31, 2013 letter from the Madison County Board of Commissioners stating that the original road was altered or changed at some time in the past, that portions of it were destroyed long ago by dredging and that there is no evidence that the road accessing what was referred to as the Driscoll Ranch headquarters ever existed or was used by travelers riding the Adobetown Road. Exhibit P to the Recommendations is a map showing that portions of the original designated route were abandoned or destroyed. Attached hereto as Exhibit D is an historic document for an easement for a road granted to Madison County, recorded June 6, 1885 in Book 41, page 175, records of Madison County, Montana, that indicates the Road is only 300 yards long.

This petition is being filed pursuant to Montana Code Annotated Sections 7-14-2601 through 7-14-2615. The location of that disputed road which the petitioners request be abandoned and the new county road right-of-way being requested by the petitioners are shown in the map which is attached to this petition as Exhibit A. In support of this petition, the petitioners state as follows:

1. While ill-defined, the general route of the disputed right-of-way known as Adobetown Road leaves MT Route 287 in the middle of the SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , S16, T6S, R3W, travels southwest to a point on the eastern edge of the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , S25, T6S, R4W where the trail is destroyed by mining activity. The trail picks up again near the center of the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$ , S25, T6S, R4W, where it begins to swing westward, eventually connecting with Anderson Lane at the very southeast corner of SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , S27, T6S, R4W. During this run the trail crosses the Heroes and Horses ranch, continues through BLM property, then through the Garnet Mine, and then onto the Ruby Dell ranch property. See Exhibit A. The road that petitioners propose to establish begins at the southern boundary of S20 T6S R3W and the intersection of Williams Creek road, travels westward to the NW  $\frac{1}{4}$  of Government Lot 4 and proceeds northwest to the section corner of sections 19, 20, 29, and 30 of T6S R3W. Thence westward approximately 1,500 feet along the existing road to the northern boundary of the NWN and NENE corners.

Then proceeds north 500 feet to the end of the proposed route. See Exhibit A.

2. In addition to Adobetown Road and State Route 287, other roads in the area include Brown's Gulch and Williams Creek Roads, and Anderson Lane. Brown's Gulch Road was established on June 9, 1887 and leads to the proposed right-of-way to be established from State Route 287. Williams Creek Road, established on October 7, 1916, leads off of Brown's Gulch Road to the proposed right-of-way. As described above, Adobetown Road, the disputed right-of-way petitioners propose to abandon begins at State Route 287 and connects to Anderson Lane, established on February 8, 1871. The history of Adobetown Road is described in the Madison County Road Review Committee report of September 9, 2019.

3. We request that the County Commission abandon the disputed right-of-way known as Adobetown Road, as shown in Exhibit A, and establish portions of Telegraph Road and the unnamed BLM road, as shown in Exhibit A, as a county road. The road petitioners request the County Commissioners establish an alternate route to replace the abandoned right-of-way that will provide substantially the same access to public land as the disputed right-of-way petitioners request be abandoned. A dirt road following the proposed right-of-way already exists and need not be constructed. Petitioners agree to survey over the deeded land the 60 ft right of way easement.

4. As required by Mont. Code Ann. Section 7-14-2602(6), the necessity for and advantage of the action requested by this petition is as follows:

(a) The disputed right-of-way known as Adobetown Road has not been maintained by the county, is rough, overgrown, and unclear, is only a wagon's width wide, is unsuitable for modern vehicles, would not allow oncoming vehicles to pass within the existing right-of-way, and has not been in general use by the public for decades. Large portions of the trail have been either destroyed by mining operations or are unidentifiable. As a result, attempts by members of the public to follow the general route of the trail in four wheel drive vehicles, all-terrain vehicles, and motorcycles will result in trespass problems over a large area, will result in the establishment of many usage roads, will result in damage to fences and irrigation ditches, and will result in unsightly scarring and soil erosion. The trail is not counted in the county's fuel tax allocation

(b) The general route claimed for Adobetown Road runs directly through the heart of the operations of a non-profit working with veterans and horses, creating a significant safety issue for both veteran participants and members of the public trying to follow the trail. Further on the route runs between an occupied house and that dwelling's garage creating privacy, safety, and security issues for the occupants. The route also runs through commercial mining operations (which have destroyed part of it) creating another significant safety hazard as well as potential crippling commercial liability issues for the mine.

(c) The disputed right-of-way which this petition requests be abandoned is not required to give legal access to any private land or public land or water in the area because Williams Creek Road provides substantially the same access to the BLM land the right-of-way crosses. However, the establishment of the proposed county road on portions of Telegraph Road and the unnamed BLM road would provide safer, more accessible, and lower impact access. The proposed road would bring the public to within

450 yards of the disputed right-of-way. Upon abandonment of the disputed right-of-way, this new road would be supported by Heroes and Horses granting easements to the county, without cost, over portions of Heroes and Horses land. Heroes and Horses would waive any damages under Mont. Code Ann. Section 7-14-2607(1) relating to establishing the alternate route.

(d) By formally abandoning any claim to the disputed right-of-way and establishing the proposed alternate route into the BLM land, the county would end the uncertainty felt by current landowners through whose property the disputed right-of-way runs, avoid clouding title to land on and near the disputed right-of-way, and assure improved, safe, lower impact public access to BLM land.

5. The disputed county right-of-way which this petition requests be abandoned provides access to public land but, as required by Mont. Code Ann. Section 7-14-2615(3), Williams Creek Road, which is a public road, also provides substantially the same access to that public land. In addition, the establishment of the proposed new road will provide safer and easier access to within 450 yards of the disputed road.

6. Although no landowners need the county road which this petition requests be abandoned to access their property, it does provide alternative access to two or more landowners, but as required by Mont. Code Ann. Section 7-14-2615(4), all of the landowners to whom the county road provides access have agreed to the abandonment. Landowners access their land from MT Route 287 or Anderson Lane.

7. We request that the proposed county road right-of-way be sixty feet wide.

8. We request that the county commission record a certified copy of the resolution which abandons and establishes the county road rights-of-way, so that persons searching the real estate records will have notice of the abandonment and establishment of the county road rights-of-way, and so title companies will disclose the effect of the resolution in title commitments and title policies.

9. As required by Mont. Code Ann. Section 7-14-2602(3), attached to this petition as Exhibit B is a list of the names and addresses of the landowners who would be affected by this petition, and attached to this petition as Exhibit C is a map showing the location of the property owned by each of those landowners. Efforts have been made to provide a copy of the petition to each of the landowners listed on Exhibit B, either in person, by e-mail, or mail. The landowners who have signed this petition consent to the actions requested by this petition.

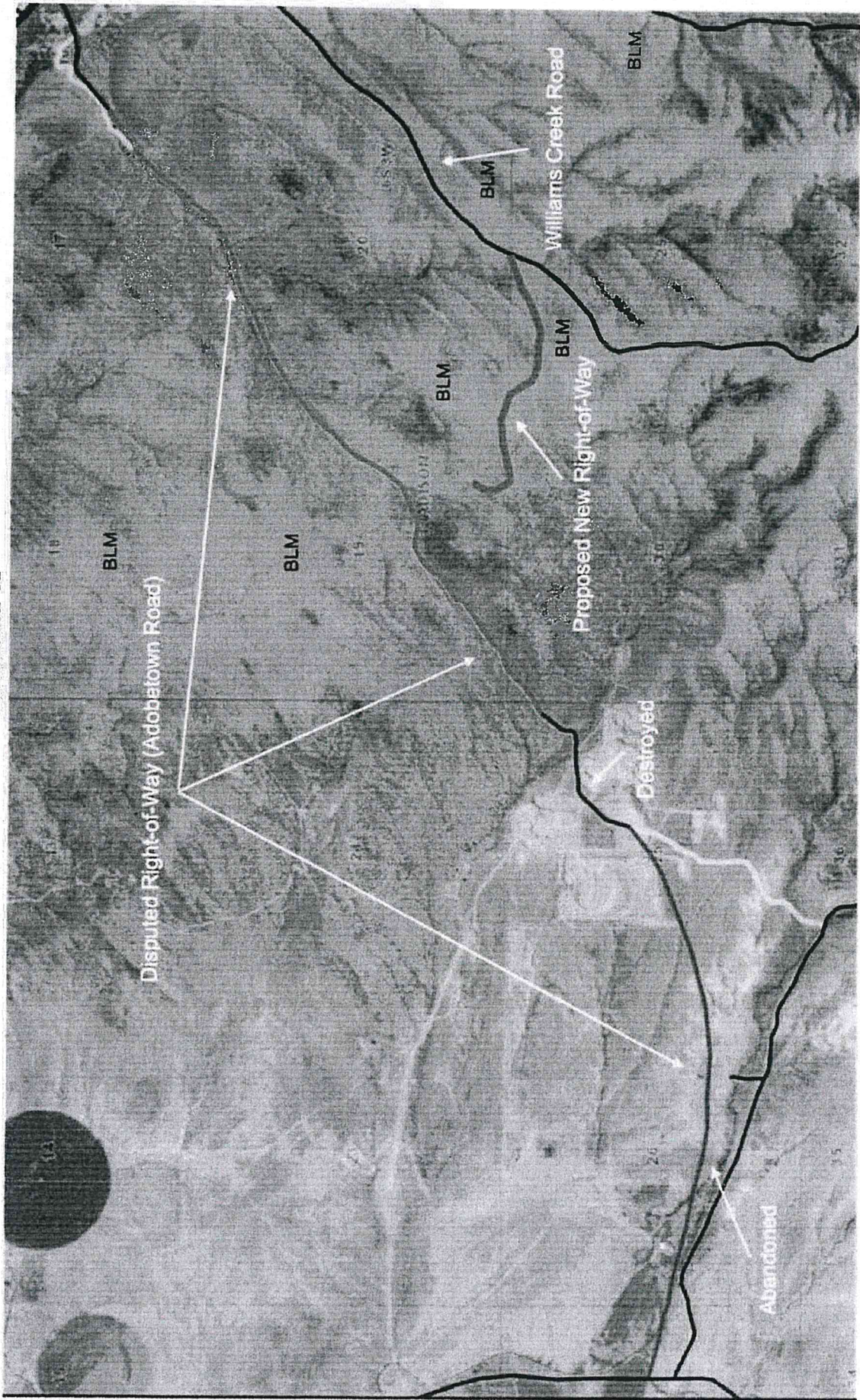
The Bureau of Land Management does not sign this petition as it follows the lead of the county, stating:

Abandonment of county roads over BLM lands which were established prior to 1976 is generally a process governed by Montana state statutes and is processed by and thru the applicable county where the road is located. Abandonment of county roads over BLM lands which were established via a BLM issued right-of-way grant (post-1976) is handled by the applicable county where the road is located relinquishing their BLM issued right-of-way. Establishment of a new county road over BLM lands is accomplished by the county submitting a right-of-way

application to the applicable BLM office. The BLM will process the right-of-way application pursuant to the 43 CFR 2800 right-of-way regulations.

10. Because a road currently exists and is being used by the public along the county road right-of-way which is requested by this petition, the petitioners do not believe that any of the landowners whose land is adjacent to or in the area of the requested right-of-way will be entitled to an award of damages as a result of the establishment of the county road right-of-way under Mont. Code Ann. Section 7-14-2607. Petitioner Heroes and Horses which, upon the abandonment of the disputed right-of-way will grant an easement to the county at no cost for the establishment of the proposed right-of-way, and waives damages.

**EXHIBIT A**



**EXHIBIT B**

**Heroes and Horses, Inc.**  
1445 Weaver Road  
Belgrade, MT 59714  
Attn: Micah Fink

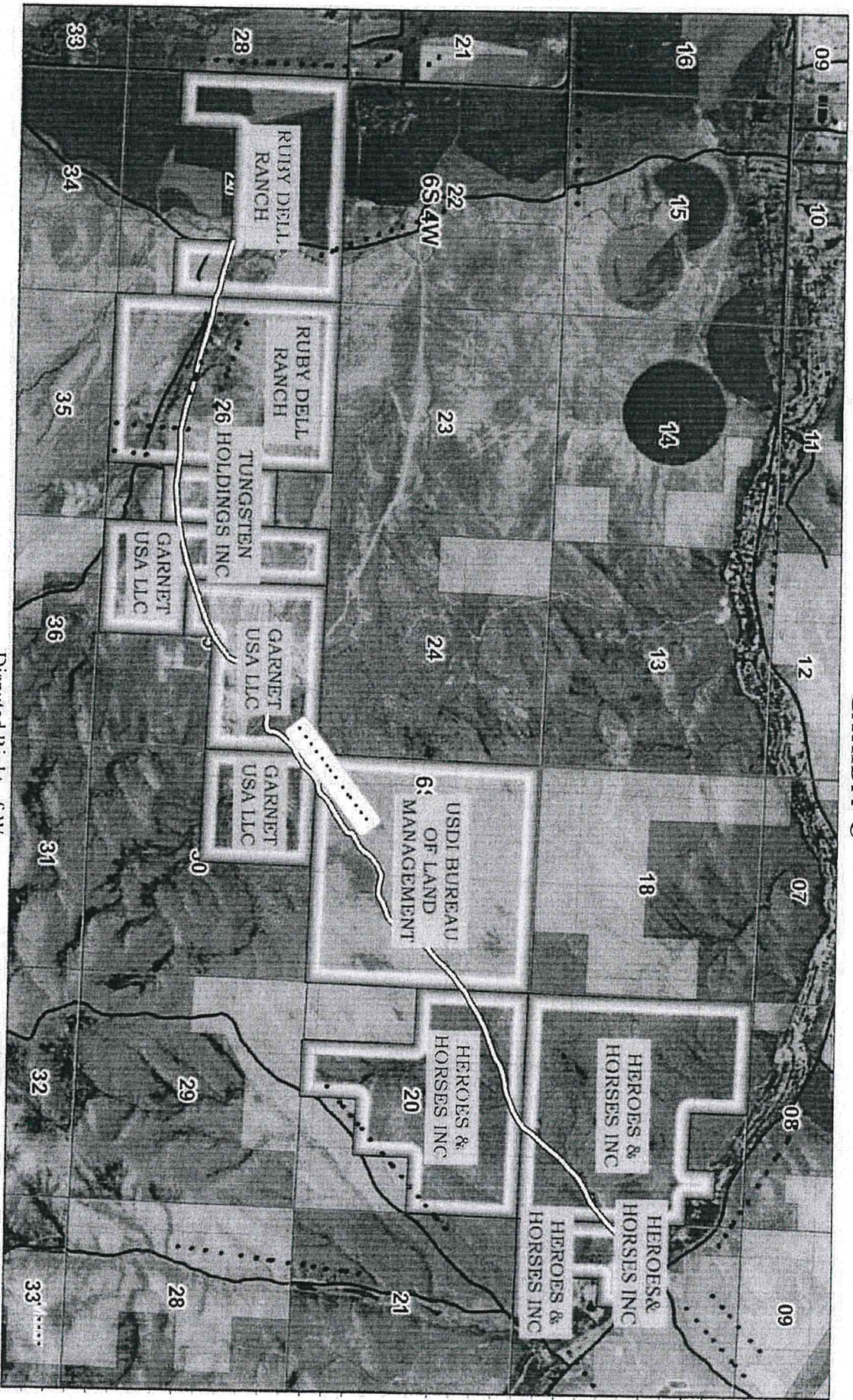
**Bureau of Land Management - Dillon Field Office**  
1005 Selway Dr.  
Dillon, MT 59725-9431  
Attn: Amanda James

**GMA Mining USA**  
16 Garnet USA Loop  
Alder MT 59710  
Attn: Rod Liebeck

**Tungsten Holdings, Inc.**  
809 Mineral Ave  
Libby MT 59923  
Attn: Tim Rooney

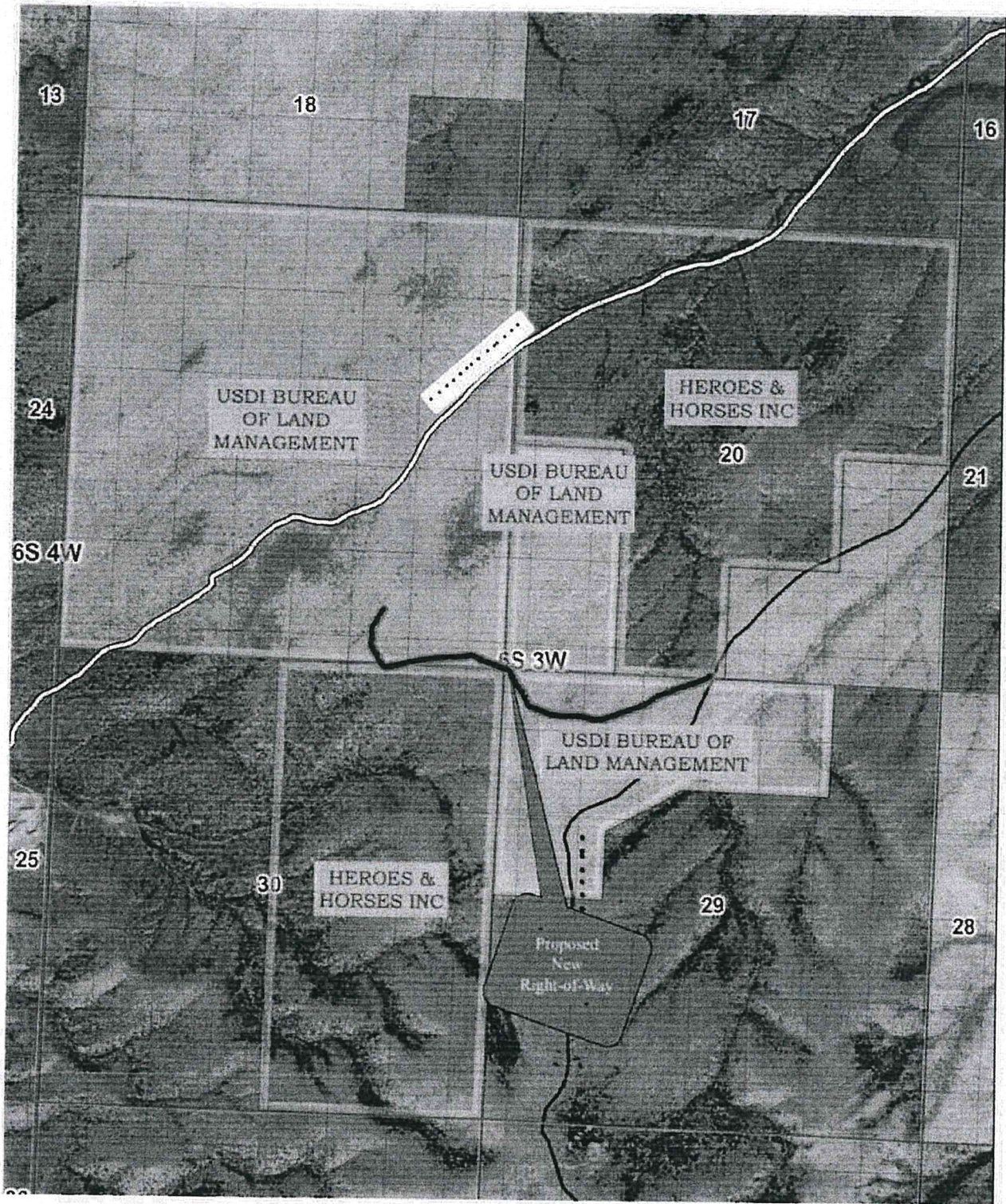
**Ruby Dell Ranch**  
475 Upper Ruby Road  
Alder, MT 59710  
Contact: John C. Anderson

EXHIBIT C



Disputed Right-of-Way

**EXHIBIT C**  
Proposed Right-of-Way







Sept 18 1861 at Washington D.C. Received of the Hon. Secy of State  
the following copy of the letter in and the said copies of minutes  
of the meeting of the Board of Directors of the National Institute  
of Health and Hygiene, held at the National Academy of Sciences  
on the 14th day of September 1861. The said letter and  
minutes are herewith enclosed. The said letter and  
minutes are herewith enclosed. The said letter and  
minutes are herewith enclosed.

The following is a copy of the letter in and the said copies of minutes  
of the meeting of the Board of Directors of the National Institute  
of Health and Hygiene, held at the National Academy of Sciences  
on the 14th day of September 1861.

Very respectfully,  
John P. Kennedy  
Secretary of the Board  
National Institute of Health and Hygiene  
Washington D.C.

~~The following is a copy of the letter in and the said copies of minutes  
of the meeting of the Board of Directors of the National Institute  
of Health and Hygiene, held at the National Academy of Sciences  
on the 14th day of September 1861.~~

**PETITION FOR COUNTY ROAD CLOSURE AND THE SUBSEQUENT OPENING OF AN  
ALTERNATE IMPROVED ROAD**

We the undersigned, being 10, or a majority, (including the landowners of the property to be altered) of the freeholders of a road district taxable therein for road purposes within Madison County, do petition the Madison County Commissioners, after proper public hearing, to relocate and abandon a certain portion of a disputed county road and open a certain portion of a county road, as described in the foregoing petition.

NAME: (please print)	ADDRESS:	SIGNATURE:	WAIVE DAMAGES
1. <i>M. A. Funk</i>	50 Adobe Town Rd Virginia City, MT 59715	<i>[Signature]</i>	Yes
<i>ok</i> 2. <b>ROO LIEBACK</b>	GARNER USA 16 GARNER USA LOOP ALDRE MT 59715	<i>[Signature]</i>	YES
3. <b>Jim Kleis</b>	69 Stoned Ln Twin	<i>[Signature]</i>	
<i>ok</i> 4. <b>Kent Shields</b>	501 S. ST. Virginia City	<i>[Signature]</i>	
<i>ok</i> 5. <b>J. Scott McClinton</b>	320 E WALKER Virginia City	<i>[Signature]</i>	
<i>ok</i> 6. <b>Gay Rassa</b>	320 E WALKER	<i>[Signature]</i>	
<i>ok</i> 7. <b>Just Crumpton</b>	15 Depot Road Ennis	<i>[Signature]</i>	
<i>ok</i> 8. <b>Ronny Caruthers</b>	15 DEPOT RD ENNIS	<i>[Signature]</i>	
9. <b>Kristee Sturgill</b>	208 Cornley Ennis	<i>[Signature]</i>	
10. <i>[Signature]</i>	Ennis MT	<i>[Signature]</i>	
<i>ok</i> 11. <b>Tanya Engle</b>	Virginia City	<i>[Signature]</i>	
12. <b>Tommy Nevin</b>	Virginia City	<i>[Signature]</i>	
13.			
14.			
15.			

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NAME: (please print)	ADDRESS:	SIGNATURE:	WAIVE DAMAGES
1. <i>nk Tungsten Holdings Tim Rooney</i>	<i>P.O. Bx 1213</i>	<i>Tim Rooney</i>	<i>Sec. yes</i>
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Ruby Dell Ranch Owners

NAME: (please print)	ADDRESS:	SIGNATURE:	WAIVE DAMAGES
1. Jean E. Bluet	P.O. Box 60 180 Anderson Lane	<i>Jean E. Bluet</i>	✓ Yes
2. John C Anderson	PO Box 85 475 Upper Ruby Rd	<i>John C Anderson</i>	Yes
3. James P. Anderson	P.O. Box 86 856 Williams Crk Rd	<i>James P. Anderson</i>	Yes
4. JOAN A. Eiel	59 Skyview Ln Townsend, MT	<i>Joan A. Eiel</i>	Yes
5. James & Betsy Brachas	PO Box 6 Alder MT 59710	<i>James &amp; Betsy Brachas</i>	Yes
6. Miller Cattle Co	P.O. Box 184 Alder MT 59710	<i>Robert S. Miller</i>	Yes
7. MTX Ranch LLC	P.O. Box 184 Alder MT 59710	<i>Robert S. Miller</i>	Yes
8. —	Cuero, TX	—	—
9. Dick Sueck	160 Miller Rd Sidney MT	<i>Dick Sueck</i>	Yes
10. Luck Ranch	MT	<i>Dick Sueck</i>	Yes
11. Banks Bros	107 Tule Ln	<i>Mary Banks</i>	Yes
12. Sherie Flynn Boyce	✓ Alder	<i>Sherie Flynn</i>	Yes
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15.			

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NAME: (please print)	ADDRESS:	SIGNATURE:	WAIVE DAMAGES
1. Ellis F. Boyd	Box 99 Hillsboro VT	Ellis Boyd	
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MADISON COUNTY, MONTANA  
CLERK AND RECORDER



### CERTIFICATON OF OWNERS

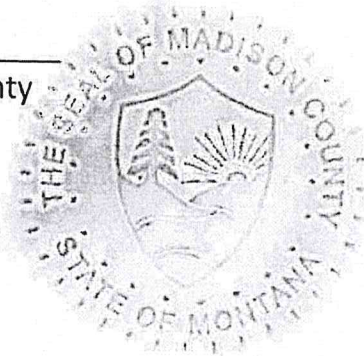
I, Paula Mckenzie, Clerk and Recorder of Madison County, Montana hereby certify that the names of those so marked on the attached Road Petition are the names of property owners; being ten in road district #1 OR all property owners adjacent to the street, road or alley which

see exhibit B  
Name of property owner bringing petition

requested to be closed by the Madison County Board of Commissioners.

Dated this 8th day of April, 2022

Paula Mckenzie  
Clerk and Recorder of Madison County



41/175

Kenan Kerkico  
Lord of Right of Way for a County Road  
Madison County

County of Montana  
County of Madison

Whereas certain of the inhabitants of said  
said number part of Madison County, to-wit: Nelson Lee Road  
purposes have petitioned an honorable Board of County Commis-  
sioners of said County of Madison to lay out a New Road there-  
in, as set forth in their petition dated the 1<sup>st</sup> day of Sept '87  
which said Road is located to be located as follows to-wit  
Commencing at the North East corner of E. S. Kerkico's ranch  
thence running in a North westerly direction to the old Rammer  
and Virginia City Road.

And, therefore, in consideration of the sum of One Hundred  
and Twenty five Dollars to me in hand paid by the Petitioner  
the receipt of which I hereby acknowledge, and of the location and  
establishment of said road as above described and of the fact  
to accrue to me by such location, I the undersigned County  
occupant and claimant of land required for road purposes on  
the line of the foregoing designated route hereby signify my assent  
prior of the location of said road and do hereby consent that  
the said I do hereby grant and dedicate the land hereinafter  
on said Route so far as the same may be required for such  
road, not to exceed in width sixty feet and three hundred  
yards in length to the said County of Madison in said Ter-  
ritory for that purpose for the use of such road, and I here-  
by waive all claims for damage for and in account of the same.

In Witness whereof I have hereunto subscribed my name and  
affixed my seal this 27<sup>th</sup> day of March A. D. 1887.  
Kenan Kerkico  
County Recorder

County of Montana  
County of Madison

On the 27<sup>th</sup> day of March, one thousand



