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Attorneys for Plaintiff/Petitioner

MONTANA TWENTY FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

<p>PUBLIC LAND/WATER ACCESS ASSOCIATION, INC.</p> <p style="text-align: center;">Plaintiff/Petitioner,</p> <p style="text-align: center;">vs.</p> <p>RAVALLI COUNTY and BOARD OF RAVALLI COUNTY COMMISSIONERS,</p> <p style="text-align: center;">Defendants/Respondents.</p>	<p>Cause No. _____ Hon. _____</p> <p style="text-align: center;">COMPLAINT FOR DECLARATORY JUDGMENT AND PETITION FOR ALTERNATIVE WRIT OF MANDAMUS</p>
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Plaintiff/Petitioner Public Land/Water Access Association, Inc. (PLWA), for its complaint for declaratory judgment and petition for alternative writ of mandamus against Defendants/Respondents Ravalli County and Board of Ravalli County Commissioners (Board), states and alleges as follows:

INTRODUCTION

1. This is an action for declaratory relief and an alternative writ of mandamus. The Hughes Creek Road in Ravalli County is a county road and public right-of-way for approximately 12 miles in length. Since July 2021, the Hughes Creek Road has been blocked by an illegal gate,

and the road behind the gate is obstructed by felled trees and brush. Sections 7-14-2133 and 7-14-2134, MCA require the immediate removal of the gate encroachment and obstructions. Ravalli County and the Board have failed to carry out their statutory duty to immediately remove the encroachment and obstructions.

PARTIES

2. Plaintiff/Petitioner PLWA is a member-based Montana public benefit corporation and is recognized by the Internal Revenue Service as a tax-exempt non-profit, with its principal place of business in Bozeman, Montana. PLWA is dedicated to promoting access to publicly owned lands and waterways in Montana. PLWA's members and other members of the public have historically used county roads in Ravalli County for various purposes, including access to public lands and recreational waterways in the area. Certain members of PLWA are citizens of Ravalli County.

3. Defendant/Respondent Ravalli County is a duly constituted political subdivision of the state of Montana.

4. Defendant/Respondent Board of Ravalli County Commissioners are elected officials of Ravalli County, Montana.

JURISDICTION AND VENUE

5. This case arises from conduct that occurred in, and regarding property located in, Ravalli County, Montana.

6. Jurisdiction and venue are proper in this Court.

GENERAL ALLEGATIONS

7. The Hughes Creek Road was created pursuant to the statutory petition process. On June 5, 1900, the Ravalli County Board of County Commissioners accepted a petition, filed by P.B. Bennett, et al., on April 10, 1900, and declared the Hughes Creek Road a public highway. *See* Ex. 1 (Petitions); Ex. 2, (Journal Entries).

8. The Bennett petition, which was accepted by Ravalli County, describes a road commencing at the Alta Post Office running east along Hughes Creek to the Wood Placer Mining Company claims, a distance of about 12 miles. *See* Ex. 1; Ex. 2. The petition explains the road was necessary to reach the Hughes Creek placer claims. The viewer's report also confirms the road was approved by Ravalli County. *See* Ex. 3 (Viewer's Report).

9. Sometime in the 1970s, certain landowners along Hughes Creek Road erected a gate approximately 8 or 9 miles up the road from the Alta Post Office. In 1982, those landowners (and others) submitted a petition to abandon the Hughes Creek Road beyond the gate. *See* Ex. 4 (1982 Pet. to Abandon). The petition acknowledges that the road proposed to be abandoned was the same Hughes Creek Road declared a public road in June 1900 (*i.e.* the Bennett petition).

10. In October 1982, the Board denied the petition. *See* Ex. 5 (Order denying Pet.). The order denying the petition specifically acknowledged that, in June 1900, Hughes Creek Road, "commencing at the Alta Post Office and running east along Hughes Creek to the Wood Placer Mining Claims about 12 miles" was a public highway accepted by Ravalli County.

11. The order also noted that a Forest Service trailhead was located "at the end of the roadway" about 11.8 miles from the Alta-West Fork Road junction. Specifically, the Board noted that the Forest Service "maintained the roadway to the end of the road at the trailhead" after

entering into a joint-maintenance agreement with Ravalli County. The Board also found that the “roadway is necessary for fire protection access to public lands in the upper portion of the Hughes Creek drainage.” The gate, however, was not removed after the Board denied the petition.

12. In response, Ravalli County sued to force removal of the illegal gate. *See Ex. 6* (Complaint). The complaint alleged that Hughes Creek Road is a public highway from the old Alta Post Office for a distance of approximately 12 miles, that the gates were illegal nuisances, and that the defendant landowners should be restrained from interfering with the public use of the roadway. That litigation was ultimately dismissed several years later without prejudice. *See Ex. 7* (Order of Dismissal without Prejudice).

13. Following the dismissal, the gate encroaching on the road was not removed.

14. In 2016, a new group of landowners along the Hughes Creek Road submitted another petition to the Board to abandon the Hughes Creek Road beyond the gate. *See Ex. 8* (2016 Pet. to Abandon).

15. On January 25, 2017, a public hearing was held on the new petition. On February 6, 2017, the Board recorded its order (signed on January 25, 2017) denying the petition. *See Ex. 9* (Resolution No. 3495, Order denying 2016 Pet. to Abandon). The Board found that:

- Hughes Creek Road was legally declared a public highway by the Board of County Commissioners on June 5, 1900, acting pursuant to law on a Petition filed by P.B. Bennett on April 10, 1900.
- Hughes Creek Road is at least 11.8 miles in length commencing at its intersection with West Fork Road.
- The right-of-way for Hughes Creek Road is 60 feet.

- In about 1978, a locked gate was placed across the road at the western boundary of Mineral Survey #5898, which is about 8.5 miles from the West Fork Road.
- Historic evidence indicates that prior to the installation of the gate, public use and maintenance of the road exceeded a distance of 12 miles commencing from the Alta Post Office.
- Hughes Creek Road east of the gate provides legal access to public lands and waters.
- No other public road or right-of-way provides substantially the same access to the public lands and water for which Hughes Creek Road provides access.

16. The Board ultimately concluded that the petition to abandon Hughes Creek Road should be denied pursuant to § 7-14-2615(3), MCA, because it is used to provide existing legal access to public land or waters, and no other public road or right-of-way provides substantially the same access. *See Ex. 9.*

17. The minutes for the Board’s January 25, 2017 public hearing entered a “finding of fact” that the gate was “an encroachment in [a] highway right of way.” The Board then adopted Resolution No. 3495, which, among other things, required the gate to be removed by June 1, 2017. *See Ex. 10 (Jan. 25, 2017 Minutes).*

18. In April 2017, the landowners who filed the 2016 petition to abandon the Hughes Creek Road filed a complaint in District Court for declaratory and injunctive relief seeking, among other things, a declaration that the public portion of the Hughes Creek Road ended at the location of the gate. The District Court dismissed the action for lack of subject matter jurisdiction.

19. The Montana Supreme Court affirmed in *Bugli v. Ravalli Cty.*, 2018 MT 177, ¶ 21, 392 Mont. 131, 422 P.3d 131 (*Bugli I*). *Bugli I* held that the landowners’ proper course of action was to petition the District Court for a writ of review pursuant to § 27-25-102(2), MCA. *Id.*, ¶ 25.

20. In July 2017, the landowners then filed a petition for writ of review challenging the Board’s decision regarding where the public/county road portion of Hughes Creek Road ended. The District Court denied the landowners’ petition.

21. In 2019, the Montana Supreme Court again affirmed. *Bugli v. Ravalli County*, 2019 MT 154, ¶ 32, 396 Mont. 271, 444 P.3d 399 (*Bugli II*). *Bugli II* expressly held that the “historical record substantially supports the Board’s conclusion that Hughes Creek Road is 11.8 miles long.” *Id.*

22. Despite the Montana Supreme Court’s order affirming the Board’s determination that the Hughes Creek Road is a public road for at least 11.8 miles, nearly two years went by before the illegal gate was removed.

23. In June 2021, the illegal gate was finally removed.

24. In July 2021, however, a new illegal gate was discovered on another landowner’s property about 150 yards further up the road—but still on the portion declared to be public by the Board—and includes a menacing sign threatening violence for crossing the gate.



25. Behind the new gate is also some felled timber and brush obstructing use of the road. *See* 11 (Photographs).



26. The new gate is an encroachment, which obstructs and prevents the use of Hughes Creek Road for vehicles beyond the gate.

27. The brush and felled timber are obstructions that if not removed would remain in the Hughes Creek Road indefinitely.

28. In July 2021, PLWA member and Ravalli County resident Jim Olson notified Ravalli County of the gate encroachment and other obstructions and asked for their removal.

29. Since July 2021, and despite notice, Ravalli County and the Board have not removed the encroachment and obstructions.

COUNT I - DECLARATORY RELIEF

30. PLWA incorporates the foregoing allegations as if set forth fully herein.

31. Pursuant to the Montana Uniform Declaratory Judgment Act, §§ 27-8-101, *et seq.*, MCA, the Court has the power to declare rights, status, and other legal relations between the parties whether or not further relief is or could be claimed.

32. Sections 7-14-2133 and 7-14-2134, MCA address obstructions and encroachments on county road and public highways. Those statutes state, in pertinent part:

7-14-2133. Removal of obstructions on county roads.

- (1) When a county road becomes obstructed, the board of county commissioners, or the county surveyor if the surveyor is in charge, **shall remove** the obstruction upon being notified of the obstruction.

7-14-2134. Removal of highway encroachment.

- (1) . . . if any highway is encroached upon by fence, building, **or otherwise**, the road supervisor or county surveyor of the district must give notice, orally or in writing, requiring the encroachment to be removed from the highway.
- (2) If the encroachment obstructs and prevents use of the highway for vehicles, the road supervisor or county surveyor **shall immediately remove** the encroachment.
- (3) The board of county commissioners may at any time order the road supervisor or county surveyor to immediately remove any encroachment.

33. The term “immediately” is not defined by §§ 7-14-2133 or 7-14-2134, MCA, but, according to Black’s Law Dictionary, the term “immediate” means “[o]ccurring without delay.” *Black’s Law Dictionary* 619 (Bryan A. Garner ed., 8th ed. 2005). Moreover, Merriam-Webster’s defines the term “immediate” to mean “occurring, acting, or accomplished without loss or interval of time.” *Merriam-Webster’s New Collegiate Dictionary* 601 (9th ed. 1987)

34. There is no dispute that Hughes Creek Road was duly established as a county road/public highway and is approximately 12 miles in length (11.8 miles). The Board made that very determination in 2017 and the Montana Supreme Court affirmed that decision in *Bugli II*, ¶ 32.

35. The gate encroachment and felled timber and brush obstructing the Hughes Creek Road are approximately located between the 8.5 and 9.0 mile-marker.

36. The gate is an encroachment, which obstructs and prevents the use of Hughes Creek Road for vehicles beyond the gate.

37. The brush and felled timber are obstructions that if not removed would remain in the Hughes Creek Road indefinitely.

38. Ravalli County and the Board are aware of the gate encroachment and the felled timber and brush obstructing the road beyond the gate but have not “immediately” removed them.

39. An actual controversy exists regarding what constitutes an “immediate” removal of the gate encroachment and obstructions beyond the gate and whether Ravalli County and the Board must immediately perform their clear legal duty to remove the gate and obstructions.

40. PLWA respectfully requests a declaration that: (i) the gate blocking vehicle access is an illegal encroachment that must be immediately removed by Ravalli County/the Board pursuant to § 7-14-2134, MCA; (ii) that the felled timber and brush are illegal obstructions that must be immediately removed by Ravalli County/the Board pursuant to § 7-14-2133, MCA; and (iii) that the term “immediate” for purposes of §§ 7-14-2133 and 7-14-2134, MCA, means that

the removal of the encroachment and obstructions by Ravalli County/the Board must occur “without delay” and “occurring, acting, or accomplished without loss or interval of time.”

COUNT II – ALTERNATIVE WRIT OF MANDATE

41. PLWA incorporates the foregoing allegations as if set forth fully herein.

42. The Court is empowered to issue a writ of mandamus “to compel the performance of an act that the law specially enjoins as a duty resulting from an office, trust or station or to compel the admission of a party to the use and enjoyment of a right or office which the party is entitled and from which the party is unlawfully precluded by the lower tribunal, corporation, board, or person.” § 27-26-102, MCA.

43. The writ must be issued in all cases in which there is not a plain, speedy, and adequate remedy in the ordinary course of law.

44. Sections 7-14-2133 and 7-14-2134, MCA address obstructions and encroachments on county road and public highways and impose a clear legal duty, involving a ministerial act, on Ravalli County and the Board. Those statutes state, in pertinent part:

7-14-2133. Removal of obstructions on county roads.

(1) When a county road becomes obstructed, the board of county commissioners, or the county surveyor if the surveyor is in charge, **shall remove** the obstruction upon being notified of the obstruction.

7-14-2134. Removal of highway encroachment.

(1) . . . if any highway is encroached upon by fence, building, **or otherwise**, the road supervisor or county surveyor of the district must give notice, orally or in writing, requiring the encroachment to be removed from the highway.

- (2) If the encroachment obstructs and prevents use of the highway for vehicles, the road supervisor or county surveyor **shall immediately remove** the encroachment.
- (3) The board of county commissioners may at any time order the road supervisor or county surveyor to immediately remove any encroachment.

45. The term “immediately” is not defined by §§ 7-14-2133 or 7-14-2134, MCA, but, according to Black’s Law Dictionary, the term “immediate” means “[o]ccurring without delay.” *Black’s Law Dictionary* at 619. Moreover, Merriam-Webster’s defines the term “immediate” to mean “occurring, acting, or accomplished without loss or interval of time.” *Merriam-Webster’s New Collegiate Dictionary* at 601.

46. There is no dispute that Hughes Creek Road was duly established as a county road/public highway and is approximately 12 miles in length (11.8 miles). The Board made that very determination in 2017 and the Montana Supreme Court affirmed that decision in *Bugli II*, ¶ 32.

47. The gate encroachment and felled timber and brush obstructing the Hughes Creek Road are approximately located between the 8.5 and 9.0 mile-marker.

48. The gate is an encroachment, which obstructs and prevents the use of Hughes Creek Road for vehicles beyond the gate.

49. The brush and felled timber are obstructions that if not removed would remain in the Hughes Creek Road indefinitely.

50. Ravalli County and the Board are aware of the gate encroachment and the felled timber and brush obstructing the road beyond the gate but have not “immediately” removed them.

51. A writ of mandamus must issue here to compel, as required by §§ 7-14-2133 and 7-14-2134, MCA, Ravalli County and the Board to immediately remove the illegal gate encroaching the Hughes Creek Road and the illegal obstructions beyond the gate blocking the Hughes Creek Road.

52. PLWA has no plain, speedy, or adequate remedy in the ordinary course of law.

53. This application for writ of mandamus is supported by the Declaration of PLWA member Jim Olson as required by § 27-26-201, MCA.

54. PLWA requests that the Court set an order to show cause hearing, at the earliest possible time, requiring Respondents to appear and show cause, if any they may have, why Respondents should not be ordered to immediately comply with §§ 7-14-2133 and 7-14-2134, MCA and “immediately” remove the encroachment and obstructions blocking public use of the Hughes Creek Road.

COUNT III – AWARD OF ATTORNEYS’ FEES

55. PLWA incorporates the foregoing allegations as if set forth fully herein.

56. PLWA is entitled to an award of its attorneys’ fees and costs as a successful applicant for its writ of mandamus because attorney fees are damages within the meaning of § 27-26-402, MCA.

57. PLWA is also entitled to an award of its attorneys’ fee and costs pursuant to § 27-8-313, MCA as supplemental relief.

58. PLWA is further entitled to an award of its attorneys’ fees under the private attorney general doctrine because: this case will vindicate important societal policies, it requires

private enforcement while the magnitude of the resultant burden on PWLA is great, and a large number of people stand to benefit from the decision in this case.

59. Moreover, pursuant to the plain language of § 7-14-2133(3), MCA, the Board is “liable for . . . willful, intentional neglect or failure to act” with respect to its legal duty to remove obstructions from county roads.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff/Petitioner PLWA respectfully requests that the Court:

1. Declare that: (i) the gate blocking vehicle access is an illegal encroachment that must be immediately removed by Ravalli County/the Board pursuant to § 7-14-2134, MCA; (ii) the felled timber and brush are illegal obstructions that must be immediately removed by Ravalli County/the Board pursuant to § 7-14-2133, MCA; and (iii) the term “immediate” for purposes of §§ 7-14-2133 and 7-14-2134, MCA, means that the removal of the encroachment and obstruction by Ravalli County/the Board must occur “without delay” and “occurring, acting, or accomplished without loss or interval of time”;

2. Issue a writ of mandamus ordering Ravalli County and the Board to immediately comply with §§ 7-14-2133 and 7-14-2134, MCA and take action in accordance with those statutes to remove the illegal encroachments and obstructions on Hughes Creek Road;


3. Set an order to show cause hearing, at the earliest possible time, requiring Respondents to appear and show cause why Respondents should not be ordered to immediately comply with §§ 7-14-2133 and 7-14-2134, MCA and “immediately” remove the encroachment and obstructions blocking public use of the Hughes Creek Road.

4. Award PLWA its attorneys’ fees and costs;

5. Grant PLWA such other and further relief to which PLWA may be entitled and as the Court deems appropriate.

DATED this 22nd day of October, 2021.

GOETZ, BALDWIN & GEDDES, P.C.

By: 

J. Devlan Geddes
Kyle W. Nelson
Attorneys for Plaintiff/Petitioner

Testimony for *Decker*
Road and *Shoglen* *Forest*

John J. Jones 6th 1899
John O. [unclear]
Brady [unclear]

Book 1-615
1899-1900

Case of [unclear]

F. H. [unclear]
W. K. [unclear]
1899
1900
1901

EXHIBIT
1

Hughes Creek ~~County~~ Ravalli County Mont
May 15th 1898

To The Hon^{ble} Board of County Commissioners
of Ravalli County Mont

We the undersigned each promise
to pay in money or work at two
dollars per day the amount set opposite
our names toward the construction
of a wagon road to be built from
a point on the East fork of Hughes or
Hayden Creek at or near the mouth
of Alder Gulch thence westerly
along the north or right bank of the
above named East fork of Hughes or Hayden
Creek to what is known as the big bar
on the main Hughes or Hayden Creek
thence along said bar in a northerly
direction to the saw mill thence to
~~followed by a line~~ ^{as has been} ~~run in a northerly~~ ^{marked out by} ~~direction~~ ^{Committee as the}
direction to an intersection with the
County road at the mouth of Hughes
or Hayden Creek.

We therefore knowing the benefits and
advantages to be derived from the
construction of the above road would
most respectfully petition and pray

PETITION

For Road, by Sam Keenan, Charles Stearns,
and others

To the County Surveyor and Superintendent of Roads of Ravalli County, State of Montana:

We, the undersigned, residents of Ravalli County and of the district in which the improvements petitioned for would be located, hereby petition that there be laid out, constructed and declared a public highway, as provided by law, a certain County Road to commence at Alta Post Office at the mouth of Hughes Creek in Ravalli County Montana, running thence in a north easterly direction for a distance of about eighteen (18) miles up the (Hughes) Creek to the seat of placer operations on said Hughes Creek. We would further state that a road as above described, will accommodate at least two hundred people and a large number of actual residents on the said creek.

We therefore pray your Honorable Body to give favorable consideration to this petition.

F. J. Merris
Sam Keenan
Joe Williams
W. O. Fisk
H. J. Pearson
F. K. Parmenter
Jas. F. Lott
C. T. Daly
10 10 12

G. H. Wickley
J. C. Bishop
W. O. Fisk
O. Robertson
J. W. Springston
N. J. Lusk
J. A. James
John B. Dair

Copy of

PETITION

For Road by Sam Keenan and Charles Stearns
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We therefore pray your Honorable Body to
give favorable consideration to this
petition

ROAD PETITION.

To the Honorable Board of County Commissioners of Tarrant County
Texas.

We the undersigned citizens of Tarrant County Texas in said county
petition your Honorable body to set aside and declare a public highway

commencing at Alta location in said county running thence east
along the creek to the Wood Street right of way, a distance
of about seven miles. All of said road is in the hands of
the State and it is almost impossible to have it
set aside for a public highway.

Petition for Road
Stephen Beck

Frederick S. Smith
Clerk

FILED
APR 10 1900

165
190

Sec 34 T25 R22W ✓
 T25 T35 R22W ✓
 Sec 34 T25 R21W ✓
 30 T25 R21W ✓
 Sec 31, 32, 10, T25 R20W ✓

ROAD PETITION.

To the Honorable Board of County Commissioners of Ravalli County
 Montana.

We the undersigned citizens of read district No 13 in said county
 Petition your Honorable body to set aside and declare a public highway
 commencing at Alta postoffice in said county running thence East
 along Hughes Creek to the Wood Placer Mining Co claims ,a distance
 of about twelve miles. All of said proposed road is in Ravalli County
 Montana, said road is a convenience and a necessity, without which
 it is almost impossible to reach the Hughes creek placer claims and
 your Petitioners will ever pray.

P. B. Bennett
 W. Y. Baker
 L. F. Rice
 Scott Garrison
 Geo. H. Cameron
 J. H. Kates
 Walter S. Kelly
 Geo. Helling
 Geo. Hornoy
 G. J. Cole
 Robert H. Henson

ROAD PETITION.

To the Honorable Board of County Commissioners of Ravalli County
Montana.

We the undersigned citizens of road district No 13 in said county
Petition your Honorable body to set aside and declare a public highway
commencing at Alta postoffice in said county running thence East
along Hughes Creek to the Weed Placer Mining Co claims, a distance
of about twelve miles. All of said proposed road is in Ravalli County
Montana, said road is a convenience and a necessity, without which
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your Petitioners will ever pray.

P. B. Bennett

W. H. Baker

L. F. Rice

Scott Garrison

John Cameron

J. W. Kates

Walter Sulby

Edw. Melling

Wm. Dornoy

D. J. Cole

Robert Johnson

B. A. Smith

Hughes Creek ~~Hayden~~ Ravalli County Mont
May 15th 1898
To The Hon^{ble} Board of County Commissioners
of Ravalli County Mont

We the undersigned each promise
to pay in money or work at two
dollars per day the amount set opposite
our names toward the construction
of a wagon road to be built from
a point on the East fork of Hughes or
Hayden Creek at or near the mouth
of Alder Gulch thence westerly
along the north or right bank of the
above named East fork of Hughes or Hayden
Creek to what is known as the big bar
on the main Hughes or Hayden Creek
thence along said bar in a northerly
direction to the saw mill thence to
~~followed~~ ^{as has been staked out by Commissioners as he} ~~staked out~~ ^{in a northerly}
direction to an intersection with the
County road at the mouth of Hughes
or Hayden Creek.

We therefore knowing the benefits and
advantages to be derived from the
construction of the above road would

PETITION

For Road by Sam Keenan, Charles Stearns,
and others of

To the County Surveyor and Superintendent of Roads of Ravalli County, State of Montana:

We, the undersigned, residents of Ravalli County and of the district in which the improvements petitioned for would be located, hereby petition that there be laid out, constructed and declared a public highway, as provided by law, a certain County Road beginning at Alta Post Office at the mouth of Hughes Creek in Ravalli County, Montana, running thereon in a north westerly direction for a distance of about eighteen (18) miles up the spine Creek to the Seat of Placer operations on said Hughes Creek. We would further state, that a road as above described, will accommodate at least two hundred people and a large number of actual residents on the said Creek. We therefore pray your Honorable Body to give favorable consideration to this petition.

F. J. Merri
Sam Keenan
Joe Williams
W. P. O'Brien
H. J. Gleason
H. K. Parmenter
Jas. F. Lott
J. G. Sully
P. B. Bennett
Gos. P. Hulme
R. A. Smith

G. H. Wickley
A. C. Bishop
W. O. Fisk
O. K. Robertson
J. W. Springston
W. F. Ford
F. A. Jones
John B. Daylor
Wm. D. [unclear]
O. [unclear]

J. F. Daly
P. B. Bennett
Geo. P. Halpin
B. A. Smith
George C. Brown
W. T. Shindauer
L. C. Bishop

Geo. T. ...
Milton ...
L. W. ...

J. C. M. Kelley

W. Selby

D. C. ...
W. C. ...
Marcus B. Sinclair
John Wark
Fred Mahan
R. Franklin
Ad. Wolfe
W. W. ...
S. A. Schaffer
Nicholas Wynne
J. A. ...
Charles Malloy
D. V. ...
Thaddeus ...
Dick ...
F. H. ...

W. J. ...
J. E. ...
Geo. W. Strout
Tom ...
Frank ...
C. ...
J. ...
C. A. ...
Paul ...
Thomas ...
Richard ...
A. H. ...
G. W. ...
K. Ward

Ravalli County Road Petition

ID: 93 Source: File-Permanent Source#: 7354 Book: Rav Comm Journal Vol: 16 Pg: 401 Book Detail: Resolution 493
 Date: 07/12/1989 Petitioner: Reynolds, Fern
 Description: Petition to abandon road from Lot 12 from SW corner to NE corner SW1/4SW1/4 Section 30, T6N R20W
 Action: Petition to abandon road submitted. Approved. Fern Reynolds agreed to deed an easement to Ravalli County across the North 20 feet of the West 20 feet of Lot 15, Hughes Addition.

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 6N 20W 30 22 Hughes Addition 12 BEAR TRAX ST

ID: 136 Source: Book (see below) Source#: Petitioner: Book: Rav Comm Journal Vol: 13 Pg: 523 Book Detail: Book Additional:
 Date: 06/27/1979 Petitioner: Hughes Creek Road
 Description: Bear Creek Trail Road, Hughes Creek Road
 Action: Tentative agreement- Forest Service to deed Bear Creek Trail Rd to County. County to deed R/W Hughes Creek Rd to F.S.

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 2S 22W 34 45 Hughes Addition 15 HUGHES CREEK RD
 7N 21W 8,9,10. 15 BEAR CREEK TRL

ID: 232 Source: Book (see below) Source#: Book: Rav Comm Journal Vol: 15 Pg: 94 Book Detail: Book Additional:
 Date: 09/21/1982 Petitioner: COX, ELLIE
 Description: Hughes Creek Road, starting at the westerly portion of MS 5898 and running easterly to the end of the roadway.
 Action: Viewers report

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 2S 22W 34 45 Hughes Addition 15 HUGHES CREEK RD

ID: 234 Source: Book (see below) Source#: Book: Rav Comm Journal Vol: 15 Pg: 92 Book Detail: Book Additional:
 Date: 09/25/1982 Petitioner: COX, ELLIE
 Description: Hughes Creek Road, starting at the westerly portion of MS 5898 and running easterly to the end of the roadway.
 Action: Date set for public hearing for road abandonment

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 2S 22W 45 Hughes Addition 15 HUGHES CREEK RD

ID: 236 Source: Book (see below) Source#: Book: Rav Comm Journal Vol: 15 Pg: 91 Book Detail: Book Additional:
 Date: 09/10/1982 Petitioner: COX, ELLIE
 Description: Hughes Creek Road, starting at the westerly portion of MS 5898 and running easterly to the end of the roadway.
 Action: Viewers Tossberg and Hiegenbockem viewed road.

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 2S 22W 45 Hughes Addition 15 HUGHES CREEK RD

ID: 237 Source: Book (see below) Source#: Book: Rav Comm Journal Vol: 15 Pg: 81 Book Detail: Book Additional:
 Date: 08/30/1982 Petitioner: COX, ELLIE
 Description: Hughes Creek Road, starting at the westerly portion of MS 5898 and running easterly to the end of the roadway.
 Action: Commissioner Tossberg appointed as road viewer

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 2S 22W 45 Hughes Addition 15 HUGHES CREEK RD

ID: 240 Source: Book (see below) Source#: Book: Rav Comm Journal Vol: 15 Pg: 80 Book Detail: Book Additional:
 Date: 08/23/1980 Petitioner: COX, ELLIE
 Description: Hughes Creek Road, starting at the westerly portion of MS 5898 and running easterly to the end of the roadway.
 Action: Petition to abandon road-discussion on need for viewers

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 2S 22W 45 Hughes Addition 15 HUGHES CREEK RD

Kavalli County Road Petition

Page 2 of 5

2S 22W

Wednesday, February 17, 2016

ID: 259 Source: Book (see below) Source#: 45

Date: 03/28/1983 Petitioner: COX, ELLIE

Book: Rav Comm Journal

Vol: 15 Pg: 182

Book Detail:

HUGHES CREEK RD

Description: Hughes Creek road

Book Additional:

Action: Discussion on Hughes Creek road negotiations with USFS for maintenance, etc.

Location(s) T: R: Section(s):

Map#: Subdivision:

Town:

Block: Street:

ID: 260 Source: Book (see below) Source#: 45

Date: 03/22/1983 Petitioner: COX, ELLIE

Book: Rav Comm Journal

Vol: 15 Pg: 180

Book Detail:

HUGHES CREEK RD

Description: Hughes Creek Road near Cat Creek.

Book Additional:

Action: Discussion on history status termini, etc of Hughes Creek Road

Location(s) T: R: Section(s):

Map#: Subdivision:

Town:

Block: Street:

ID: 263 Source: Book (see below) Source#: 45

Date: 10/06/1982 Petitioner: COX, ELLIE

Book: Rav Comm Journal

Vol: 15 Pg: 103

Book Detail:

HUGHES CREEK RD

Description: Hughes Creek Road, starting at the westerly portion of MS 5898 and running easterly to the end of the roadway.

Book Additional:

Action: Public hearing on closure of Hughes Creek Road

Location(s) T: R: Section(s):

Map#: Subdivision:

Town:

Block: Street:

ID: 1120 Source: Petition Source#: 70

Date: 06/04/1900 Petitioner: BENNETT, P. B.

Book: Rav Comm Journal

Vol: 2 Pg: 190

Book Detail:

HUGHES CREEK RD

Description: Starting at Alta Post office running East along Hughes Creek to Wood Placer Mining Co. Claim for 12 miles.

Book Additional:

Action: Petition for road granted. Mrs ME Cameron agreed to give right of way.

Location(s) T: R: Section(s):

Map#: Subdivision:

Town:

Block: Street:

ID: 1162 Source: Book (see below) Source#: 45

Date: 12/05/1902 Petitioner: BITTER ROOT PHONE COM

Book: Rav Comm Journal

Vol: 2 Pg: 385

Book Detail:

HUGHES CREEK RD

Description: Application for 7/4 easements on county roads from Hamilton through Grantsdale, Darby and up West Fork and Hughes Creek

Book Additional:

Action: Easement granted - not to interfere with use of roads.

Location(s) T: R: Section(s):

Map#: Subdivision:

Town:

Block: Street:

ID: 1191 Source: Book (see below) Source#: 45

Date: 06/06/1902 Petitioner: WARD, D. W.

Book: Rav Comm Journal

Vol: 2 Pg: 352

Book Detail:

UNNAMED RDS

Description: A public road to be constructed from the end of the present county road on the South Fork of Hughes Creek to a point on the boundary line between Montana and Idaho near the Indian Creek mines.

Book Additional:

Action: Petition to build new road. Viewers appointed. It was agreed that as soon as citizens of Indian Creek put up good and sufficient bond for construction of road from Indian Creek Mines to State Line, county will agree to bear 1/2 expense of road petitioned for.

Location(s) T: R: Section(s):

Map#: Subdivision:

Town:

Block: Street:

ID: 1213 Source: Petition Source#: 125

Date: 06/01/1903 Petitioner: FRANKLIN, F. S.

Book: Rav Comm Journal

Vol: 2 Pg: 428

Book Detail:

MINE CREEK RD

Description: Beginning at Alta, mouth of Hughes Creek then south up the South Fork to Beaver Creek, then up Beaver Creek to MT-ID line.

Book Additional:

Action: Petition for road. Viewers appointed.

Location(s) T: R: Section(s):

Map#: Subdivision:

Town:

Block: Street:

Ravalli County Road Petition

3S 22W

Wednesday, February 17, 2016

ID: 1746 Source: Book (see below) Source#: 48 Book: Rav Comm Journal Vol: 1 Pg: 625 Book Detail: HORSE CREEK RD
 Date: 06/08/1898 Petitioner: Book Additional: Road petitioned for and being constructed by citizens will be supported by
 Description: Hughes Creek committed \$200.00 from county.

Location(s) T: R: Section(s): Map#: Subdivision: Town: Block: Street:

ID: 1769 Source: Petition Source#: 121 Book: Rav Comm Journal Vol: 2 Pg: 428 Book Detail: HUGHES CREEK RD
 Date: 06/01/1903 Petitioner: FRANKLIN, F.S.
 Description: Beginning at Alta, mouth of Hughes Creek then south up the South Fork to Beaver Creek, then up Beaver Creek to MT-ID line. Book Additional:

Location(s) T: R: Section(s): Map#: Subdivision: Town: Block: Street:

ID: 1782 Source: Petition Source#: 32 Book: Rav Comm Journal Vol: 1 Pg: 615 Book Detail: ROAD PLAT BOOK PG 163
 Date: 06/06/1898 Petitioner: WOODS MINING CO.
 Description: Starting at a point on the East Fork of Hughes/Hayden Creek near the mouth of Alder Gulch then west along North bank of the creek to what is know as "the big bar" on the main Hughes/Hayden Creek then along the bar in a northerly direction to the saw mill then west as staked out by Committee to an intersection with the County Road at the mouth of Hughes/Hayden Creek. Book Additional: Petition for public road - County agreed to pay \$200 towards construction of road, after road has been built and approved by County.

Location(s) T: R: Section(s): Map#: Subdivision: Town: Block: Street:

ID: 1788 Source: Petition Source#: 44 Book: Vol: Pg: Book Detail: HUGHES CREEK RD
 Date: 03/19/1899 Petitioner: Sterns & Keenan
 Description: Road commencing at Alta Post Office running in NE direction for 13 miles to seat of Placer operations on Hughes creek. Book Additional: Petition for county road: viewet's report - road can be built with modifications in direction.

Location(s) T: R: Section(s): Map#: Subdivision: Town: Block: Street:

ID: 1792 Source: Petition Source#: 51 Book: Vol: Pg: Book Detail: HUGHES CREEK RD
 Date: 05/29/1899 Petitioner: Sterns & Keenan
 Description: Road commencing at Alta Post Office running in NE direction for 13 miles to seat of Woods Placer operations on Hughes creek. Book Additional: Appointment of Viewet.

Location(s) T: R: Section(s): Map#: Subdivision: Town: Block: Street:

ID: 1793 Source: Petition Source#: 52 Book: Vol: Pg: Book Detail: HUGHES CREEK RD
 Date: 04/27/1899 Petitioner: Sterns & Keenan
 Description: Road commencing at Alta Post Office running in NE direction for 13 miles to seat of Placer operations on Hughes creek. Book Additional: Viewet's report favorable with modified location

Location(s) T: R: Section(s): Map#: Subdivision: Town: Block: Street:

2S 22W 34. Map#: 45. Subdivision: 45. Town: 45. Block: HUGHES CREEK RD

Ravalli County Road Petition

Wednesday, February 17, 2016

ID: 1820 Source: Petition Source#: 127 Book: Vol: Pg: Book Detail:

Date: 07/13/1903 Petitioner: FRANKLIN, F.

Description: Road beginning at mouth of Hughes Creek and running South up Southfork to mouth of Beaver Creek, then up Beaver Creek in SW direction to the divide between Montana and Idaho --?

Action: Viewers report on petition for highway (already constructed) - recommends road be excepted as a County road.

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
3S 22W 48 HORSE CREEK RD

ID: 2157 Source: Petition Source#: 67 Book: Vol: Pg: Book Detail:

Date: 05/20/1899 Petitioner: Stems & Keenan

Description: Road commencing at Alta Post Office running in NE direction for 13 miles to seat of Woods Placer operations on Hughes creek

Action: Petition to open road.

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
2S 22W 34 45 HUGHES CREEK RD

ID: 2989 Source: Book (see below) Source#: Book: Rav Comm Journal Vol: Pg: Book Detail:

Date: 11/20/1967 Petitioner: Commissioners

Description: USFS requested the realignment & reconstruction of Ravalli County Road No. 96D, the Hughes Creek Road, starting at the junction of said road with the West Fork Road, Ravalli County Road No. 96 and ending at the west boundary of MS 5883.

Action: Road No. 96D, as requested by the USFS, be accepted as the official Ravalli County Road No. 96D, and such parts of the old road as are no longer needed for use by the public be vacated by Ravalli County and allowed to revert to the ownership of the adjoining land.

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
2S 22W HUGHES CREEK RD

ID: 3178 Source: Book (see below) Source#: Book: Rav Comm Journal Vol: Pg: Book Detail:

Date: 10/14/1982 Petitioner: Cox, E

Description: Hughes Creek Road, starting at the westerly portion of MS 5898 and running easterly to the end of the roadway.

Action: Petition to abandon Hughes Creek Road was denied by the Commissioners.

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
2S 22W 45 HUGHES CREEK RD

ID: 3186 Source: Petition Source#: 32 Book: Vol: Pg: Book Detail:

Date: 05/15/1898 Petitioner: WOODS MINING CO.

Description: Starting at a point on the East Fork of Hughes/Hayden Creek near the mouth of Alder Gulch then west along North bank of the creek to what is know as "the big bar" on the main Hughes/Hayden Creek then along the bar in a northerly direction to the saw mill then west as staked out by Committee to an intersection with the County Road at the mouth of Hughes/Hayden Creek

Action: Petition for public road.

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
2S 22W HUGHES CREEK RD

ID: 3256 Source: File-Permanent Source#: 632833 Book: Vol: Pg: Book Detail:

Date: 07/06/2010 Petitioner: Commissioners

Description: Starting at its juncture with the West Fork Rd #91 in Section 34, T2S, R22W, and ending at the end of the road in Section 30, T2S, R20W - 7.8 miles - graded and drained and 4.0 miles primitive. Primitive road segment currently blocked by illegal barrier and not receiving maintenance.

Action: The Bitterroot National Forest will provide basic annual maintenance on this road. The BNF will not plow snow.

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
2S 22W 30,34 HUGHES CREEK RD

Ravalli County Road Petition

ID: 3260 Source: File-Permanent Source#: 634891 Book: Ravalli County Petitioner: Ravalli County

Date: 07/20/1899
 Description: The following roads are under Forest Service jurisdiction but will have dust abatement performed on them by Ravalli County and be reimbursed by the Forest Service, for its share of the expenses: Mill Creek Rd, FS1328; Blodgett Camp Rd, FS736; Roaring Lion Rd, FS701; Rye Creek Rd, FS75; North Kootenai Creek Rd, FS1322; Hughes Creek Rd, FS310.
 Action: The Project Agreement between the County of Ravalli and the USDA Forest Service, Bitterroot National Forest for Dust Abatement was signed.

Location(s) T: R: Section(s): Map#: Subdivision: Town: Block: Street:
 3N 20W .31 Hughes Addition
 3S 21W .14 RYE CREEK RD
 5N 21W .14 HUGHES CREEK RD
 6N 21W .22 ROARING LION RD
 9N 20W .16 BLODGETT CAMP RD
 NORTH KOOTENAI CREEK RD

ID: 3274 Source: Book (see below) Source#: 7354 Book: Rav Comm Journal Vol: 16 Pg: 395 Book Detail:
 Date: 06/26/1989 Petitioner: Reynolds,Fern
 Description: Petition to abandon road from Lot 12 from SW corner to NE corner SW1/4SW1/4 Section 30, T6N R20W
 Action: Larry Higginbotham and Jerry Allen Appointed viewers.

Location(s) T: R: Section(s): Map#: Subdivision: Town: Block: Street:
 6N 20W .30 Hughes Addition Hamilton BEAR TRAX ST
 ID: 3283 Source: File-Permanent Source#: 7354 Book: Rav Comm Journal Vol: 16 Pg: 406 Book Detail:
 Date: 08/09/1989 Petitioner: Reynolds, Fern
 Description: Petition to abandon road from Lot 12 from SW corner to NE corner SW1/4SW1/4 Section 30, T6N R20W
 Action: Petition to abandon road. Approved. Fern Reynolds signed the required easement to Ravalli County across the North 20 feet of the West 20 feet of Lot 15, Hughes Addition.
 Book Additional: Deed Book 186 pg 845
 Resolution 493

Location(s) T: R: Section(s): Map#: Subdivision: Town: Block: Street:
 6N 20W .30 Hughes Addition Hamilton 12 BEAR TRAX ST
 ID: 3410 Source: Petition Source#: Commissioners Book: Rav Comm Journal Vol: 2 Pg: 098 Book Detail:
 Date: 07/20/1899 Petitioner: Commissioners
 Description: Alter road as follows: start at the hill east of the first ford, south of Joe Burgoynes place, then to run next to foot of bench up to and across Overwhich Creek, then up the flat on south side of said creek to a convenient point up to the bench, then to follow the bench about 1 mile, then along the flat for about 1 mile, then across South Fork of river, following up South Fork about 1 mile, then across South Fork to East side to connect with old road about 2 miles north of mouth of Hughes creek.
 Action: Commissioners ordered change in road.
 Book Additional:
 Location(s) T: R: Section(s): Map#: Subdivision: Town: Block: Street:
 2S 22W .34 Hughes Addition HUGHES CREEK RD

Ravalli County Road Petition

ID: 136 Source: Book (see below) Source#: Book: Rav Comm Journal Vol: 13 Pg: 523 Book Detail: Wednesday, February 17, 2016
 Date: 06/27/1979 Petitioner: Action: Tentative agreement-forest Service to deed Bear Creek Trail Rd to County. County
 Description: Bear Creek Trail Road, Hughes Creek Road to deed Rav Comm Hughes Creek Rd to F.S.

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 2S 22W 34 45 HUGHES CREEK RD

ID: 1120 Source: Petition Source#: 70 Book: Rav Comm Journal Vol: 2 Pg: 190 Book Detail: Road Plat Book Pg 165
 Date: 06/04/1900 Petitioner: BENNETT, P. B. Book Additional:
 Description: Starting at Alta Post office running East along Hughes Creek to Wood Placer Mining Action: Petition for road granted. Mrs M/E Cameron agreed to give right of way.
 Co. Claim for 12 miles.

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 2S 22W 34 45 HUGHES CREEK RD

ID: 1788 Source: Petition Source#: 44 Book: Vol: Pg: Book Detail:
 Date: 03/19/1899 Petitioner: Stems & Keenan Book Additional:
 Description: Road commencing at Alta Post Office running in NE direction for 13 miles to seat of Action: Petition for county road. viewer's report - road can be built with modifications in
 Placer operations on Hughes creek direction.

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 2S 22W 34 45 HUGHES CREEK RD

ID: 1792 Source: Petition Source#: 51 Book: Vol: Pg: Book Detail:
 Date: 05/29/1899 Petitioner: Stems & Keenan Book Additional:
 Description: Road commencing at Alta Post Office running in NE direction for 13 miles to seat of Action: Appointment of Viewer.
 Woods Placer operations on Hughes creek

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 2S 22W 34 45 HUGHES CREEK RD

ID: 1793 Source: Petition Source#: 52 Book: Vol: Pg: Book Detail:
 Date: 04/27/1899 Petitioner: Stems & Keenan Book Additional:
 Description: Road commencing at Alta Post Office running in NE direction for 13 miles to seat of Action: Viewer's report favorable with modified location
 Placer operations on Hughes creek

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 2S 22W 34 45 HUGHES CREEK RD

ID: 2157 Source: Petition Source#: 67 Book: Vol: Pg: Book Detail:
 Date: 05/20/1899 Petitioner: Stems & Keenan Book Additional:
 Description: Road commencing at Alta Post Office running in NE direction for 13 miles to seat of Action: Petition to open road.
 Woods Placer operations on Hughes creek

Location(s) T: R: Section(s): Map#: Subdivision: Block: Street:
 2S 22W 34 45 HUGHES CREEK RD

Ravalli County Road Petition

Page 2 of 2

Wednesday, February 17, 2016

ID: 2836 Source: Book (see below) Source#: Book: Rav Comm Journal

Vol: 2 Pg: 457

Book Detail:

Date: 12/03/1903 Petitioner: Commissioners

Book Additional:

Description: 1. Road from a point on the South Fork of the West Fork near south line of L.A. Rice's place and crossing the river at or near said point and running on West side thereof and recrossing the river about 3/8 mile north of Alta P.O.
2. Road from North end of Little West Fork Bridge to a point about 100 yds south of the South Fork bridge.

Action: Ordered that roads be null'd and vacated.

Location(s) T: R: Section(s):

Map#: Subdivision:

Town:

Block:

Street:

2S 22W 10.15.22.27.34.

UNNAMED RDS

ID: 3256 Source: File-Permanent Source#: 632833 Book:

Book:

Vol: Pg:

Book Detail:

Date: 07/06/2010 Petitioner: Commissioners

Book Additional:

Description: Starting at its juncture with the West Fork Rd #91 in Section 34, T2S, R22W, and ending at the end of the road in Section 30, T2S, R20W -7.8 miles - graded and drained and 4.0 miles primitive. Primitive road segment currently blocked by illegal barrier and not receiving maintenance.

Action: The Bitterroot National Forest will provide basic annual maintenance on this road. The BNF will not plow snow.

Location(s) T: R: Section(s):

Map#: Subdivision:

Town:

Block:

Street:

2S 22W 30.34.

HUGHES CREEK RD

ID: 3410 Source: Petition Source#: Petitioner: Commissioners

Book: Rav Comm Journal

Vol: 2 Pg: 098

Book Detail:

Date: 07/20/1899

Book Additional:

Description: Alter road as follows: start at the hill east of the first ford, south of Joe Burgoyne's place, then to run next to foot of bench up to and across Overhitch Creek, then up the flat on south side of said creek to a convenient point up to the bench, then to follow the bench about 1 mile, then along the flat for about 1 mile, then across South Fork of river, following up South Fork about 1 mile, then across South Fork to East side to connect with old road about 2 miles north of mouth of Hughes creek.

Action: Commissioners ordered change in road.

Location(s) T: R: Section(s):

Map#: Subdivision:

Town:

Block:

Street:

2S 22W 34.

HUGHES CREEK RD

ROAD PLAT BOOK.

Regular Session

June 5th 1898

In the matter of the road petition of Wm. S. Pless Company, et al. vs. Board of Assessors of the County of Douglas, Kansas. "Beginning at 60 feet on the East fork of Hughes or Hayden Creek at or near the mouth of Elder Creek thence Westward along the north or right bank of the above named East fork of Hughes or Hayden Creek to what is known as the big bar and the maine of Hughes or Hayden Creek thence along said bar in a westerly direction to the bar side thence to some in a westerly direction as that has been set out by Certificate to us do to our intersection with the County road at the mouth of Hughes Creek, in this County it was ordered."

In the matter of a certain road now being considered by citizens along and up Hughes Creek, in this County it was ordered that when said road shall be constructed and completed, as located in a certain position now on file with the County Clerk, under the supervision and management of the County Surveyor and turned over to the County in good condition and legacy cleared out made a public highway, then and that amount, upon the fulfillment of all of such conditions the County will appropriate the sum of \$20000 out of the road fund toward the payment of the construction thereof.

tabbles

EXHIBIT

2

ROAD PLAT BOOK.

Register Division

June 1st 1900

In the matter of road location requested by P. B. Bennett Ltd. Commencing at N. E. 1/4 Post Office in said county running thence East along Hughes Bros. to the Wood Placer Mining Co., to Lewis, a distance of about twelve miles. and of said proposed road is in P. B. Bennett County Montana.

The road positioned for P. B. Bennett Ltd. on Hughes Bros. Commencing at N. E. 1/4 Post Office and running east along Hughes Bros. to Wood Placer Mining Co. to Lewis about twelve miles was declared a public highway

J. 2

Page 98-99

July 20, 1899

T. 2 S.
R. 22

Change of West Fork road, new road to commence at the hill east of the first ford south of Joe Burgoyne place, thence to run next to foot of bench up and across Overwhich Creek, thence up the flat on the south side of said Overwhich Creek to a convenient place to grade up on the bench, thence to follow the bench about 1 mile; thence along the flat about 1 mile; thence across South Fork of West Fork to west side of river, following up said river about 1 mile; thence across South Fork to east side to connect with old road about 2 miles north of Hughes Creek.

Page 105 - Aug. 15, 1899

Ordered to advertise for bids for above.
Bids to be opened Sept. 4, at 2:00 p.m.

Page 107

Contract let to Daly & Higgins

J. 2

Page 71

March 10, 1899

T. 2 S.
R. 22

Petition for survey and construction of a road on Hughes Creek considered.

Hughes Creek

Viewers: D.W. Ward, C.F. Daly and Chas. Stearns, appointed and ordered to report.

Page 190 - June 5, 1900

Declared a public highway - Alta P.O. and running east along Hughes Cr. to Woods Placer Mining Co. claims, about 12 miles.

J. 1

Page 615

June 8, 1898

T. 2 & 3 S.
R. 22 W.
Hughes Creek

Road being constructed by citizens along and up Hughes Creek as described in petition (no record of description in petition), to be turned over to county when completed and made public highway. County to donate \$200.00 on satisfactory completion of road (in road bk.) (From petition - described as "from a point at or near the mouth of Alder Gulch on Hughes Creek to the mouth of Hughes Creek.")

COMMISSIONERS' JOURNAL

Proceedings of the Board

In Regular

Session, June 8th 98

(3)

(3rd) Day

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P 615

that the certain public road petitioned for by B. L. L. and others be accepted and declared a public road.

The following warrants were cancelled and upon the records of the county clerk, having been claimed in the clerk's office for a period exceeding 90 days:

General Fund

Numbers 112, 113, 137, 27, 118, & 157, aggregating the sum

On the matter of a certain road now being sought citizens along Sand up Douglas Creek, in the county now ordered that when said road shall be completed, as described in a certain fee now on file with the county clerk, under the name of the same, and the same be

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Numbers 112, 113, 137, 27, 113, & 157, aggregating the sum

On the matter of a certain road now being constructed
extremes along and up Hughes Creek, in the coun-
ties ordered that when said road shall be con-
and completed, as described in a certain peti-
tion on file with the county clerk, under the au-
thority and management of the county surveyor and
over to the county in good condition and be-
declared and made a public highway, then and
event, upon the fulfillment of all of such condi-
the county will appropriate the sum of \$200.00
the road fund toward the payment of the ex-
penses thereof.

It was ordered that the county surveyor do con-
sider the formation of a bridge across the Bitter
River at Evelyn, and within the public agan-
ing it.

COMMISSIONERS' JOURNAL

Proceedings of the Board In Regular Session, June 8th 98 (3rd) Day

that the certain public road petitioned for by G. L. Latterlee and others be accepted and declared a public highway.

The following warrants were cancelled and so entered upon the records of the county clerk, having remained unclaimed in the clerks office for a period exceeding one year, to-wit:

General Fund

Numbers 112, 113, 137, 27, 113, & 159, aggregating the sum of \$6.25

In the matter of a certain road now being constructed by citizens along and up Hughes Creek, in this county, it was ordered that when said road shall be constructed and completed, as described in a certain petition now on file with the county clerk, under the supervision and management of the county surveyor and turned over to the county in good condition and legally declared and made a public highway, then and in that event, upon the fulfillment of all of such conditions, the county will appropriate the sum of \$200.00 out of the road fund toward the payment of the construction thereof.

It was ordered that the county surveyor at once condemn the Louinson' Bridge, across the Bitter Root

COMMISSIONERS JOURNAL

Proceedings of the Board

Session

Day

of Section 15 thence in a Northwesterly Course down a gulch through Section 16. Thence in a Northwesterly Course through the North half of the Northeast quarter of section 17, and the Northeast quarter of the Northwest quarter of section 17. Thence in a Northwesterly course through the Southwest quarter of Southwest quarter of Section 18; thence in a Northwesterly course through the South East quarter of the South East quarter of the South East quarter of Section 17. Thence on a quarter section line west 80 rods to the main road. John W. Mayhew, Geo. Jamison and C. M. Jann were appointed viewers.

The petition of S. D. Williams et al. for a new public Road described as "Beginning at the County Road where the same crosses the Section line between the Southwest quarter of the Southwest quarter or lot No. 4, Section 28, and the Northwest quarter of the Northwest quarter or lot 1 of Section 19 Township 5 North, Range twenty west; thence in an easterly direction across the land owned by Margaret Ellis and following the road as now graded and traveled through said land until it strikes the Section line between Sections 19 and 20, Township 5 North, Range 20 west; thence North on Section line to Northwest Corner of Section 17, Same Township and range" was considered and Daniel Brown, Josiah Bush, and Geo. M. Steele were appointed viewers.

The road petitioned for by P. S. Bennett et al. on Blaugher land, was declared a public highway.

The road laid out between the land of John Sears and Charles McLean was declared a public highway.

In the matter of the appeal of J. M. Smith et al. from the decision of the Dept. of Schools. It was decided to postpone action until next meeting.

In the matter of appeal taken by residents of School District No. 9 from decision of County Dept. of Schools in regard to division of said district the ruling of the Dept. was affirmed.

Claim No 176 for 6.00 in favor of Albert Kramer for making work was disallowed as not a proper county charge.

Claim No 138 for \$29.70 in favor of William Linn for measuring land was disallowed in the amount of \$15.00 because contained an improper charge in that amount.

Claim No 134 in favor of Wm. and F. H. H. for \$23.25 amount of property destroyed or consumed & paid for destroyed for the reason that it was not considered a proper county charge.

Claim No 114 for \$250.00 in favor of Martha P. Adams Home Society for care of children who have become orphans. Mary Adams in the amount of \$150.00 that being the price of the

Chargeable to the County.

Claim No 283. 100 francs of James Gandy for 6.00 disbursements in the amount of \$100 being an overcharge in that amount.

On Motion Board Adjourns for the day.

Wednesday June 6th 1900: Board met at 9 am all members present. The following claims against the County were presented and ordered drawn for the sum on the Contingent Fund.

No	Name	Service	Amount
1	J K Aquino	March Salary Treasurer.	150.00
2	Howard D Smart	" " Clerk	150.00
3	Geo A Reese	" " Deputy "	83.33
4	W M Johnson	" " " Assessor	100.00
5	J D Watts	" " Assessor.	100.00
6	W R Baker	" " Co. Atty.	50.00
7	R May Million	" " Supt Schools	66.66
8	Frank Woody Otero.	Otero.	55.65
9	Allan S Shaffer	March Salary Clerk Court	100.00
10	M B Shaffer	Deputy Clerk Court	60.00
11	R S Chaffin	March Salary Sheriff	166.66
12	D A Bishop	" " Under Sheriff	100.00
13	N Mitchell	" " Deputy Sheriff	83.33
14	J K Aquino	Apr " Co Treasurer	150.00
15	J D Watts	" " Assessor	100.00
16	W M Johnson	" " Deputy Assessor	100.00
17	W R Baker	" " County Attorney	50.00
18	R May Million	" " School Supt	66.66
19	Frank Woody	" " Court Scribe	55.65
20	R S Chaffin	" " Sheriff	166.66
21	D A Bishop	" " Undersheriff	100.00
22	N Mitchell	" " Dep Sheriff	83.33
23	Howard D Smart	" " County Clerk	150.00
24	Geo A Reese	" " Deputy Clerk	83.33
25	Allan S Shaffer	" " Clerk of Court	100.00
26	M B Shaffer	" " Deputy Clerk Court	60.00
29	J D Watts	May Salary Assessor	100.00
30	W M Johnson	" " Deputy "	100.00
31	J K Aquino	" " Treasurer	150.00
32	Howard D Smart	" " Co Clerk	150.00
33	Geo A Reese	" " Deputy Clerk	83.33
34	Allan S Shaffer	" " Clerk of Court	100.00
35	M B Shaffer	" " Dep Clerk of Court	60.00

COMMISSIONERS' JOURNAL.

Proceedings of the Board

Session,

Day

of section 15; thence in a Northwesterly Course down a gulch through Section 16; thence in a Northwesterly Course through the North half of the Northeast quarter of section 17, and the Northeast quarter of the Northwest quarter of section 17; thence in a Northwesterly course through the Southwest quarter of Southwest quarter of section 18; thence in a Northwesterly course through the South East quarter of the South East quarter of section 17; thence on a quarter section line west 80 rods to the main road. John W. Mayhew, A. W. Jamison and C. M. Jann were appointed viewers.

The petition of S. D. Williams et al. for a new public Road described as "Beginning at the County Road where the same crosses the Section line between the Southwest quarter of the Southwest quarter or lot No 4, Section 18, and the Northwest quarter of the Northwest quarter or lot 1 of Section 19 Township 5 North, Range twenty west; thence in an easterly direction across the land owned by Margaret Ellis and following the road as now graded and traveled through said land until it strikes the Section line between Sections 19 and 20, Township 5 North, Range 20 west; thence North on Section line to Northwest Corner of Section 17, same township and range" was considered and Samuel Brown, Josiah Bush, and Geo M. Steel were appointed viewers.

The road petitioned for by P. S. Bennett et al on Reagles Creek, was ^{commencing at the Postoffice and running East along jugos creek to road E.} declared a public highway.

The road laid out between the land of John Sears and Charles McKee was declared a public highway.

In the matter of the appeal of J. M. Smith et al. from the decision of the Dept of Schools it was decided to postpone action until next meeting.

In the matter of appeal taken by residents of Robert & District No 1

of Section 15, thence in a Northwestern Course down a gulch through Section 16; thence in a Northwestern Course through the North half of the Northeast quarter of Section 17, and the Northeast quarter of the Northwest quarter of Section 17; thence in a North-easterly course through the Southwest quarter of Southwest quarter of Section Eight 8; thence in a Northwestern course through the South east quarter of the South east quarter of the South east quarter of Section 7, thence on a quarter section line west 80 rods to the main road. John W. Mayhew A. W. Jamison and C. M. Jann were appointed receivers.

The petition of S. D. Williams et al. for a new public Road described as "Beginning at the County Road where the same crosses the Section line between the Southwest quarter of the Southwest quarter of lot No 4, Section 18, and the Northwest quarter of the Northwest quarter of Section 19 Township 5 North, Range twenty west; thence in an easterly direction across the land owned by Margaret Ellis and following the road as now graded and traveled through said land until it strikes the

Section line between Sections 19 and 20, Township 5 North, Range 20 west; thence North on Section line to Northwest Corner of Section 17, same township and range" was considered and Samuel Brown Josiah Bush, and Geo M. Stebb were appointed receivers.

The road petitioned for by P. S. Bennett et al on Douglas Creek, was declared a public highway.

The road laid out between the land of John Sears and Charles McRae was declared a public highway.

In the matter of the appeal of J. M. Smith et al. from the decision of the Dept of Schools it was decided to postpone action until next meeting.

In the matter of appeal taken by residents of School District No. 9 from decision of County Dept of Schools in regard to division of said district the ruling of the Dept was affirmed.

Claim No 176 for 6.00 in favor of Albert Kramer for making avails was disallowed as not a proper county charge.

Claim No 138 for \$29.70 in favor of Wiebur Jantz for messengers small was disallowed in the amount of \$18.00 because considered an

Appearing for evidence presented to the Board of Justice of the Peace had occurred from that time to the present to the County; it was ordered that the necessary Commission action be taken to remove the same from the matter of the road petition; in a G. L. Baker

(14) it was granted on condition that the petitioners should be bound to be approved by the chairman of the Board the sum of \$500.00 contribution; that they were made the road and furnish for the same of \$200.00.

(15) Petition for road to be made and completed by petitioners on condition that road to be made and completed by petitioners without cost to the County.

(16) In the matter of the road petitioned for by the Board of Justice and others, viewers were appointed as follows: James Murray, rancher, John Smith and Charles

(17) Petition for road to be made and completed by petitioners on condition that road to be made and completed by petitioners without cost to the County. County to furnish a license for only one

(18) In the matter of the road petitioned for by the Board of Justice and others, viewers were appointed as follows: J. N. B. S. W. running road 14 miles. There is 1/2 mile right of way given by land owners and road to be opened by petitioners without cost to the County.

(19) Petition for survey and construction of a road in Kings Cross considered and viewers appointed and report; viewers appointed as follows: W. N. and Charles

(20) Petition of B. D. Chaffin et al for a bridge across the Fork of the River Cross River, on the line between the ranches of Ed Edwards and Scott Stewart; a report was rejected and Board recommended that a petition be presented covering road and bridge at the mouth of the canyon, and gut connecting the Gypsum valley and on both sides of the river.

(21) Petition of Geo. A. Blain et al considered and viewers appointed as follows: W. N. and B. J. Taylor

It was decided that in order to improve the general administration of the road business of the County, the Commissioners have proposed to divide the County into road districts of the County and to elect

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M

You are hereby appointed a Road Viewer upon the petition of Sam Keenan and Chas E. Teeris et al. You will meet with J. S. Golden, Co. Surveyor and the other Viewers, on 29th May 1899 and make report at the 10 A.M. session, in accordance with law, at Alta P. O.

County Clerk, John Golden County Surveyor

DUTIES OF ROAD VIEWERS:

SECTION 2754. When the view of the proposed alteration or new highway is completed, the viewers must report to the board of commissioners:

1. The course, termini, length, and probable cost of construction of the proposed highway.
2. The estimate of damage to the owners of any land over which it is proposed to run the highway.
3. The names of land owners who consent to give the right of way, and their written consent thereto.
4. The names of land owners who do not consent, and the amount of damages claimed by each; but when there are non-resident land owners, and no agent upon the land upon which notice can be served, such non-resident land owners must be considered as non-consenting land owners unless their written consent is obtained.
5. Such other facts bearing upon the subject, of importance, to be known by the board of county commissioners.
6. They may also, in their discretion, or by order of the board of commissioners, report upon the feasibility and cost of any other route than the one petitioned for which would subserve the same purposes, and also report as to the necessity of a greater or the practicability of a less width of road than petitioned for.

STATE OF MONTANA, ss, County of Ravalli.

I, being appointed as a Road Viewer upon the petition of et al, do solemnly swear that I will perform the duties of said Road Viewer faithfully and impartially, and to the best of my knowledge.

Subscribed and sworn to before me this day of 189



REPORT OF VIEWERS.

To the Honorable Board of County Commissioners of Ravalli County, State of Montana:

We, the undersigned board of viewers, appointed by your honorable body to view out and report upon certain roads petitioned for by _____ et al., do herewith

submit the following report: the Course of this Road is an Eastely Direction Point of Beginning Alto. P. O. and the Terminus at the mouth of Emmett Creek the length is thirteen Miles we have viewed this Rout and to the best of our knollage believe the best of Rout to be along the foot of the Mountain on the North side of Hughes Creek as Close to the Creek Bottoms as Practible to have good ground to run on we beleive that said Road Can be Built for one hundred Dollars a Mile or ther about

Ca fare as we can learn there will be no Damages to Land owners or Elements

Viewers

Sam Keenan
C. H. Stearns
John Golden
County Surveyor

REPORT OF VIEWERS.

To the Honorable Board of County Commissioners of Ravalli County, State of Montana:

We, the undersigned board of viewers, appointed by your honorable body to view out and report upon certain roads petitioned for by _____ et al., do herewith submit the following report:

The Course of this Road is an Easely Direction Point of Beginning At the N. O and the terminus at the mouth of Emmett Creek the length is thirteen miles.

We have viewed this Rout and to the best of our knowledge believe the best of Rout to be along the foot of the Mountain on the North side of Hughey Creek as close to the creek bottom as practible to have good ground to run on we believe that said Road can be Built for one hundred Dollars a mile or there about.

In case it we can learn there will be no damage to land owners or claimants

Viewers

Sam Keenan

C. F. Stearns

John Golden

County Surveyor

Viewer

Viewers

view district

of Montana

189

189

County Clerk

Duty Clerk

Printers

CLERK'S OFFICE, RAVALLI COUNTY, April 27th 1899

Mr. Chas. Stearns

You are hereby appointed a Road Viewer upon the petition of David Keenan et al. You will meet with O. F. Sulgy and S. N. Ward the other Viewers, on May 20th 1899 and make report at the June session, in accordance with law.

Howard B. Smart County Clerk.

DUTIES OF ROAD VIEWERS:

SECTION 2756. When the view of the proposed alteration or new highway is completed, the viewers must report to the board of commissioners:

1. The course, termini, length, and probable cost of construction of the proposed highway.
2. The estimate of damage to the owners of any land over which it is proposed to run the highway.
3. The names of land owners who consent to give the right of way, and their written consent thereto.
4. The names of land owners who do not consent, and the amount of damages claimed by each; but when there are non-resident land owners, and no agent upon the land upon whom notice can be served, such non-resident land owners must be considered as non-consenting land owners unless their written consent is obtained.
5. Such other facts bearing upon the subject, of importance, to be known by the board of county commissioners.
6. They may also, in their discretion, or by order of the board of commissioners, report upon the feasibility and cost of any other route than the one petitioned for which would subserve the same purposes, and also report as to the necessity of a greater or the practicability of a less width of road than petitioned for.

STATE OF MONTANA,)
County of Ravalli.) ss.

I, _____ being appointed as a Road Viewer upon the petition of _____ et al., do solemnly swear that I will perform the duties of said Road Viewer faithfully and impartially, and to the best of my knowledge.

Subscribed and sworn to before me this _____ day of _____ 1899.

REPORT OF VIEWERS.

To the Honorable Board of County Commissioners of Ravalli County, State of Montana:

We, the undersigned board of viewers, appointed by your honorable body to view out and report upon certain roads petitioned for by _____ et al, do herewith submit the following report: The course of this

Road is an easterly direction the starting point being at the Alta Postoffice and then Teroniness at the mouth of Emmett creek the length of this Road being Thirteen miles

we have viewed this route out and decided the best route to build the Road is along the foot of the mountain on the north side of Hughes creek all the way up to avoid the swamps

we have decided the cost of building this Road to be worth one Hundred dollars a mile damages to land or claimants none

Viewers

C. F. Daly
D. N. Ward
C. H. Stearns

of _____
and Viewer _____
I Viewers _____
road district _____
County, Montana. _____
189 _____
189 _____
County Clerk _____
County Clerk _____
by Printers _____

REPORT OF VIEWERS.

To the Honorable Board of County Commissioners of Ravalli County, State of Montana:

We, the undersigned board of viewers, appointed by your honorable body to view out and report upon certain roads petitioned for by _____ et al, do herewith

submit the following report: The course of this Road is an eastern direction the starting point being at the Alta Postoffice and the Terminus at the mouth of Emmett creek the length of this Road being Thirteen miles

we have viewed this Road out and decided the best Route to build the Road is a long the foot of the mountain on the north side of Hughes creek all the way up to avoid the swamps

we have decided the cost of building this Road to be worth one Hundred dollars a mile damages to land or claimants none

Viewers

C. J. Daly

D. N. Wood

C. H. Stearns

out of

Road Viewer

and Viewers

_____ road district

County, Montana.

189

189

County Clerk.

Deputy Clerk.

County Printers.

PETITION TO ABANDON COUNTY ROAD

The undersigned, all being freeholders of the County of Ravalli, which constitutes a single-road district, and being ten (10) or more in number, hereby petition the Board of County Commissioners of Ravalli County to abandon any claim to public right of way on or use of the hereafter described road located in Ravalli County, Montana:

(1) The particular road to be abandoned is a portion of the road known as the Hughes Creek Road (County Road No. 104D), as per Ravalli County Commissioners Journal No. 2, pages 71 and 190.

(2) The general route of the portion of the road petitioned for abandonment is from the westerly boundary of M.S. 5898 running easterly to the end thereof, as per Ravalli County Commissioners Journal No. 2, page 190 ("to Woods Placer Mining Co. Claims").

(3) Based upon information and belief, the lands and owners affected include a patented mining claim known as M.S. 5898 owned by E. A. COX and VIOLET COX, husband and wife. It is not believed that the said road runs beyond the easterly boundary of M.S. 5898, but if it does, any portions of the road east of that point are also petitioned for abandonment.

(4) The owners who can be found have consented to the proposed abandonment and have signed this petition.

(5) There is no potential cost for the abandonment of this road.

(6) The necessity for and advantage of the petitioned action is that the described roadway provides no access in its current condition to any landowners who are not petitioners herein, nor does it provide public access to U.S. Forest Service lands. The road traverses and terminates on privately owned property. The cost and expense of general maintenance of the abandoned roadway to the County is not economically justified because of the failure of the road to provide any access. The current condition of the described roadway is quite poor. Most of the roadway proposed for abandonment is behind a gate which has been locked by current property owners since at least 1973. The road has been privately maintained for at least 30 years and has not been maintained by the County during that period. Finally, if the road ever was lawfully opened and established beyond the easterly boundary of M.S. 5898 (same as westerly boundary of M.S. 5883), it has been legally and effectively abandoned by previous action of the Board of County Commissioners of Ravalli County.

The undersigned hereby present this petition pursuant to the provisions of Title 7, Chapter 14, Part 26 of the Montana Code Annotated.

NAME

ADDRESS

1. ELLIE A. COX

General Delivery

EXHIBIT

4

NAME

ADDRESS

3. WEST FORK LAND COMPANY

P.O. Box 768

Printed

By: [Signature]
Signature President

Woodland Hills, CA 91365

4. EDWARD L. FRANCIS

Box A

Printed

[Signature]
Signature

Livingston, MT 59047

5. Steven L Goss

West Fork Stage

Printed

By: [Signature]
Signature

Darby Mont.

6. Mary Ann Goss

West Fork Stage

Printed

[Signature]
Signature

Darby, Mt. 59829

7. John B. Yonce, Jr

P.O. Box 7907

Printed

[Signature]
Signature

Missoula - 59807

8. FREDALINE M. YONCE

P.O. Box 7907

Printed

[Signature]
Signature

Missoula, MT. 59807

9. GEORGE SUMMERS

WEST FORK RT.

Printed

[Signature]
Signature

DARBY, MONT. 59829

10. DORIS SUMMERS

West Fork Rt.

Printed

[Signature]
Signature

Darby, Mont. 59829

11. Kevin Bopp

~~Kevin Bopp~~ DARBY, MT.

Printed

[Signature]
Signature

Darby, mt. 59829

12. _____
Printed

Signature

13. _____
Printed

FOREST SERVICE
Elbertree National Forest
Hamilton, Montana

OCT 11 1982

RECEIVED

IN THE OFFICE OF THE BOARD OF COUNTY COMMISSIONERS OF
RAVALLI COUNTY, MONTANA

Hyles
Morgan
Kenneth
C.celli
SP

IN RE THE PETITION TO ABANDON THE)
PORTION OF THE ROADWAY KNOWN AS THE)
HUGHES CREEK ROAD (COUNTY ROAD 104D),)
COMMENCING AT THE WESTERLY BOUNDARY OF)
MS 5898, AND RUNNING EASTERLY TO)
THE END THEREOF.)

ORDER

The Petition of West Fork Land Company and others for the abandonment of that portion of the Hughes Creek Road No. 104D, commencing at the westerly portion of MS 5898 and running easterly to the end of the roadway, came on regularly for hearing on the 6th day of October, 1982, at 2:00 p.m. in the office of the County Commissioners of Ravalli County, Montana, after due notice to all interested landowners, and inspection and report by Commissioner Fritz Tossberg and County Surveyor Larry Higgenbotham; the Petitioners were represented by Ed Francis and Ellie Cox, who spoke in favor of the Petition and supported by Robert Beese, and in opposition to the Petition, twenty-five persons presented either oral or written argument against the Petition. After considering the Petition, the results of the investigation, and the evidence presented, and the Commissioners being fully advised in the premises, make the following:

FINDINGS OF FACT

1. That on May 13, 1898, the petition by Woods Placer Mining Company and 33 other persons requested acceptance as a county road, a roadway that the petitioners were constructing on Hughes Creek, and on June 8, 1898, in Vol. 1, Commissioners Journals, at page 516, the Commissioners allocated county funds to be used to assist with the construction of the roadway, which was being constructed under the supervision of the county



at the mouth of Emmett Creek, and on June 5, 1900, the Ravalli County Commissioners accepted the same, commencing at the Alta Post Office and running east along Hughes Creek to the Woods Placer Mining Claims about 12 miles.

2. That at the end of the roadway, a trailhead was constructed by the United States Forest Service, and that the trailhead is 11.8 miles from the junction of the roadway with the West Fork Roadway at Alta.

3. That the roadway was maintained by Ravalli County to the end of the roadway on a regular basis for many years, and thereafter when notified of need.

4. That Forest Service employees maintained the roadway to the end of the road at the trailhead from and after entering into joint roadway maintenance agreements with the Ravalli County Board of County Commissioners, and prior to said joint maintenance agreements, had assisted in the maintenance thereto.

5. That the roadway has been used by the public since the creation of the roadway by the petitions and order of June 5, 1900.

6. That there have been no previous petitions for the closure or abandonment of any portion of the roadway.

7. That the roadway is necessary for fire protection access to public lands in the upper portion of the Hughes Creek drainage.

8. That from time to time, the Ravalli County Road Department prepared road maps for the purpose of designating roads to be maintained at that time, based upon priority because of use; and as the need arose, other county roads would be added or some of these roads deleted, but these maps or amendments thereto were not intended to be creating or abandoning any roadways that were added or deleted from the current maintenance plans. That the evidence disclosed that while the closure of the roadway may benefit a few individuals, such closure would be

That from the foregoing Findings of Fact, the Commissioners make the following:

ORDER

IT IS HEREBY ORDERED that the petition for closure of that portion of Hughes Creek Road from the westerly boundary of MS 5898 and running easterly to the end of the said roadway is hereby DENIED.

IT IS FURTHER ORDERED that the Hughes Creek Roadway, 11.8 miles in length from the Alta Junction with the West Fork Highway to the Hughes Creek Trailhead shall remain open to public use and all encroachments thereon must be removed forthwith.

DATED this 14th day of October, 1982.

BOARD OF RAVALLI COUNTY COMMISSIONERS



Harold White, Chairman



F. T. Williams, Member



F. B. Tossberg, Member

1 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
2 STATE OF MONTANA, IN AND FOR THE COUNTY OF RAVALLI

3 No. DV 84- 248

4 JAY UNRUE, ROAD SUPERVISOR FOR)
RAVALLI COUNTY, MONTANA, a)
5 Political Subdivision of the State)
of Montana,)

6 Plaintiff,)

7 vs.)

8 ROYAL TETON, Ltd., a Montana)
9 Corporation; HUGHES CREEK RECOVERY,)
INC.; and ELI A. COX and VIOLET)
10 COX,)

11 Defendants.)

COMPLAINT

FILED

DV-84-248/1

JUN 12 1984

12
13 Comes now the Plaintiff and alleges as follows:

MARGARET A. STELLING CLERK
BY Walter Larson DEPUTY

14 I.

15 That Ravalli County is a political subdivision of the State of Montana
16 and that the Plaintiff, JAY UNRUE, is the Road Supervisor for Ravalli County.

17 II.

18 That ROYAL TETON, LTD., the successor corporation to WEST FORK LAND
19 COMPANY, and HUGHES CREEK RECOVERY, INC., are both corporations authorized
20 to do business within the State of Montana.

21 III.

22 That upon petition of the property owners, the Ravalli County Commis-
23 sioners on June 8, 1898, provided county funds to assist in the construction
24 of a roadway on Hughes Creek as a county road; and on May 8, 1899, a second
25 petition was filed requesting acceptance of a roadway commencing at the Alta
26 Post Office and terminating at the mouth of Emmett Creek on Hughes Creek as
27 a county road, 13 miles in length. On June 5, 1900, the Ravalli County Com-
28 missioners accepted the road commencing at the Alta Post Office for a distance
29 of approximately 12 miles. Since that date, the roadway has been a county
30 road used by the public and by the Defendants.

31 IV.

EXHIBIT

6

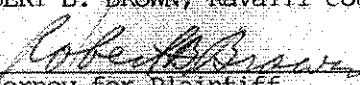
tabbles

1 by the construction of fences or gates across the roadway, which interfere
2 with the public use of the roadway. On September 9, 1981, notice was given
3 to Defendants COX to remove the locked gate which was approximately 9.5 miles
4 from the junction of the Hughes Creek Road with the West Fork Road, and the
5 WEST FORK LAND COMPANY was given notice to remove the locked cable across
6 the roadway, approximately 11 miles from the junction of the Hughes Creek
7 Road with the West Fork Road. That subsequent to the said notices, Defendants
8 ROYAL TETON, Ltd., and HUGHES CREEK RECOVERY, INC., have acquired an interest
9 in the premises of Defendants COX and the West Fork Land Company, and the
10 practice of interfering with the public use of the roadway has continued.

11 WHEREFORE, Plaintiff prays judgment against Defendants as follows:

- 12 1. That the said gates be declared a nuisance and that the same be
13 abated;
- 14 2. That the Defendants be restrained from relocating gates or fences
15 on the roadway or otherwise interfering with the public use of the roadway;
- 16 3. For the Plaintiff's costs; and
- 17 4. For such other and further relief as to the Court may seem proper.

18 DATED this 29th day of May, 1984.

19 ROBERT B. BROWN, Ravalli County Attorney
20 
21 Attorney for Plaintiff
22 Courthouse Box 5008
Hamilton, Mt. 59840

23 STATE OF MONTANA)
24 County of Ravalli) : ss. VERIFICATION

25 JAY UNRUE, being first duly sworn, deposes and says:

26 That he is the Plaintiff in the above-entitled matter and makes this
27 affidavit on behalf of himself as Ravalli County Road Supervisor; that he
28 has read the foregoing Complaint and that the same is true to the best of
29 his knowledge except as to those matters therein stated on information and
30 belief, and as to those, he believes them to be true.

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SUBSCRIBED AND SWORN TO before me this 4th day of June, 1984.

Sharon Grand
Notary Public for the State of Montana
Residing at Hamilton, MT.
My Commission expires 1-22-85

(SEAL)

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HON. JEFFREY H. LANGTON
District Judge
Twenty-First Judicial District
Ravalli County Courthouse Box 5012
Hamilton, Montana 59840
(406) 363-3412

FILED
DEPT. CLERK
DV-84-248/21
NOV 23 1983

may be changed

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT,
RAVALLI COUNTY

JAY UNRUE, ROAD SUPERVISOR FOR)
RAVALLI COUNTY, MONTANA, a)
political subdivision of the)
STATE OF MONTANA,)
Plaintiff(s),)

vs.)

Cause No. DV-84-248

ROYAL TETON, LTD., a Montana corporation;)
HUGHES CREEK RECOVERY, INC.; and ELI)
A. COX and VIOLET COX,)
Defendant(s).)

ROYAL TETON, LTD,)
Third Party Plaintiff,)

vs.)

JAY UNRUE, ROAD SUPERVISOR FOR)
RAVALLI COUNTY, MONTANA; and THE)
COUNTY COMMISSIONERS OF RAVALLI)
COUNTY, MONTANA; and RAVALLI)
COUNTY, a political subdivision of the)
STATE OF MONTANA,)
Third Party Defendants.)

ORDER TO SHOW CAUSE



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Pursuant to Rule 41 of the Montana Rules of Civil Procedure and Rule 37 of the Rules of Practice of the District Court of this District, it appearing to the Court that this action has not been prosecuted with due or reasonable diligence and that more than eight (8) years have elapsed since the filing of the complaint/petition herein, and that Plaintiff/Petitioner has failed to bring the action for trial,

IT IS HEREBY ORDERED that all counsel of record and any unrepresented party appear before this Court at the courtroom hereof on Wednesday, December 22, 1993, at 1:30 p.m., and then and there show cause, if any there be, why an order should not be entered dismissing this action without prejudice.

IT IS FURTHER ORDERED that counsel and any unrepresented parties shall be excused from attendance at said hearing if an appropriate stipulation or notice of dismissal and a proposed order of dismissal are presented to the Court prior to the date hereby set for the hearing.

The Clerk of this Court is hereby directed to serve a copy of this order on all counsel of record herein and upon any unrepresented party to their last known address by first class mail.

DATED this 19th day of November, 1993.


DISTRICT JUDGE

cc: George H. Corn, Esq.
James T. Harrison, Jr., Esq.
Christopher B. Swartley, Esq.
Larry Persson

I CERTIFY THAT I FORWARDED COPIES OF THIS INSTRUMENT TO COUNSEL OF RECORD ON

November 23, 1993
Debbie Harmon *clerk*
Christina Sawyer *Deputy Clerk*
DEPUTY CLERK

ORDER TO SHOW CAUSE

1 George H. Corn, County Attorney
2 Gerald D. Williams, Deputy Attorney
3 Michael Reardon
4 Courthouse Box 5008
5 Hamilton, Montana 59840
6 406-363-4440
7 Attorneys for Ravalli County

FILED

DESSIE MARRON, CLERK

DV-84-248/22
DEC 10 '93

Judith A. Teigt
DEPUTY

8 MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY
9

10 JAY UNRUE, ROAD SUPERVISOR FOR) Cause No. DV 84-248
11 RAVALLI COUNTY, MONTANA, a)
12 political subdivision of the) STIPULATION AND ORDER
13 STATE OF MONTANA,)
14 Plaintiff,)
15 vs.)

16 ROYAL TETON, LTD., a Montana)
17 corporation; HUGHES CREEK)
18 RECOVERY, INC.; and ELI A. COX)
19 and VIOLET COX,)
20 Defendants.)

21
22 ROYAL TETON, LTD.,)
23 Third Party Plaintiff,)

24 vs.)

25 JAY UNRUE, ROAD SUPERVISOR FOR)
26 RAVALLI COUNTY, MONTANA; and THE)
27 COUNTY COMMISSIONERS OF RAVALLI)
28 COUNTY, MONTANA; and RAVALLI)
29 COUNTY, a political subdivision)
30 of the STATE OF MONTANA,)
31 Third Party Defendants.)
32

33 Come now George H. Corn, James T. Harrison, Jr., Christopher
34 B. Swartley and Larry Persson, counsel of record in the above-
35 entitled cause, and do hereby stipulate that this cause be
36 dismissed with prejudice.

37 Dated this 30th day of November, 1993.

38 GEORGE H. CORN, Ravalli County Attorney

39
40 *George H. Corn*
Attorney for Jay Unrue and Ravalli County

STIPULATION AND ORDER

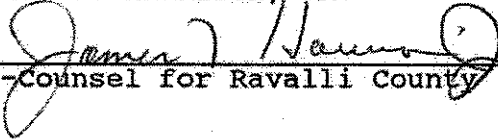
RECORDED

DEC 17 1993

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Dated this 2nd day of December, 1993.

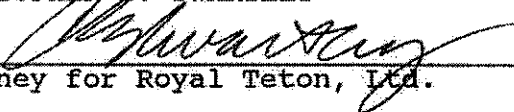
JAMES T. HARRISON, JR.



Co-Counsel for Ravalli County

Dated this _____ day of December, 1993.

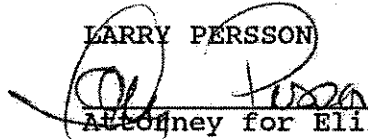
CHRISTOPHER B. SWARTLEY



Attorney for Royal Teton, Ltd.

Dated this 1st day of December, 1993.

LARRY PERSSON



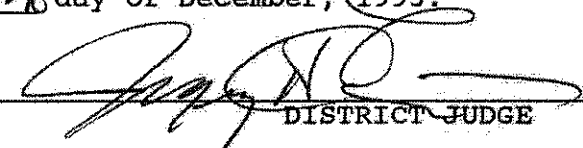
Attorney for Eli A. Cox and Violet Cox

ORDER

The foregoing Stipulation having been submitted to the Court, and the Court having specifically approved the same,

IT IS HEREBY ORDERED that the above-entitled cause is DISMISSED without prejudice.


Dated this 10th day of December, 1993.



DISTRICT JUDGE

**REGINA PLETTENBERG
RAVALLI COUNTY CLERK & RECORDER
215 S 4TH ST STE C
HAMILTON, MT 59840
(406) 375-6551**

*rec'd
9/19/14*

DATE: September 16, 2016
TO: Ravalli County Commissioners
FROM: Ravalli County Clerk and Recorder 
RE: Petition to abandon a portion of Hughes Creek Road

Attached you will find the road petition to abandon Hughes Creek Road beyond the gate. The map attached to this petition indicates the portion of the road they are requesting to abandon.

In looking at the properties around this easement, it appears to affect 21 properties. The properties included in this petition are owned by the following owners and I have indicated who has signed:

Parcel #	Name	Signed
1034610	Raski, Suzanne & Mikolaichik, Louis ✓	Signed
1034600	Cox, Jess & Donna ✓	Signed
1034810	Cox, Violet Trustee ✓	Signed
1034800	Cox, Violet Trustee	Signed
1028700	Cox, Charlene ✓	Signed
1028710	Bugli, Zachary Jay & Tracy (P.C. Advisor)	Signed
1079100	Pogue, Seth ✓	Signed
1035100	Pogue, Seth	Signed
1079100	Pogue, Seth	Signed
1035270	Pogue, Seth	Signed
1045000	Grenfell, Lola ✓	Signed
1035280	Pogue, Seth	Signed
1079000	Pogue, Seth	Signed
1045100	Grenfell, Lola ✓	Signed
1035260	Pogue, Seth	Signed
1035270	Pogue, Seth	Signed
1035280	Pogue, Seth	Signed
1035250	Pogue, Seth	Signed
1035200	Pogue, Seth	Signed
1034700	Cox, Wade & Charlene ✓	Signed
1079100	Pogue, Seth	Signed

There are 12 total landowners listed, and all have signed the attached petition, which represents 100% of the landowners.


I believe you can proceed with the process to abandon the road.

Thank you.



**REGINA PLETTENBERG
RAVALLI COUNTY CLERK & RECORDER
215 S 4TH ST STE C
HAMILTON, MT 59840
(406) 375-6551**

Rec'd 9/14/16

DATE: September 14, 2016
TO: Ravalli County Commissioners
FROM: Ravalli County Clerk and Recorder 
RE: Petition to abandon a portion of Hughes Creek Road

Attached you will find the road petition to abandon Hughes Creek Road beyond the gate. The map attached to this petition indicates the portion of the road they are requesting to abandon.

In looking at the properties around this easement, it appears to affect 21 properties. The properties included in this petition are owned by the following owners and I have indicated who has signed:

Parcel #	Name	Signed
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1079100	Pogue, Seth	Signed
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1079100	Pogue, Seth	Signed
1035270	Pogue, Seth	Signed
1045000	Grenfell, Lola	Signed
1035280	Pogue, Seth	Signed
1079000	Pogue, Seth	Signed
1045100	Grenfell, Lola	Signed
1035260	Pogue, Seth	Signed
1035270	Pogue, Seth	Signed
1035280	Pogue, Seth	Signed
1035250	Pogue, Seth	Signed
1035200	Pogue, Seth	Signed
1034700	Cox, Wade & Charlene	Signed
1079100	Pogue, Seth	Signed

The petition DOES NOT contain the signatures of at least 10 freeholders of the road district. There are 12 total landowners listed, and all have signed the attached petition, which represents 100% of the landowners.

However, the submitter will need to get the signatures of at least 10 freeholders of the road district before I can approve this petition. Once this is done, please re-submit the petition to my office to process.

Thank you.



111 N. HIGGINS, SUITE 600
 P.O. BOX 4747
 MISSOULA, MONTANA 59806-4747
 TELEPHONE: (406) 721-3400 or 800-337-3567
 FAX (406) 721-6985
 www.wordenthane.com

DONOVAN WORDEN, SR., 1892-1967
 DONOVAN WORDEN, JR., 1918-2001
 JEREMY G. THANE, RETIRED
 *LICENSED TO PRACTICE IN MT AND WA
 **LICENSED TO PRACTICE IN MT, ND, WY

RECEIVED

JUL 27 2016

Ravalli County Commissioners



to Regina 7/27

RONALD A. BENDER
 PATRICK G. FRANK
 MARTIN S. KING
 PATRICK DOUGHERTY
 W. CARL MENDENHALL
 GAIL M. HAVILAND
 SHANE A. VANNATTA
 PETER S. DAYTON
 SEAN M. MORRIS
 REID J. PERKINS
 WILLIAM E. MCCARTHY
 MATTHEW J. CUFFE
 JANE E. COWLEY
 COLLEEN M. DOWDALL
 AMY M. SCOTT SMITH
 JORI QUINLAN
 JESSE C. KODADEK
 *CHRIS A. JOHNSON
 **ROSS P. KEOGH
 DANA L. HUPP

July 25, 2016

Ravalli County Commissioners
 215 S. 4th Street
 Hamilton, MT 59840

Re: Hughes Creek Road
 Our File No.: 11320-006

Dear Commissioners:

This firm represents property owner Jay Bugli regarding the legal status of Hughes Creek Road beyond the currently-locked gate located approximately 8 miles from where the road begins, which is near the confluence of Hughes Creek and the West Fork of the Bitterroot River.

Accompanying this letter is a formal petition to abandon the road beyond the gate. The petition meets all legal criteria and is signed by all affected landowners beyond the gate, as required by statute.

For the reasons explained below, the petition likely only affects approximately four-tenths of a mile of the road, but to prevent ongoing uncertainty, we believe it is in the best interest of both the County and the landowners if the County grants the petition and formally abandons any claim it believes it may have beyond the location specified in the petition. If the Commissioners choose not to grant the petition, there is the very real likelihood of litigation, which will ultimately result in a court concluding that, as a matter of law, there can be no county road beyond the point noted in attached Exhibit A.

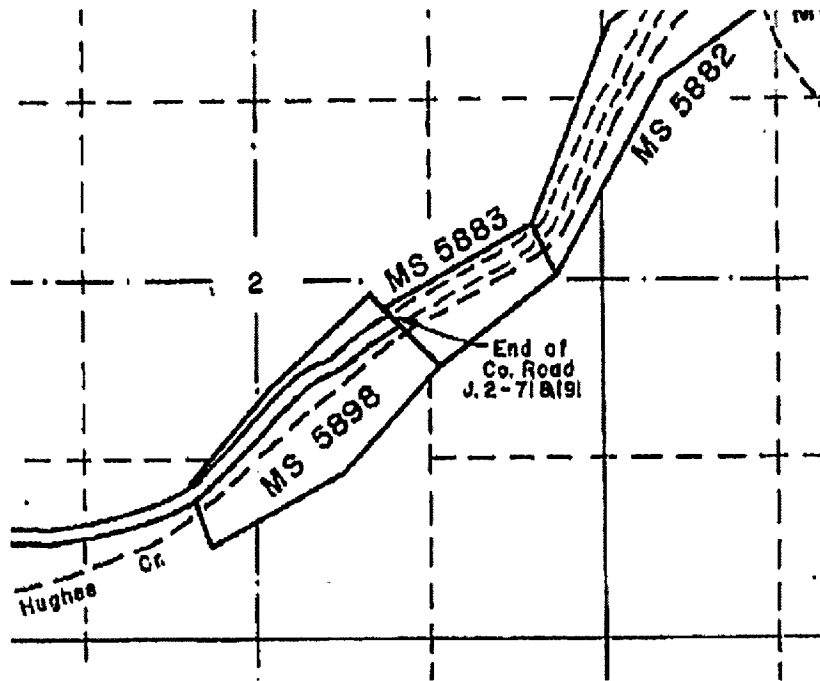
FACTUAL BACKGROUND

In 1898 or 1899, a number of residents asked the County to declare a public road beginning at the Alta post office and running in a northeasterly direction to the Woods Placer on Hughes Creek. It appears that petition was granted in 1900, creating a public road that was “about 12 miles” long. (Commissioner Journal 2 at 190–91.)



Ravalli County Commissioners
Re: Hughes Creek Road
July 25, 2016
Page 2

On April 7, 1965, all three County Commissioners signed and approved a map depicting “Co. Rd. No. 96D.” (Exhibit A.) This map of the Hughes Creek area shows MS 5883, and has an arrow pointing to its western edge with a notation that says “End of Co. Rd.”



Sometime in 1967, the United States Forest Service (USFS) requested a “realignment and reconstruction” of Ravalli County Road 96D, more commonly known as Hughes Creek Road. The USFS asked the county to rebuild the road beginning at the West Fork junction and ending “at the west boundary of MS 5883.” On November 20, 1967, the Commissioners—two of whom also signed the 1965 map—adopted a resolution that states:

WHEREAS, the United States Forest Service has requested the realignment and reconstruction of 9.0 miles of Ravalli County Road No. 96D, the Hughes Creek Road, starting at the junction of the said road with the West Fork Road, Ravalli County Road No. 96, and ending at the west boundary of MS 5883, and,

WHEREAS, the realignment and reconstruction of said Ravalli County Road No. 96D is an improvement to the public and will be easier and cheaper for the County Road Department to maintain.

Ravalli County Commissioners
Re: Hughes Creek Road
July 25, 2016
Page 3

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Ravalli County at its regular meeting assembled this 20th day of November, 1967, that said road No. 96D as requested by the Forest Service be accepted as the official Ravalli County Road No. 96D, and such parts of the old road as are no longer needed for use by the public be vacated by Ravalli County and allowed to revert to the ownership of the adjoining land.

(Exhibit B.)

In August of 1982, the West Fork Land Company and others filed a petition to abandon the portion of the road from the west boundary of MS 5898 to the terminus of the road. The Commissioners rejected the petition, and ordered that “any encroachments thereon must be removed forthwith.” (Exhibit C.) It appears, however, that neither the petitioners nor the County had knowledge of or the benefit of (a) the 1965 County map showing that the Commissioners had already affirmed that the road ended at this precise location or (b) the 1967 resolution reaffirming this fact.

Following the Commissioners’ decision, various gates remained in place. In June of 1984, County Attorney Brown, by and through the Road Supervisor, filed a Complaint seeking injunctive relief requiring the landowners to remove the gates and cease “interfering with the public use of the roadway.” (Exhibit D.) In September of 1984, the County sought a preliminary injunction or restraining order requiring removal of the gates, but Judge Wheelis denied the motion because he determined there was insufficient evidence that the road was public beyond the gates.

The case then languished for nearly a decade. In November 1993, County Attorney Corn drafted a stipulation, where both the County and the Defendants “do hereby stipulate that this cause be dismissed *with prejudice*.” (Exhibit E, emphasis added.) The stipulation was signed by County Attorney Corn, Deputy County Attorney Williams, and attorneys for the landowners.

Recently, the question of the location of the road has once again come up. It is our understanding that various landowners and representatives for the County recently conducted a site visit, where it was generally agreed that the historic terminus of Hughes Creek Road ends several hundred feet short of the Forest Service trailhead, which has been unused for years. More, between the gate at approximately mile 8 and the original/historic end of the road, the road stays completely or almost completely within private property. This conclusion is fully consistent with the 1967 map, which shows the non-county portions of the road beyond the west boundary of MS 5898 staying within private property in the creek bottom.

Ravalli County Commissioners
Re: Hughes Creek Road
July 25, 2016
Page 4

LEGAL ISSUES

There are multiple reasons why the County should grant the attached petition and formally abandon the road. Doing so would prevent potential litigation and ongoing uncertainty over this matter.

A. The record as a whole establishes the County has already recognized the county road ends at or near the locked gate.

The factual record establishes that the County has already recognized the road ends at the western boundary of MS 5883, the location of a currently-locked gate. This is shown on both the 1965 map and then reinforced by the 1967 resolution vacating the portions of the road beyond mile 9. Therefore, the petition to abandon affects only the approximately $\frac{3}{4}$ of a mile of the road across MS 5898.

Second, even if a county road could still exist beyond mile 8 or 9, it is undisputed that the terminus of the road as originally declared in 1900 never reaches the trailhead, because there is a stretch of private property separating those two locations. Therefore, because the road has been gated for decades, even if there was evidence to support some sort of historical public prescriptive right to cross that stretch of private property, that prescriptive right has long since extinguished.

This issue was clarified by the recent Montana Supreme Court case of *Letica Land Co., LLC v. Anaconda-Deer Lodge Cty.*, 2015 MT 323, 381 Mont. 389, 362 P.3d 614. There, the landowners had installed gates on a road that no one thought was a county road at the time, but it was. The county road, however, dead-ended on private property, providing no access to public land. There may have been a prescriptive easement across private land to reach the National Forest in the past, but the public had indisputably been locked out for decades. The County claimed that because the landowners installed locked gates on a county road, no prescriptive easement could have been extinguished. The district court agreed. The Supreme Court, however, reversed the district court and concluded that even though the landowners had mistakenly installed gates on what turned out to be a county road, a purported public prescriptive easement beyond the county road itself that stretched from the county road to the National Forest was nevertheless extinguished by reverse prescription. *Letica*, ¶¶ 46–48. Thus, contrary to the assertions by certain individuals and groups that *Letica* supports the idea that there is a public right of access across private land, *Letica* in fact stands for precisely the opposite conclusion. Therefore, even if a Court were to conclude that there is still a county road beyond the gate, it would be a road to nowhere that would not provide public access to any public land.

B. The previous legal proceedings foreclose the possibility that a court could rule that the county road extends beyond the locked gates.

Ravalli County Commissioners
Re: Hughes Creek Road
July 25, 2016
Page 5

Regardless of any factual issues the County may try and dispute, the issue has already been settled by the litigation that began in 1984 and ended nearly a decade later, when the county agreed to dismiss the case with prejudice. When parties agree to dismiss a case with prejudice, that dismissal “is the same as a judgment on the merits; accordingly, a dismissal is res judicata as to every issue raised in the action.” *Tisher v. Norwest Capital Mgmt. & Trust Co.*, 260 Mont. 143, 152, 859 P.2d 984, 989-90 (1993). The doctrine of res judicata, or claim preclusion, bars relitigation of a claim that a party has already had the opportunity to litigate. *Touris v. Flathead Cty.*, 2011 MT 165, ¶ 12, 361 Mont. 172, 258 P.3d 1. The policy behind res judicata is finality: at some point, litigation must come to an end. *Id.*

A claim will be barred by res judicata if (1) the parties or their privies are the same; (2) the subject matter of the past and present actions is the same; (3) the issues are the same and relate to the same subject matter; (4) the capacities of the parties are the same to the subject matter and issues between them. *Id.*, ¶ 13.

Here, those elements are easily met. When the County sued the Hughes Creek landowners in 1983, the County sought to have the gates permanently removed. If the County were to attempt to do the same again, the parties would be the same or in privity; the subject matter would be identical; the issues would be identical; and the capacities of the parties would be the same as they relate to the issues at hand. Thus, any claim by the County would be barred by res judicata and would be subject to dismissal for failure to state a claim upon which relief can be granted.

The issue is simple: the fact that the County agreed to dismiss the case with prejudice is a final judgment on the merits. *Beasley v. Flathead Cty.*, 2009 MT 121, ¶ 19, 350 Mont. 177, 206 P.3d 915. When a party believes another party is acting illegally and files suit, the plaintiff must either litigate that claim to conclusion, settle it, or dismiss it. If the plaintiff dismisses the claim with prejudice, it loses the opportunity to “challenge the alleged illegality” of the act in the future. *Id.*

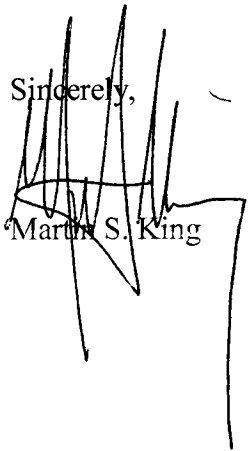
More, a stipulation between parties—and the 1993 stipulation for dismissal is clearly that—“is construed as a contract” and “operates to end all controversy between the parties, within the scope of the judgment.” *First Bank v. Dist. Court for Fourth Judicial Dist.*, 226 Mont. 515, 523, 737 P.2d 1132, 1137 (1987). This kind of stipulation does not even require the approval of a judge, because under Rule 41(a) of the Montana Rules of Civil Procedure, the “plaintiff may dismiss an action without a court order by filing...a stipulation of dismissal signed by all parties who have appeared.” Thus, the 1993 stipulation for dismissal with prejudice was effective before it was even signed by the judge, and therefore any claim the County believes it may have is plainly barred by res judicata.

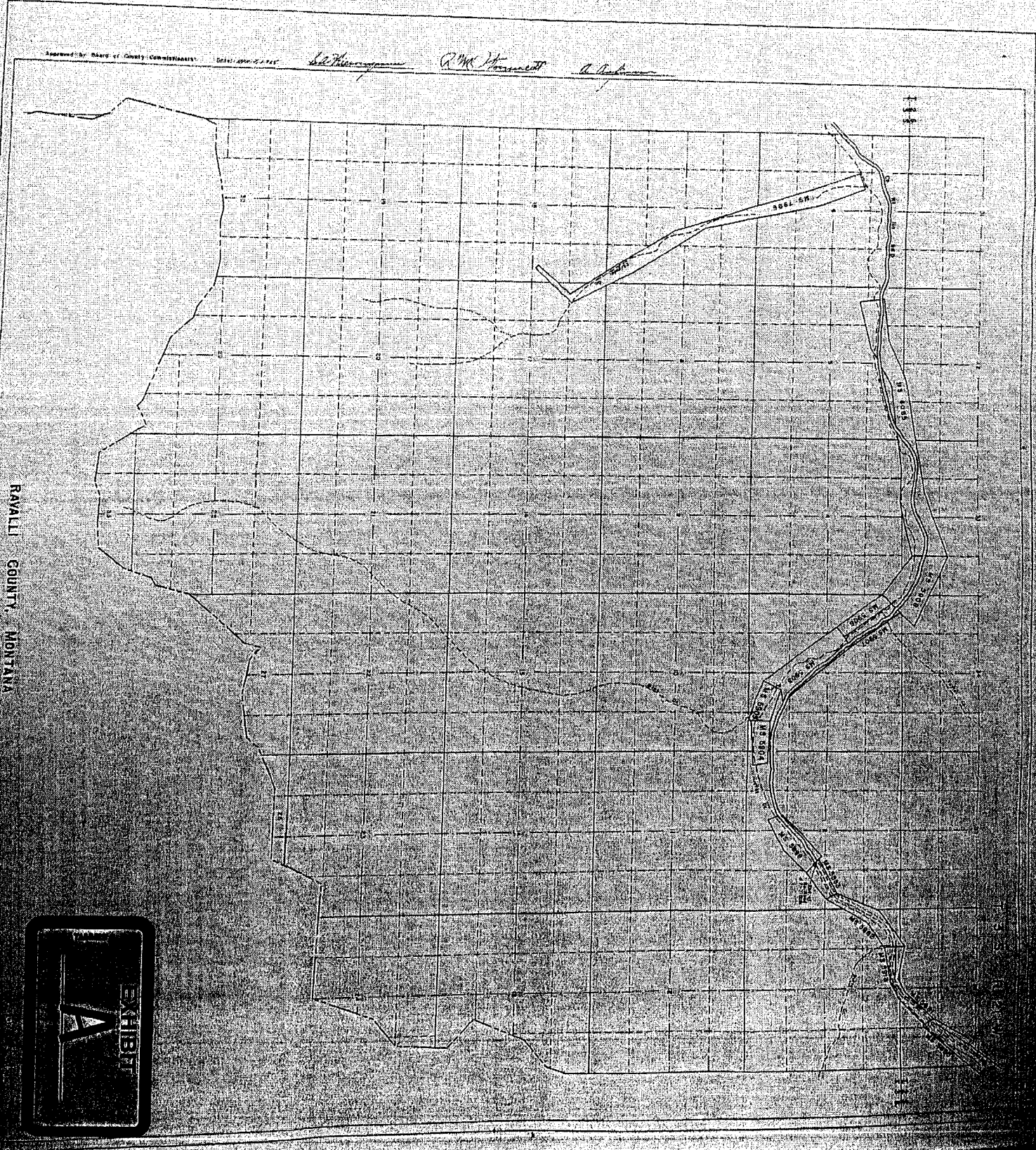
Ravalli County Commissioners
Re: Hughes Creek Road
July 25, 2016
Page 6

CONCLUSION

The County documentation is clear: Hughes Creek Road's status as a county road ends at the west boundary of MS 5883. More, because the County sought a judicial declaration that the county road existed beyond that point but then voluntarily dismissed the case with prejudice, forever barring any claim by the County on the same grounds.

To prevent any uncertainty in the future, however, the County should formally abandon the road pursuant to the attached petition, especially because the abandonment only affects approximately four tenths of a mile of road across a single property.

Sincerely,

Martin S. King



Hamilton, Montana November 20, 1967

The Board of County Commissioners of Ravalli County, Montana, met in regular session on the above date at 10:00 o'clock A.M., with the following members present: Arthur Anfinson, Chairman, and S.A. Hieronymus and Harold White, Commissioners, and F.G. Moore, Clerk of the Board.

Upon motion, the Board adjourned to meet at a Board of Public Welfare, for the minutes of meeting; see Welfare Journal at the office of County Welfare Department.

The Board adjourned to reconvene as a Board of County Commissioners.

Upon motion of Commissioner Anfinson and seconded by Commissioner White, S.A. Hieronymus, Commissioner, was granted permission to leave the State of Montana from November 21, to November 26, 1967.

The following resolution was adopted upon motion made and seconded:

RESOLUTION

Resolved, That the Board of County Commissioners of Ravalli County, Montana, do hereby...

[Handwritten signatures]

Upon motion, the Board adjourned.

APPROVED: _____

EXHIBIT
11 B

IN THE OFFICE OF THE BOARD OF COUNTY COMMISSIONERS OF
RAVALLI COUNTY, MONTANA

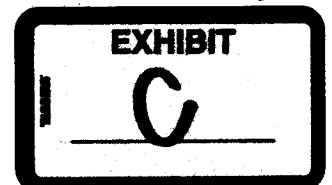
IN RE THE PETITION TO ABANDON THE)
PORTION OF THE ROADWAY KNOWN AS THE)
HUGHES CREEK ROAD (COUNTY ROAD 104D),)
COMMENCING AT THE WESTERLY BOUNDARY OF)
MS 5898, AND RUNNING EASTERLY TO)
THE END THEREOF.)

O R D E R

The Petition of West Fork Land Company and others for the abandonment of that portion of the Hughes Creek Road No. 104D, commencing at the westerly portion of MS 5898 and running easterly to the end of the roadway, came on regularly for hearing on the 6th day of October, 1982, at 2:00 p.m. in the office of the County Commissioners of Ravalli County, Montana, after due notice to all interested landowners, and inspection and report by Commissioner Fritz Tossberg and County Surveyor Larry Higgenbotham; the Petitioners were represented by Ed Francis and Ellie Cox, who spoke in favor of the Petition and supported by Robert Beese, and in opposition to the Petition, twenty-five persons presented either oral or written argument against the Petition. After considering the Petition, the results of the investigation, and the evidence presented, and the Commissioners being fully advised in the premises, make the following:

FINDINGS OF FACT

1. That on May 13, 1898, the petition by Woods Placer Mining Company and 33 other persons requested acceptance as a county road, a roadway that the petitioners were constructing on Hughes Creek, and on June 8, 1898, in Vol. 1, Commissioners Journals, at page 516, the Commissioners allocated county funds to be used to assist with the construction of the roadway, which was being constructed under the supervision of the county surveyor, from the mouth of Alder Gulch to the county roadway at the mouth of Hughes Creek.
2. That a subsequent petition was presented by Sam Keenan and Charles Stern, signed by 58 persons on May 8, 1899, requesting the acceptance of the roadway commencing at the Alta post office and terminating



706920 - Page: 16 of 35

at the mouth of Emmett Creek, and on June 5, 1900, the Ravalli County Commissioners accepted the same, commencing at the Alta Post Office and running east along Hughes Creek to the Woods Placer Mining Claims about 12 miles.

2. That at the end of the roadway, a trailhead was constructed by the United States Forest Service, and that the trailhead is 11.8 miles from the junction of the roadway with the West Fork Roadway at Alta.

3. That the roadway was maintained by Ravalli County to the end of the roadway on a regular basis for many years, and thereafter when notified of need.

4. That Forest Service employees maintained the roadway to the end of the road at the trailhead from and after entering into joint roadway maintenance agreements with the Ravalli County Board of County Commissioners, and prior to said joint maintenance agreements, had assisted in the maintenance thereto.

5. That the roadway has been used by the public since the creation of the roadway by the petitions and order of June 5, 1900.

6. That there have been no previous petitions for the closure or abandonment of any portion of the roadway.

7. That the roadway is necessary for fire protection access to public lands in the upper portion of the Hughes Creek drainage.

8. That from time to time, the Ravalli County Road Department prepared road maps for the purpose of designating roads to be maintained at that time, based upon priority because of use; and as the need arose, other county roads would be added or some of these roads deleted, but these maps or amendments thereto were not intended to be creating or abandoning any roadways that were added or deleted from the current maintenance plans. That the evidence disclosed that while the closure of the roadway may benefit a few individuals, such closure would be detrimental to the general public.

9. That the gates or barriers presently installed on the roadway were done so without the knowledge or permission of Ravalli County, and constitute an encroachment upon a county road and must be removed.

That from the foregoing Findings of Fact, the Commissioners make the following:

ORDER

IT IS HEREBY ORDERED that the petition for closure of that portion of Hughes Creek Road from the westerly boundary of MS 5898 and running easterly to the end of the said roadway is hereby DENIED.

IT IS FURTHER ORDERED that the Hughes Creek Roadway, 11.8 miles in length from the Alta Junction with the West Fork Highway to the Hughes Creek Trailhead shall remain open to public use and all encroachments thereon must be removed forthwith.

DATED this 14th day of October, 1982.

BOARD OF RAVALLI COUNTY COMMISSIONERS

Harold White
Harold White, Chairman

F. T. Williams
F. T. Williams, Member

F. B. Tossberg
F. B. Tossberg, Member

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF MONTANA, IN AND FOR THE COUNTY OF RAVALLI

No. DV 84- 248

JAY UNRUE, ROAD SUPERVISOR FOR)
RAVALLI COUNTY, MONTANA, a)
Political Subdivision of the State)
of Montana,)

Plaintiff,)

vs.)

COMPLAINT

ROYAL TETON, Ltd., a Montana)
Corporation; HUGHES CREEK RECOVERY,)
INC.; and ELI A. COX and VIOLET)
COX,)

Defendants.)

FILED

DV-84-248/1

JUN 12 1984

MARGARET A. STELLING CLERK
BY *Margaret Stelling*
DEPUTY

Comes now the Plaintiff and alleges as follows:

I.

That Ravalli County is a political subdivision of the State of Montana
and that the Plaintiff, JAY UNRUE, is the Road Supervisor for Ravalli County.

II.

That ROYAL TETON, LTD., the successor corporation to WEST FORK LAND
COMPANY, and HUGHES CREEK RECOVERY, INC., are both corporations authorized
to do business within the State of Montana.

III.

That upon petition of the property owners, the Ravalli County Commis-
sioners on June 8, 1898, provided county funds to assist in the construction
of a roadway on Hughes Creek as a county road; and on May 8, 1899, a second
petition was filed requesting acceptance of a roadway commencing at the Alta
Post Office and terminating at the mouth of Emmett Creek on Hughes Creek as
a county road, 13 miles in length. On June 5, 1900, the Ravalli County Com-
missioners accepted the road commencing at the Alta Post Office for a distance
of approximately 12 miles. Since that date, the roadway has been a county
road used by the public and by the Defendants.

IV.

That the Defendants, or some of them, have encroached upon the roadway



1 by the construction of fences or gates across the roadway, which interfere
2 with the public use of the roadway. On September 9, 1981, notice was given
3 to Defendants COX to remove the locked gate which was approximately 9.5 miles
4 from the junction of the Hughes Creek Road with the West Fork Road, and the
5 WEST FORK LAND COMPANY was given notice to remove the locked cable across
6 the roadway, approximately 11 miles from the junction of the Hughes Creek
7 Road with the West Fork Road. That subsequent to the said notices, Defendants
8 ROYAL TETON, Ltd., and HUGHES CREEK RECOVERY, INC., have acquired an interest
9 in the premises of Defendants COX and the West Fork Land Company, and the
10 practice of interfering with the public use of the roadway has continued.

11 WHEREFORE, Plaintiff prays judgment against Defendants as follows:

- 12 1. That the said gates be declared a nuisance and that the same be
- 13 abated;
- 14 2. That the Defendants be restrained from relocating gates or fences
- 15 on the roadway or otherwise interfering with the public use of the roadway;
- 16 3. For the Plaintiff's costs; and
- 17 4. For such other and further relief as to the Court may seem proper.

18 DATED this 29th day of May, 1984.

19 ROBERT B. BROWN, Ravalli County Attorney

20 Robert B. Brown
21 Attorney for Plaintiff
22 Courthouse Box 5008
Hamilton, MT. 59840

23 STATE OF MONTANA)
24 : ss.)
County of Ravalli)

VERIFICATION

25 JAY UNRUE, being first duly sworn, deposes and says:

26 That he is the Plaintiff in the above-entitled matter and makes this
27 affidavit on behalf of himself as Ravalli County Road Supervisor; that he
28 has read the foregoing Complaint and that the same is true to the best of
29 his knowledge except as to those matters therein stated on information and
30 belief, and as to those, he believes them to be true.

31 Jay Unrue
32 Jay Unrue

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SUBSCRIBED AND SWORN TO before me this 4th day of June, 1984.

Marion Grand
Notary Public for the State of Montana
Residing at Hamilton, Mt.
My Commission expires 1-22-85

(SEAL)

FILED
DEBBIE HARMON
DV-84-248/22
DEC 10 1993
Judith A. Vaigt

1 George H. Corn, County Attorney
2 Gerald D. Williams, Deputy Attorney
3 Michael Reardon
4 Courthouse Box 5003
5 Hamilton, Montana 59840
6 406-363-4440
7 Attorneys for Ravalli County

8 MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY
9

10 JAY UNRUE, ROAD SUPERVISOR FOR) Cause No. DV 84-248
11 RAVALLI COUNTY, MONTANA, a)
12 political subdivision of the) STIPULATION AND ORDER
13 STATE OF MONTANA,)
14 Plaintiff,)
15 vs.)

16 ROYAL TETON, LTD., a Montana)
17 corporation; HUGHES CREEK)
18 RECOVERY, INC.; and ELI A. COX)
19 and VIOLET COX,)
20 Defendants.)

21
22 ROYAL TETON, LTD.,)
23 Third Party Plaintiff,)
24 vs.)

25 JAY UNRUE, ROAD SUPERVISOR FOR)
26 RAVALLI COUNTY, MONTANA; and THE)
27 COUNTY COMMISSIONERS OF RAVALLI)
28 COUNTY, MONTANA; and RAVALLI)
29 COUNTY, a political subdivision)
30 of the STATE OF MONTANA,)
31 Third Party Defendants.)
32

33 Come now George H. Corn, James T. Harrison, Jr., Christopher
34 B. Swartley and Larry Persson, counsel of record in the above-
35 entitled cause, and do hereby stipulate that this cause be
36 dismissed with prejudice.

37 Dated this 30th day of November, 1993.

38 GEORGE H. CORN, Ravalli County Attorney
39 *[Signature]*
40 Attorney for Jay Unrue and Ravalli County

EXHIBIT
1 E

1 Dated this 2nd day of December, 1993.

2 JAMES T. HARRISON, JR.

3 James T. Harrison
4 Co-Counsel for Ravalli County

5 Dated this _____ day of December, 1993.

6 CHRISTOPHER B. SWARTLEY

7 Christopher B. Swartley
8 Attorney for Royal Teton, Ltd.

9 Dated this 1st day of December, 1993.

10 LARRY PERSSON

11 Larry Persson
12 Attorney for Eli A. Cox and Violet Cox

13 ORDER

14 The foregoing Stipulation having been submitted to the
15 Court, and the Court having specifically approved the same,

16 IT IS HEREBY ORDERED that the above-entitled cause is
17 DISMISSED without prejudice.

18 Dated this 16th day of December, 1993.

19 [Signature]
20 DISTRICT JUDGE

Petition to Abandon County Road

To: Ravalli County Commission
215 S. 4th Street
Hamilton, MT 59840

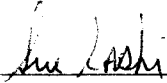
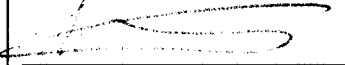
From: Martin S. King
Worden Thane P.C.
P.O. Box 4747
Missoula, MT 59806
(406) 721-3400

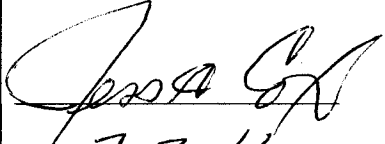

Date: July 25, 2016.

Pursuant to § 7–14–2601 through § 7–14–2615, Montana Code Annotated, the undersigned hereby petition to vacate and abandon the county road hereinafter described.

1. The road described is that portion of Hughes Creek Road (also known as County Road 96D or 9630 on some maps) beyond the western edge of MS 5898. A country-created map is attached as Exhibit A.
2. The road was originally established via the petition process in 1899 and 1900. In 1899, various property owners petitioned for the creation of the road, and the petition was granted in 1900.
3. The map attached as Exhibit A, dated April 7, 1965 and signed by all three County Commissioners, clearly depicts the end of the county road at the western edge MS 5883, in Section 2, Township 3 South, Range 21 West, PMM.
4. Based on the 1965 map, this petition therefore requests the County abandon approximately four tenths of a mile of county road—only that portion that crosses MS 5898.
5. This vacation of the road beyond the western edge of MS 5898 would affect only the landowners listed in this petition, all of whom consent to and have signed this petition. According to the 1965 County map, the road does not reach or touch any public land in the area subject to abandonment, and therefore the provisions of § 7–14–2615(3) are inapplicable.
6. The purpose of the abandonment is to clarify the scope of use across MS 5898 and to settle once and for all the fact that the County has previously determined that, as a matter of law, the county road ends at the western edge of MS 5883.

7. Pursuant to § 7-14-2603, the petitioners request that at its next regular or special meeting, but in any case within thirty days of the filing of the petition, the Commissioners appoint one member of the Commission and the county surveyor to conduct an investigation regarding this petition.
8. A letter containing additional information, background, and additional legal issues accompanies this petition.

Property Owners	Property Address and Legal Description	Property Owner Address
<p>1. Suzanne Raski</p> <p></p> <p>Date: <u>July 14/2016</u></p> <p>2. Louis M. Mikolaischik</p> <p></p> <p>Date: <u>July 14/2016</u></p>	<p>1723 Hughes Creek Road</p> <p>S02, T03 S, R21 W, ACRES 15.6, PT HECLA MS #5898 INDEX 8 CS #1681 PARCEL H-2</p>	<p>P.O. Box 177 Darby, MT 59829</p>

Property Owners	Property Address and Legal Description	Property Owner Address
<p>3. Jess A. Cox</p> <p></p> <p>Date: <u>7-3-16</u></p> <p>4. Donna L. Cox</p> <p></p> <p>Date: <u>7-3-16</u></p>	<p>NHN Hughes Creek Road</p> <p>S02, T03 S, R21 W, ACRES 9.43, PT HECLA MS #5898 INDEX 5 CS #650348-R PARCEL B</p>	<p>469 N. 400 W Blackfoot, ID 83221</p>

Property Owners	Property Address and Legal Description	Property Owner Address
<p>5. Wade L. Cox</p> <p><i>Wade L. Cox</i></p> <p>Date: <u>7/3/16</u></p>	<p>1779 Hughes Creek Road</p> <p>S02, T03 S, R21 W, ACRES 20.53, JIM MS #5883 PT HECLA MS #5898 INDEX 6 CS#650348-R PARCEL A</p> <p><i>and (Charlene only):</i></p>	<p>1779 Hughes Creek Road Darby, MT 59829</p>
<p>6. Charlene Cox</p> <p><i>Charlene Cox</i></p> <p>Date: <u>6-24-16</u></p>	<p>S01, T03 S, R21 W, ACRES 9.01, PT VIROQUA MS #5913 INDEX 2 CS#597809- F PARCEL B (REMAINDER) S36, T02 S, R21 W PT VIROQUA MS #5913 NO IND #</p>	

Property Owners	Property Address and Legal Description	Property Owner Address
<p>7. Violet Cox, Trustee of the <u>Ellie & Violet Cox</u> Trust <u>Violet Cox</u> Date: <u>6-24-16</u></p>	<p>NHN Hughes Creek Road S01, T03 S, R21 W, ACRES 14.78, CAMIS #5882 INDEX 4 1-3S-21 CAMIS #5882 INDEX 7 2-3S-21 CS #1765 PARCEL C-2 <i>and</i> S01, T03 S, R21 W, ACRES 17.07, CAMIS # 5882 INDEX 3 36-2S-R21 CAMIS #5882 INDEX 1 CS#1765-PARCEL C-1 S1- T2S-R21</p>	<p>812 Grantsdale Road Hamilton, MT 59840</p>

Property Owners	Property Address and Legal Description	Property Owner Address
<p>8. Seth Pogue</p> <p><u>Seth Pogue</u></p> <p>Date: <u>6.30.2016</u></p>	<p>S36, T02 S, R21 W, ACRES 19.28, PT MOUNTAIN GUIDE #5881 INDEX 1</p> <p><i>and</i></p> <p>S36, T02 S, R21 W, ACRES 15.41, PT DISCOVERY #5885 INDEX 5 CS #1728 PARCEL D-1</p> <p><i>and</i></p> <p>S36, T02 S, R21 W, ACRES 9.67, PT DISCOVERY #5885 CS #1728 PT PARCEL D-2</p> <p><i>and</i></p> <p>S31, T02 S, R20 W, ACRES 20.87, PT DISCOVERY #5885 INDEX 3 CS #1728 PT PARCEL D-2 LESS .27 AC DEEDS 127-844</p> <p><i>and</i></p> <p>S31, T02 S, R20 W, ACRES 14.05, PT DISCOVERY #5885 INDEX 1 CS #1728 PT PARCEL D-3 LESS .73 AC DEEDS 127-844</p> <p><i>and</i></p> <p>S30, T02 S, R20 W, ACRES 15.89, PT DISCOVERY #5885 INDEX 6 CS #1728 PT PARCEL D-3</p> <p><i>and</i></p>	<p>258 Roosevelt Lane Hamilton, MT 59840-7000</p> <p>SP</p> <p>SP</p>

and

S30, T02 S, R20 W, ACRES
6.26, ANNEX #6000 INDEX 1

and

S30, T02 S, R20 W, ACRES
29, PT HAMILTON PLACER
#5884 IND 2 29-2S-20 PT
HAMILTON PLACER #5884
IND 3 30-2S-20 CS #1455
PARCEL B

and

S30, T02 S, R20 W, ACRES
2.21, PT HAMILTON
PLACER #5884 CS #1455 PT
PARCELS A & A-1

and

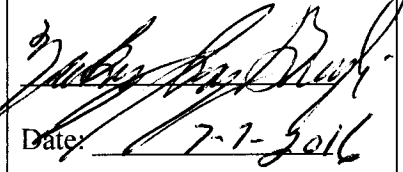

S29, T02 S, R20 W, ACRES
18.43, PT HAMILTON
PLACER #5884 CS #1455 PT
PARCELS A & A-1

and

S20, T02 S, R20 W, ACRES
86.8, PT HAMILTON
PLACER #5884 CS #1455 PT
PARCEL A

and

S21, T02 S, R20 W, ACRES
21.06, PT HAMILTON
PLACER #5884 CS #1445 PT
PARCELS A & A-1

Property Owners	Property Address and Legal Description	Property Owner Address
<p>9. Zachary Jay Bugli</p>  <p>Date: <u>7-7-2016</u></p> <p>10. Tracy Bugli</p>  <p>Date: <u>7-7-16</u></p>	<p>S36, T2 S, R21 W, ACRES 6.03, PT VIROQUA MS #5913 INDEX 3 CS#597809- F PARCEL A</p>	<p>2849 McIntyre Road Stevensville, MT 59870</p>

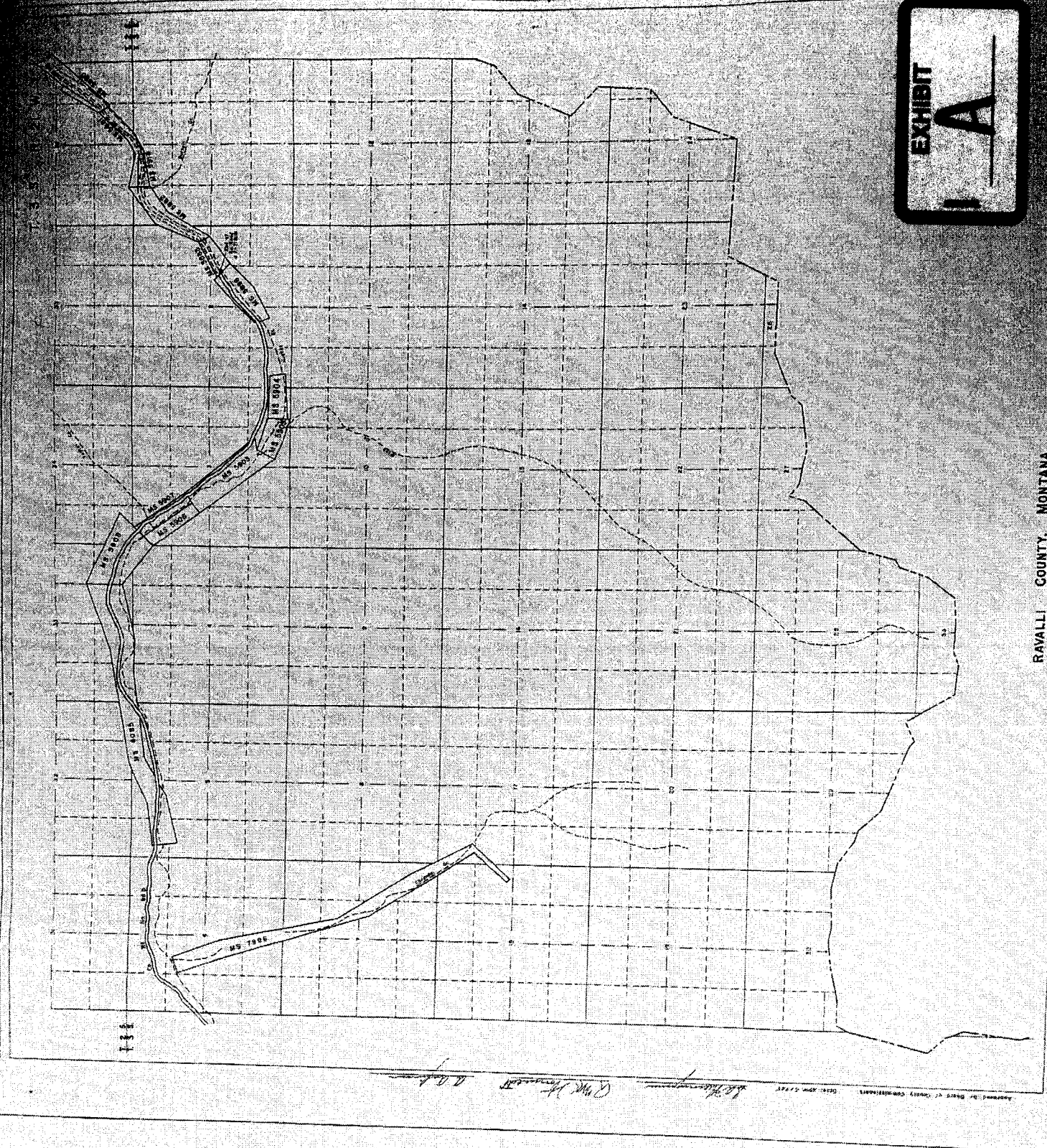
Property Owners	Property Address and Legal Description	Property Owner Address
<p>11. Lola Grenfell</p> <p><i>Lola Grenfell</i></p> <p>Date: <i>7 July 2016</i></p>	<p>2222 Hughes Creek Road</p> <p>S31, T02 S, R20 W, ACRES 1, IN DISCOVERY PLACER #5885 INDEX 2 RETRACED BY CS#647490-TR</p> <p><i>and</i></p> <p>S30, T02 S, R20 W, ACRES 30.62, BORDEAUX PLACER MS #7374 INDEX 2</p>	<p>232 Kurtz Lane Hamilton, MT 59840</p>



Property Owners	Property Address and Legal Description	Property Owner Address
9. Zachary Jay Bugli _____ Date: _____ 10. Tracy Bugli _____ Date: _____	S36, T2 S, R21 W, ACRES 6.03, PT VIROQUA MS #5913 INDEX 3 CS#597809- F PARCEL A	2849 McIntyre Road Stevensville, MT 59870

EXHIBIT
A

RAVALLI COUNTY, MONTANA



RESOLUTION NO. 3495

Denial of Petition to Abandon the Public-Right-of Way Easement for Hughes Creek Road Beyond a Locked Gate Located at the West Boundary of Mineral Survey #5898; Near the Confluence of Hughes Creek and West Fork of the Bitterroot River; also Known as County Road

WHEREAS, a petition in proper form was filed with the BOARD OF COUNTY COMMISSIONERS of Ravalli County by Jay Bugli to abandon the Public Right-of-Way easement for Hughes Creek Road beyond a locked gate located at the western boundary of Mineral Survey #5898; also known as County Road 96D or 9630; located in Section 2, Township 3 South Range 21 West, PMM; and

WHEREAS, following properly published notice in the paper of record on January 11, 2017 and January 18, 2017, a public hearing was held on January 25, 2017 in order to take comment and consider action on the petition to abandon; and

WHEREAS, the Viewers Report makes the following recommendation:

It is the viewer's opinion that the road is in poor condition and has very limited potential of providing access to future development. There are three separate roads that cross the East boundary of MS 5898 and enter onto Forest Service Land. There also is a County Road Map dated April 7th, 1965 signed by the County Commissioners declaring this point the "end of Co. Road J.2-71 & 191". The road is never anticipated to be improved or maintained by the County. Also, there does not appear to be anywhere that access to Forest Service could be made from the road beyond the East boundary of MS 5898. Therefore it is the recommendation of the viewers that the road be vacated as requested. There may be some other legal issues based on closing a public roadway that services public land which is outside the scope of this viewers report.

WHEREAS, after considering the public record, petitioners evidence, and public comment, the Commissioners make the following findings:

1. Hughes Creek Road was legally declared a public highway by the Board of County Commissioners on June 5, 1900, acting pursuant to law on a Petition filed by P. B. Bennett on April 10, 1900.
2. Hughes Creek Road is at least 11.8 miles in length commencing at its intersection with West Fork Road.
3. The right-of-way for Hughes Creek Road is 60 feet.
4. In about 1978, a locked gate was placed across the road at the western boundary of Mineral Survey #5898, which is about 8.5 miles from the West Fork Road.


Ret: Commissioners Office

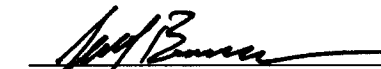


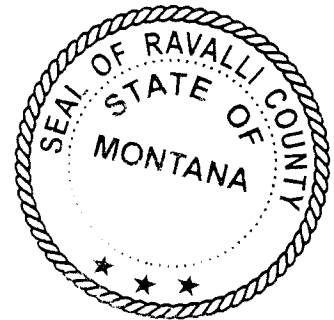
5. Historic evidence indicates that prior to the installation of the gate, public use and maintenance of the road exceeded a distance of 12 miles commencing from the Alta Post Office.
6. Hughes Creek Road east of the gate provides legal access to public lands and waters.
7. No other public road or right-of-way provides substantially the same access to the public lands and waters for which Hughes Creek Road provides access.
8. The Petition to abandon Hughes Creek Road should be denied under § 7-14-2615(3), MCA, because it is used to provide existing legal access to public land or waters, and no other public road or right-of-way provides substantially the same access.

THEREFORE BE IT RESOLVED the petition by Jay Bugli to abandon the public right-of-way easement for Hughes Creek road beyond the locked gate located at the West boundary of Mineral Survey #5898 is denied.

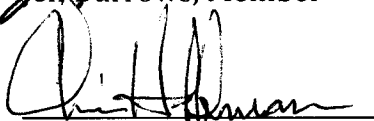
**PASSED AND APPROVED THIS 25th DAY OF JANUARY, 2017.
BOARD OF RAVALLI COUNTY COMMISSIONERS**


Greg Chilcott, Chairman




Jeff Burrows, Member




Ray Hawk, Member


Chris Hoffman, Member


Doug Schallenberger, Member

Attest: 
Clerk & Recorder
by:  Deputy

AFFIDAVIT OF PUBLICATION

STATE OF MONTANA)
) ss.
County of Ravalli)

Lacey Davis, being duly sworn, deposes and says that she is the principal clerk of the publisher of the Ravalli Republic, a daily newspaper of general circulation, printed in Missoula County, Montana and published in Hamilton, Ravalli County, Montana, and that the subjoined notice, a copy of which is hereto attached, was published in the regular and entire issue of said paper.

For two (2)
successive day(s) / week(s),

Commencing on the 11th day
of January 2017

And published on the following dates
thereafter:

January 18, 2017

Signed Lacey Davis

Subscribed and sworn to before me
this 23 day of January 2017

Signed Linda Pollard

Notary Public for the State of Montana
Residing at Hamilton, Montana

RAVALLI REPUBLIC
232 W. Main Street
Hamilton, MT 59840
406-363-3300
Fax 406-363-3569

AD NUMBER

20482509

706920 - Page: 3 of 35



LINDA POLLARD
NOTARY PUBLIC for the
State of Montana
Residing at Hamilton, Montana
My Commission Expires
January 14, 2021

pd 1/30/17

Page	: 1 of 1	01/06/2017 09:38:39	Ad Number	: 11313549
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PO Number	:		Salesperson	: DF01 - Default Transient Salesperson
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Contact	:		Section	: Classified
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Address2	:		Category	: 399 Legals
City St Zip	: HAMILTON MT 59840		Dates Run	: 01/11/2017-01/18/2017
Phone	: (406) 375-6500		Days	: 2
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Printed By	: Davis, Lacey		Ad Price	: 13.10
Entered By	: Davis, Lacey		Amount Paid	: 0.00
	:		Amount Due	: 13.10
Keywords	: Petition to Abandon Hughes Creek Road			
Notes	:			
Zones	:			

NOTICE OF PUBLIC HEARING

Petition to Abandon Hughes Creek Road Public Right-of-Way Easement for Hughes Creek Road beyond a Locked Gate Located at the West Boundary of Mineral Survey 5898.

The Ravalli County Board of Commissioners will hold a public hearing on Wednesday, January 25, 2017, at 9:30 AM in the Commissioners Conference Room (3rd Floor) located at the Ravalli County Administrative Center - 215 S. 4th Street, Hamilton, Montana.

The purpose of this public hearing is to take public comment and take action by Resolution, which could include the Commissioners considering an order to remove the gate, on a Petition submitted by Jay Bugli (represented by Martin King P.C.) to abandon the public right-of-way easement for Hughes Creek Road beyond the locked gate at the West boundary of Mineral Survey 5898. Hughes Creek Road is located approximately 30 miles south of Highway 93 on West Fork Highway. The locked gated is approximately 8.5 miles from West Fork Highway on Hughes Creek Road.

If you have any questions please contact the Commissioner's Office at 406-375-6500.

Glenda Willes

Commissioners Administrative Assistant, Ravalli County
RR #20482509 January 11 & 18, 2017



SPECIAL AND REGULAR MEETINGS
OF THE
RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING 9:30 AM (starting with Agenda Item 6)

Wednesday, January 25, 2017

Commissioners' Meeting Room
County Administration Building,
215 S. 4th St, Hamilton, MT 59840.

P
JB
RZ

6. Public Hearing - Petition to Abandon a Portion of Hughes Creek Road

Present:

Terry Nelson, Planner
Glenda Wiles, BCCAA
Howard Recht, Civil Counsel
Dan Browder, Civil Counsel
Dusty McKern, RCRBD
Sheriff Steve Holton
U.S. Travis McElderry

Also present:

Jesse Kodadek, Attorney
Ryan Domsalla, USFS
Kristen Swindle, USFS
Angus Baker
Marcella Baker
Jim Olson
Jay Bugli
Mike Stephens
Joe Kirschn
Wade Cox
Charlene Cox

Kyle Nelson
Lewis Mikolaichik
Suzanne Raski
Kent Miller
Fred Weisbecker
Dave Olson
Karen Phillips
Bill Slep
Brent Race
Katie Phillips
Jacob Pintok

Julie King
Doug Anderson
Sheila Schroff
John Ormiston
Del Reynolds
Mike Jeffords
Lynn Kleen
Seth Pogue
Kathy Jeffords
Dave Campbell

Public Comment:

Seth Pogue
Jay Bugli, Applicant
Jesse Kodadek, Worden Thane Law
Mike Jeffords
Dave Campbell
Jim Olson
Ryan Domsalla, USFS
Lola Grenfell
Tony Hudson
Kyle Nelson, PLWA Attorney
Mike Stephens



Dave Olson
Lola Grenfell
Jesse Kodadek
Jim Olson
Seth Pogue
Lewis Mikolaichik

Close public comment 11:11 AM

BCC concurrence

Finding of Fact 1:

There is evidence which shows that the road is not more than 12 miles in length, commencing from the Alta Post Office (at least 11.8 to no more than 12 miles). All BCC concur.

Finding of Fact 2:

There is evidence that the original public process and petition for said road was legally followed. All BCC concur.

Public comment:

Lewis Mikolaichik
Dave Campbell
Ryan Domsalla, USFA

Finding of Fact 3:

The existing road beyond the gate (8.5 miles from start (West Fork Road), via GPS) leaves private lands and enters public lands at various points. All BCC concur.

Public comment:

Ryan Domsalla, USFS
Jesse Kodadek

Finding of Fact 4:

There is evidence that this road, located above the gate as the gate sits today, does provide public access to public lands or public waters. All BCC concur.

Finding of Fact 5:

This road does have a 60 foot wide easement. All BCC concur.

Finding of Fact 6:

Within the June 5, 1900 road application, Hughes Creek Road was established as a public highway right of way by legally submitted petition. All BCC concur.

Finding of Fact 7:

If abandonment of Hughes Creek Road for 11.8 to 12 miles from West Fork Road were to occur, substantial access would not be provided, per MCA 7-14-2615 (3). Commissioners Chilcott, Burrows, Schallenberger and Hoffman concur, Commissioner Hawk does not concur.

Public comment:

Ryan Domsalla, USFA
Jesse Kodadek

Lewis Mikolaichik
Dave Campbell

Commissioner Burrows moved to deny the petition to abandon a portion of Hughes Creek Road. Seconded by Commissioner Hoffman. Public comment on motion: none. Discussion: Commissioners Schallenberger, Hawk, Burrows, Hoffman and Chilcott. Commissioner Burrows, Hoffman and Chilcott voted "aye"; Commissioner Hawk and Schallenberger voted "nay", motion passed (3-2).

7. Possible Discussion and Decision on the Gate on Hughes Creek Road

Public comment:

Jim Olsen
Ryan Domsalla, USFS
Jesse Kodadek
Ryan Domsalla, USFS
Jay Bugli

Commissioner Hoffman moved to postpone any decision on this item until the property owners have had a chance to discuss. Motion died for lack of a second.

Finding of Fact 1:

The gate is an encroachment in highway right of way. All BCC Concur.

Public Comment:

Kyle Nelson
Wade Cox

Commissioner Hawk moved to adopt Resolution No. 3495 and approve the order of the gate removal, encroachment located on Hughes Creek Road, and removal of said gate be completed by June 01, 2017. Seconded by Commissioner Hoffman. Public comment on motion: Jim Olson and Kyle Nelson. Discussion: none. All voted "aye" (5-0).

8. Public comment on items not otherwise on the agenda

None.

9. Adjournment

Commissioner Hawk moved to adjourn the meeting. Seconded by Commissioner Burrows. All voted "aye" (5-0).

Glenda Wiles, Administrative Assistant





PRIVATE
PROPERTY
AHEAD

WARNING

**WARNING
NO TRESPASSING**

You quite possibly could
get shot or hurt and
then try to sue resulting
in a long drawn out
court battle.

You Will Lose.

Because this sign
will be:

"EXHIBIT A"

PRIVATE
PROPERTY
AHEAD



NO TRESPASSING

NO
TRESPASSING
PRIVATE
ROAD
through
PRIVATE
PROPERTY

NO RESPONSIBILITY FOR ACCIDENTS OR INJURIES

