

No. of ~~Case~~ Road. 118,

GALLATIN COUNTY,
DISTRICT COURT,
NINTH JUDICIAL DISTRICT,
STATE OF MONTANA.

"Nauck" Road.
Dry Creek to Jordan Road.

FILED vs. D Plaintiff

1897

A. P. McNaughton
County Clerk

Defendant

Action for

The within Petition laid over
till Sept 24 & 25 '97 session.

By order of the Board

attest: *Geo. W. Ellis*
Chairman

Ordered that the within Petition
for a ^{new} Road be not granted

By order of the Board

this 25th day of Sept. 1897. *Geo. W. Ellis*
Chairman
E. J. Schumacher
Dep. Clerk

Attorney for Plaintiff

Notice mailed Sept. 15 " 1897

Attorney for Defendant

PETITION FOR ROAD.

O. M. Thorpe, County Surveyor

To the ~~Honorable Board of County Commissioners~~ of Gallatin County, Montana:

The undersigned, your petitioners, citizens of the United States, respectfully show and represent that they are ~~residents~~ ^{residents} of Road District No. *6* in the County of Gallatin, in the State of Montana, and taxable therein for road purposes; ~~that they reside in the vicinity of the road hereinafter petitioned for;~~ that the proposed road will be a public convenience, and we think the public good requires it.

Your petitioners respectfully ask ~~that a road be laid out, located and established~~ ^{that a road be laid out, located and established} ~~your Honorable Body to lay out, locate and establish~~ ^{that a road be laid out, located and established} ~~a County road~~ ^{that a road be laid out, located and established} ~~sixty feet wide, in said road district, to be a public highway therein, and show:~~

(a). The general route of the proposed road. (b). Over what lands it is proposed to be established. (c). Who are the owners thereof. (d). Whether such of them as can be found consent thereto. (e). Who of them do not consent. (f). The probable cost of the right of way where such consent is not had. (g). The necessity for and the advantages of the proposed road, as follows, to-wit:

Commencing at the S.E. corner of Sec. 13(13). thence running north, on section lines, three miles to the N.E. corner of Section One (1) all in Township Three North of Range Four East, and passing over the lands (containing slip line) from place of beginning, of the following named persons; viz: Estate of Davis Fly, deceased; Millard Mc Gough; Frank Ballantine; Harvey LaRue; David A. Kamp; Dudley Pitman; and certain Public Land and certain public land: said road to be continued from said N.E. corner of said Section 1, and extended therefrom, in a north easterly, also direction about two miles, over an arroyo unencumbered and unoccupied lands, by direct and practicable route to intersect at top of sixteen mile divide with the public highway commonly known as the Jordan road.

Cost of right of way \$100⁰⁰ in excess of the J. Davis Fly Estate Mrs Jennie Fly Administratrix

- NAMES:
- 1 *D. A. Kamp*
 - 3 *Jas. H. Reed*
 - 5 *Frank Ballantine*
 - 7 *Levi McCallough*
 - 9 *[illegible]*

- NAMES:
- 2 *Samuel Durrean*
 - 4 *D. H. Pitman*
 - 6 *[illegible]*
 - 8 *B. Ballinger*
 - 10 *Henry M. Oliver*

Office of County Surveyor, Bozeman Gallatin County Montana.

To the Honorable Board of Commissioners Gallatin County Montana.

Gentlemen:

In pursuance of an Act of the Fifth Legislative Assembly of the State of Montana, I have the honor to submit herewith, the following papers in the matter of the petition of B. A. Camp et al, praying for a county road in T. 3. N. R. 4. E. as follows:

First: The petition with endorsements thereon.

Second: Notice to chairman to appoint a viewer, and the appointment of the same.

Third: Copy of warrants to viewers with registered letter receipts showing that the same had been duly received.

Fourth: Sworn proof of posting notices, with copy attached.

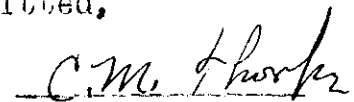
Fifth: Oath of road viewers.

Sixth: Report of road viewers and consent of land owners for change where consent was given.

I hereby certify that a copy of the said notice of road viewers was posted at the County Clerks Office, on the 21st day of ## July, 1897.

I have no suggestions to make other than those embodied in the report of the viewers.

Respectfully, Submitted,



County Surveyor.

Office of County Surveyor, Gallatin County, Montana.

Hon. Geo. H. Ellis

Chairman, Board of Commissioners, Gallatin County, Montana.

Dear Sir:-

You are hereby given notice, that a petition for a County road has been received, in this office, signed by Mr. G. H. Crump and 10 other residents of road district No. 6 through which

district, said proposed road is to run. Said road to commence at

The S.E. corner of Sec. 13, Town of ... north
T. 3. N. R. 4. E.

~~and terminate at~~ The commencement of the

Sodon road on Sixteen Mile divide You are hereby

requested to appoint a viewer on the above proposed road.

Yours respectfully,

C. M. Turbe

County Surveyor.

Dated at Bozeman, Montana, this 17th day of June 1897.

Office of Board of Commissioners, Gallatin County, Montana.

Mr. C. M. Turbe

County Surveyor, Gallatin County, Montana.

Dear Sir:-

In pursuance of the above notice, I hereby appoint Mr. _____

James Gallop to act on behalf of the Board of Commissioners, as a viewer on the above petitioned for road.

Yours respectfully,

Geo. H. Ellis

Chairman, Board of Commissioners, Gallatin County, Montana.

Dated at Bozeman Montana, this 19th day of June 1897.

WARRANT FOR ROAD VIEWERS.

County Surveyor's Office,
Gallatin County, Montana.

Key

MR. *Jas A Talloft*

Geo. W. Ellis

You are hereby notified that you were duly appointed Road Viewer by *Chairman Board of Commissioners* of Gallatin County, Montana, on the *19th* day of *June*, 189*7*, to view and lay out a proposed road, as prayed for in the petition of *J. A. Kaup* and others, described as follows, to-wit.

Commencing at the south-east corner of Section 16, thence north on the Section lines Three (3) miles to the north-east corner of Section one All in T.3.N.R.4.E. Thence to extend in a north-easterly direction about 2 miles over unsurveyed and unoccupied lands by the most practicable route to intersect with the Jordan road at the top of the Sixteen Mile Divide.

You are hereby ordered to ~~meet~~ to be sworn according to law and assume the duties of your office, in company with *Revis M. Culbrough* who was duly appointed as a Viewer on said road by the *C. M. Thrope* County Surveyor and by the County Surveyor, who is Chairman of said Board of Viewers, on the *12th* day of *August*, 189*7*, commencing at the place designated in said petition as the starting point of the road sought to be *Established* and proceed to view and lay out the same by setting stakes, blazing trees, turning furrows, or other appropriate monuments to the terminus named in said petition, by the most practicable route that you in your judgment can find. You shall notify the resident owner or agent of land over which it passes, of the proposed route; ascertain ~~whether~~ such owner consents thereto and the amount of damages, if any, claimed or demanded for the right of way over the same. You shall estimate the actual damage to any land over which the proposed road passes and the cost of any bridges or grading necessary. You shall report the necessity for and the public convenience to be subserved by the highway, if opened, and whether the opening thereof or the change therein proposed should be made, and make and sign a report of your proceedings, as required by law.

Roads shall in all cases, when practicable, be laid out on subdivisional or section lines.

In witness whereof I hereunto set my hand, at my office this *9th* day of *July*, 189*7*.

C. M. Thrope
County Surveyor.
By *Cortly* Deputy

Copy

WARRANT FOR ROAD VIEWERS.

County Surveyor's Office,
Gallatin County, Montana.

MR.

Levi M. Bullough

O. M. Shope

You are hereby notified that you were duly appointed Road Viewer by *O. M. Shope* County Surveyor of Gallatin County, Montana, on the *19th* day of *August*, 189*7*, to view and lay out a proposed road, as prayed for in the petition of *J. D. W. Knap* and others, described as follows, to-wit.

Commencing at the south-east corner of Section 13, thence running north on the section lines three (3) miles to the north-east corner of Section One (1) all in T.3.N.R.4.E., and to extend from said point about two (2) miles in a north-easterly direction over unsurveyed, and unoccupied lands by the most practicable route, to intersect with the Jordan road at the top of Sixteen Mile divide.

You are hereby ordered to meet, to be sworn according to law and assume the duties of your office, in company with *James M. Gallop*, who was duly appointed as a Viewer on said road by the *Geo. W. Ellis* Chairman Board of County Commissioners and by the County Surveyor, who is Chairman of said Board of Viewers, on the *19th* day of *August*, 189*7*, commencing at the place designated in said petition as the starting point of the road sought to be *Established*, and proceed to view and lay out the same by setting stakes, blazing trees, turning furrows, or other appropriate monuments to the terminus named in said petition, by the most practicable route that you in your judgment can find. You shall notify the resident owner or agent of land over which it passes, of the proposed route; ascertain whether such owner consents thereto and the amount of damages, if any, claimed or demanded for the right of way over the same. You shall estimate the actual damage to any land over which the proposed road passes and the cost of any bridges or grading necessary. You shall report the necessity for and the public convenience to be subserved by the highway, if opened, and whether the opening thereof or the change therein proposed should be made, and make and sign a report of your proceedings, as required by law.

Roads shall in all cases, when practicable, be laid out on subdivisional or section lines.

In witness whereof I herunto set my hand, at my office this _____ day of _____ 189*7*

O. M. Shope
County Surveyor.
By _____
~~Deputy~~

ROAD VIEWERS' NOTICE.

Notice is Hereby Given to all whom it may concern. That we the undersigned Road Viewers, appointed by the Chairman of the Board of County Commissioners of the County of Gallatin, and by the County Surveyor of said County, Montana, on the 19th day of June, 1897, to view and mark out a proposed County road as prayed for in the petition of D. A. Kaup et. al., will in company with the County Surveyor, who is chairman of said Board of Viewers, meet for such view on the 12th day of August, 1897, the time fixed by said Surveyor, and at the point designated in said petition, as the starting point of said proposed road, to-wit:

Commencing at the south-east corner of Section 13, thence north on the Section lines Three (3) miles to the north-east corner of Section one All in T.3.N.R.4.E. Thence to extend in a north-easterly direction about 2 miles over unsurveyed and unoccupied lands by the most practicable route to intersect with the Jordan road at the top of the Sixteen Mile Divide.

Dated this 9th day of July, 1897
C. M. Thorpe.
Levi McCullough
Wm. H. Gallop. } VIEWERS.

STATE OF MONTANA, }
 County of Gallatin. } ss.

Levi McCullough being first duly sworn deposes and says, that as the Viewers designated for that purpose he received from the County Surveyor Stark of said County, on the 30th day of July, 1897, two copies of the annexed notice, and that on the 3rd day of July, 1897 he posted a copy of said notice at each of the following points, on the line of road described in said notice, to-wit: One at Point of beginning on gate post and on at terminus of road as described above on a fence post and further deponeth sayeth not.

Subscribed and sworn to before me this 12 day of Aug, 1897
Levi McCullough
C. M. Thorpe
C. Surveyor

To the County of Gallatin, State of Montana:

I Herely Agree, and consent to give 30 feet for a Right of Way, for a County Road, through or along the East line of N W 1/4 of Sec. 6, T 3 N, R. 5 E., and 60 ft. in width where said road runs through said land as viewed and surveyed by Jas. Gallup Levi McCallough & C. M. Thorne on the 13th day of Aug. 17, 1897. And hereby agree to place my fences on said lines without charge to the County.

Signed: _____

Dated at _____ this _____ day of _____ 1897.

For Leodeg Pitman

To the County of Gallatin, State of Montana:

I Herely Agree, and consent to give 30 feet for a Right of Way, for a County Road, through or along the West line of N E 1/4 of Sec. 6, T 3 N, R. 5 E., and 60 ft. in width where same runs into above described land as viewed and surveyed by Jas. Gallup Levi McCallough & C. M. Thorne on the 13th day of Aug., 1897. And hereby agree to place my fences on said lines without charge to the County.

Signed: John Gallatin

Dated at _____ this 14 day of Aug. 1897.

For John Gallatin

To the County of Gallatin, State of Montana:

I Herely Agree, and consent to give 60 feet for a Right of Way, for a County Road, through or along the N 1/2 of Sec 31 + S 1/2 of Sec. 30, T 4 N, R. 5 E., E., as viewed and surveyed by James Gallup Levi McCallough & C. M. Thorne on the 13th day of Aug., 1897. And hereby agree to place my fences on said lines without charge to the County.

Signed: _____

To the County of Gallatin, State of Montana:

I **Hereby Agree**, and consent to give 30 feet for a Right of Way, for a County Road, through or along the West side of N 1/2 of NW 1/4 Sec. 18, T 3 N R 5 E, and 60 ft in width where said road runs through said land as viewed and surveyed by C. M. Thope, Jas. Gallup & Levi McCollough on the 12th day of Aug, 1897. And hereby agree to place my fences on said lines without charge to the County.

Signed: Frank Callahan

Dated at _____ this 14th day of Aug, 1897.

For Frank Callahan

To the County of Gallatin, State of Montana:

I **Hereby Agree**, and consent to give 30 feet for a Right of Way, for a County Road, through or along the East side of S.E. 1/4 of Sec. 13, T 3 N, R 4 E, as viewed and surveyed by Jas. Gallup, Levi McCollough & C. M. Thope on the 13th day of Aug, 1897. And hereby agree to place ~~my fences on said lines~~ the County to bear all expense of fencing along said lines without charge to the County.

Signed: M. J. McLaughlin

Dated at 7th this 14th day of Aug, 1897.

For M. J. McLaughlin

To the County of Gallatin, State of Montana:

I **Hereby Agree**, and consent to give 30 feet for a Right of Way, for a County Road, through or along the West End of $5\frac{1}{2}$ of NW $\frac{1}{4}$ of Sec. 18, T. 3 N. R. 5 E., and 60 ft. in width when sage brush grows around the road: as viewed and surveyed by Jos Gallup Levi Fee Callough + C. M. Thorpe on the 12th day of Aug., 1897. And hereby agree to place my fences on said lines without charge to the County.

Signed: Charlie Myers

Dated at 14 this 14 day of Aug, 1897.

For Henry La Rue

To the County of Gallatin, State of Montana:

I **Hereby Agree**, and consent to give 60 feet for a Right of Way, for a County Road, through or along the S. W. $\frac{1}{4}$ of Sec. 6, T. 3 N. R. 5 E., as viewed and surveyed by Jos Gallup Levi Fee Callough + C. M. Thorpe on the 13th day of Aug, 1897. And hereby agree to place my fences on said lines without charge to the County. For the Damnage the sum of \$200.00 Standard Vulture

Signed: D. A. Kamps

Dated at 14 this 14 day of Aug, 1897.

For D. A. Kamps

To the County of Gallatin, State of Montana:

I hereby Agree, and consent to give 30 feet for a Right of Way, for a County

Road, through or along the West side of SW_{1/4} of Sec. 18, T.3N. R.5 E.,
and 60 ft in width for same road shown on N.R.5 E.
as viewed and surveyed by Jos. Gallop, Levi McCallough & C.M. Thorpe

on the 12th day of Aug., 1897. And hereby agree to place

my fences on said lines without charge to the County.

Signed:

Dated at this day of 1897.

Wm. J. [unclear]

OATH OF ROAD VIEWERS.

STATE OF MONTANA, }
County of Gallatin. } ss.

I, the undersigned, having been appointed a road viewer, do hereby solemnly swear that I will faithfully and impartially perform, according to law, the duties of ROAD VIEWER, as per instructions embodied in the notice of appointment by the Board of County Commissioners.

Chairman of the

J. H. Gallop

Subscribed and sworn to before me this 12th day

of Aug. 1897

C. M. Thorpe

C. Surveyor

This must be returned to the County Clerk after execution.

REGISTRY RECEIPT.

Post Office at Bowman, Mont.

Registered Letter Parcel No. 208 Rec'd Sept 15 1897

of Co Clerk

addressed to M F McLaugh
Gallops Mount.

D H Brooks P. M.

REGISTRY RECEIPT.

Post Office at Bowman, Mont.

Registered Letter Parcel No. 209 Rec'd Sept 15 1897

of Co Clerk

addressed to L O Paup
Gallops Mount

D H Brooks P. M.

REGISTRY RECEIPT.

Post Office at Bowman, Mont.

Registered Letter Parcel No. 218 Rec'd Sept 16 1897

of Co Clerk

addressed to Mrs Davis Fly
Dun Car Mount

D H Brooks P. M.

REGISTRY RECEIPT.

Post Office at Bowman, Mont.

Registered Letter Parcel No. 62 Rec'd July 21 1897

of Co Clerk

addressed to Jay D Gallup
Gallops Mount

D H Brooks P. M.

REGISTRY RETURN RECEIPT sent July 21, 1897

Reg. No. 63 from Post Office at Bozeman, Mont.

*Reg. Letter } Addressed to Jas. H. Gallup
 Reg. Parcel } Gallup Mont.

After obtaining receipt below, the Postmaster will mail this Card, without cover and without postage, to address on the other side.

RECEIVED THE ABOVE DESCRIBED REGISTERED { *LETTER.
 PARCEL.

(SENDER'S NAME ON OTHER SIDE.)

Sign on dotted lines to the right. } J. H. Gallup

When delivery is made to other than addressee, the name of both addressee and recipient must appear.

* Erase letter or parcel according to which is sent.

REGISTRY RETURN RECEIPT sent July 21, 1897

Reg. No. 60 from Post Office at Bozeman, Mont.

*Reg. Letter } Addressed to L. M. McCollough
 Reg. Parcel } Gallup Mont.

After obtaining receipt below, the Postmaster will mail this Card, without cover and without postage, to address on the other side.

RECEIVED THE ABOVE DESCRIBED REGISTERED { *LETTER.
 PARCEL.

(SENDER'S NAME ON OTHER SIDE.)

Sign on dotted lines to the right. } L. M. McCollough

When delivery is made to other than addressee, the name of both addressee and recipient must appear.

* Erase letter or parcel according to which is sent.

REGISTRY RETURN RECEIPT sent Sept 10, 1897

Reg. No. 209 from Post Office at Bozeman, Mont.

*Reg. Letter } Addressed to L. A. Camp
 Reg. Parcel } Gallup Mont.

After obtaining receipt below, the Postmaster will mail this Card, without cover and without postage, to address on the other side.

RECEIVED THE ABOVE DESCRIBED REGISTERED { *LETTER.
 PARCEL.

(SENDER'S NAME ON OTHER SIDE.)

Sign on dotted lines to the right. } Not called for

When delivery is made to other than addressee, the name of both addressee and recipient must appear. } Returned to sender

* Erase letter or parcel according to which is sent.

REGISTRY RETURN RECEIPT sent Sept 10, 1897

Reg. No. 208 from Post Office at Bozeman, Mont.

*Reg. Letter } Addressed to M. F. McLaughlin
 Reg. Parcel } Gallup Mont.

After obtaining receipt below, the Postmaster will mail this Card, without cover and without postage, to address on the other side.

RECEIVED THE ABOVE DESCRIBED REGISTERED { *LETTER.
 PARCEL.

(SENDER'S NAME ON OTHER SIDE.)

Sign on dotted lines to the right. } M. F. McLaughlin

When delivery is made to other than addressee, the name of both addressee and recipient must appear.

* Erase letter or parcel according to which is sent.

REPORT OF ROAD VIEWERS.

To the Honorable, the Board of County Commissioners of Gallatin County:

Chairman of the and the Co. Surveyor
WE, the undersigned Road Viewers, appointed by the Board of County Commissioners, at the
meeting with said Co. Surveyor
Term of said Board to view a proposed road running from the S.E. corner
of Section 13 T. 3 N. R. 4 E.

to a point in the "Jordan Road" most Easing of Brunner Creek
from Sixty-two miles distant.
That on the 12th day of August, 1897, we started from the S.E. corner
of Sec. 13 T. 3 N. R. 4 E. the place designated in the petition as the starting point of such proposed road and
proceeded to view and lay out the same, and submit the following report:

1. The course, termini, length and probable cost of constructing the proposed road, as follows:
From the above described starting we viewed and marked out the proposed
road by setting stakes north along the township line to the mouth
mouth of the 1/4 Sec. 18 between Section 13 & 18
to the East making the land owned by the road be kept a good person and
the edge of the marsh back of said stream at its mouth. (See sketch of report)

2. The estimate of damages to the owner of any land over which it is proposed to run the highway, as
follows: Estate of Davis F. H. deceased, being Sec. 7 & S.W. 1/4
of Sec. 18 T. 3 N. R. 5 E. expense of bridge on account of
cutting through Sec. 7 along Dry Creek \$75.00
to S. H. Kamb, same as stated of bridge \$35.00 on account of
cutting through S.W. 1/4 of Sec. 6 T. 3 N. R. 5 E. along Dry Creek
shall offer land owners and bridge fully equal to the damages.

3. The names of land owners who consent to give the right of way, and we hereto attach their written
consent, as follows: Frank Callantius owner of N.E. 1/4 Sec. 18 T. 3 N. R. 5 E.
Consent reported by Mr. Callantius.
C. E. Spelman

4. The names of land owners who do not consent and the amount of damages claimed by each, as
follows: M. F. McLaughlin owner S.E. 1/4 Sec. 13 T. 3 N. R. 4 E. expense of 1/2 mile of fence
claimed L. A. Kamb owner of S.W. 1/4 Sec. 6 T. 3 N. R. 5 E. \$200.00
Davis F. H. Estate

5. The following facts bearing upon the subject, which may be of importance to the Board:
The land over which the proposed road passes is good for
pasture building, the grades will not exceed 8 ft. per
100. Our reason for following Dry Creek from N.W. Cor.
of Sec. 18 T. 3 N. R. 5 E. to center of Sec. 6 said T. & R. (See sketch of report)

We believe said road to be practicable and of public utility and
necessity and do recommend the establishment of the same.

Dated 13th, A. D., 1897

C. M. Thayer
H. Gallahue
Levi McLaughlin
Road Viewers.

(No. 1) Continued

thence north along said township line to the E. half mile of Dry Creek near the N.E. corner of said section 13. From this point we did not consider it practicable to follow the said township line, as described in petition owing to bad hills and heavy grades, and so moved the proposed road up Dry Creek to a point near the center of section 6 T. 3 N. R. 5 E. thence passing to the east of the north & south 1/4 section line of said sec. 6 around the point of the bluff back to said 1/4 section line intersecting the same near the N.W. corner of the south 1/2 of N.E. 1/4 of said sec. 6. thence north along said 1/4 section line and said line produced through unsurveyed sections 30 & 31 T. 4 N. R. 5 E. to a point near the first crossing of Brunner's from the 16 mile divide on the "Jordan Road". thence North easterly and intersecting the said Jordan Road near the above described crossing of said Brunner's creek. the terminus of said proposed road is petitioned for. The length of the proposed road is about 4 1/2 miles. The probable cost of constructing the proposed road is for bridges \$150.00 and for grading \$200. total \$350.00

(No. 5) Continued

instead of following north on township line as petitioned for is to avoid crossing high hills with grades of 12 ft. per 100 and heavy work. the extra expense for necessary grading on township line would much exceed the amount of damages we have estimated to Mrs. Fly + D.A. Kamp. by following up Dry Creek a road and road can be made which crosses the 16 mile divide at the lowest point. We would recommend that if your honorable body accept this report and establish the road that the same be surveyed and platted.