

No. of Case Road No. 135

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

Smart Road near
Willow Creek

FILED Plaintiff

SEP 8 1898

A. P. McNaughton
County Clerk

E. H. Schumacher Dep
Defendant

Action for

A. Woodward ordered to appear
before board on 6th day of Dec
1898

J. R. Patterson
The within petition granted as deca
ended in witness report an d road
ordered opened by order of Board
Dec 15th 1898 J. R. Patterson
Chair

Attorney for Plaintiff

Attorney for Defendant

PETITION FOR ROAD.

To the Honorable ^{W. M. Hope County Surveyor} ~~Board of County Commissioners~~, Gallatin County, Montana:

May 25, 1898

The Undersigned, your petitioners, citizens of the United States, respectfully show and represent that they are Householders of the County of Gallatin, in the State of Montana, and that they reside in the vicinity where the road hereafter petitioned for is to be located, laid out and established if this petition be granted. That the proposed road will be a public convenience, and we think, the public good requires it.

Your petitioners do respectfully ask and petition your ~~Honorable Body~~ to lay out, locate and establish a County road, sixty feet in width, to be a public highway, as follows, viz: Commencing, at starting point of such road, at the S. W. Corner of Section 20. Township 1 North Range 1 East. and running thence due East to the South East Corner of Section 24 of the same Township a distance of five miles, and your Petitioners ask that above Road be located for a Public outlet for Stock to go to the range, and to water, in place of a Public outlet, traveled for many years, and was closed open on the 1st day of July A.D. 1895, said Public outlet is now being closed by R. J. Woodward. The County will be to no expense by the location of said Road, except the wearing of the same, and we would further represent that we have no other outlet for Stock for water at Range five miles

NAMES.

NAMES.

Jas. A. Smart ✓
 J. J. Roberts
 Geo. J. Cook
 J. J. Williams
 M. G. Timley
 Geo. E. West
 Wm. Hankinson
 A. Hankinson

R. L. Reed
 J. J. Packer
 Geo. L. Gordon
 M. C. Courcier
 Levi Mayfield
 J. H. Clark
 Hans Peterson
 W. A. Peterson

P. H. Turner
 B. J. Packer

A. R. Peterson
 Thomas Roberts
 John Wadsworth
 J. H. Green
 John Walbert Jr

Office of County Surveyor Gallatin Co. Mont.
Bozeman, June 2nd 1898
Hon. J. L. Patterson,

Chairman, Board of Commissioners
of Gallatin County, Montana:

Dear Sir:-

You are hereby given notice, that a
petition for a County road has been
received at my office signed by Jas. S.
Smart and twenty two others
residents of Road District No. 1 through
which district said road is to run. Said
road to commence at the S.W. Corner of
Section 20 T. 1 N. R. 1 E. and running
thence due East to the S.E. Cor. of Sec.
24 of the same township + range a distance
of 5 miles the above road to take the
place of a public outlet now being closed
by A. J. Woodward.

You are hereby requested to appoint our
viewer on the above proposed road

Yours Respectfully C. M. Thorpe

County Surveyor.

In pursuance of the above notice I hereby
appoint Mr. R. W. Harwood to act on behalf of
the Board of County Commissioners, as a viewer
on the above petitioned for road.

Dated at Bozeman Mont. this 2 day of June 1898

J. L. Patterson

Chairman, Board of Commissioners,
Gallatin Co. Mont.

WARRANT FOR ROAD VIEWERS.

Robert

County Surveyor's Office,
Gallatin County, Montana.

MR. *R. G. Harwood,*

You are hereby notified that you were duly appointed Road Viewer by *J. L. Patterson*
Chairman Board of Commissioners of Gallatin County, Montana, on the
2nd day of *June*, 189*8*, to view and lay out a proposed road, as prayed
for in the petition of *Jas S Smart* and others, described as follows, to-wit:

*Beginning at the South West Corner of Section 20
Township 1 North Range 1 East, Corner of
and running thence due East to the South
East Corner of Section 24 of the same Township,
a distance of five miles,*

You are hereby ordered to meet, to be sworn according to law and assume the duties of your office, in
company with *J. S. Roberts*, who was duly appointed as a
Viewer on said road by the *C. M. Thorpe* County Surveyor and by the
County Surveyor, who is Chairman of said Board of Viewers, on the *8th* day of
July, 189*8*, 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 *15th*
day of *June*, 189*8*.

C. M. Thorpe
County Surveyor.

By _____ Deputy.

*Viewers to meet at starting point at 9 o'clock a.m.
on the above date*

WARRANT FOR ROAD VIEWERS.

Copy

County Surveyor's Office, }
Gallatin County, Montana. }

MR. *J. T. Roberts*

Your are hereby notified that you were duly appointed Road Viewer by *C. M. Thorpe*,
County Surveyor of Gallatin County, Montana, on the
2nd day of *June*, 189*8*, to view and lay out a proposed road, as prayed
for in the petition of *Jas. S. Smart* and others, described as follows, to-wit.

*Beginning at the South East Corner of Sec. 20,
Township 1 North Range 1 East and running
thence due East, to the South East Corner of
Section 24 of the same Township a distance
of five miles.*

You are hereby ordered to meet, to be sworn according to law and assume the duties of your office, in
company with *R. B. Harwood*, who was duly appointed as a
Viewer on said road by the *Chairman of Board of County Commissioners* and by the
County Surveyor, who is Chairman of said Board of Viewers, on the *8th* day of
July, 189*8*, 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 *13th*
day of *June*, 189*8*.
C. M. Thorpe
County Surveyor.

By _____ Deputy.

*Viewers to meet at starting point at 9 o'clock A. M.
on above date.*

REGISTRY RECEIPT.

Post Office at Bozeman, Mont.
Registered Letter Parcel No. 366 Rec'd. June 21 1898
of Co Sur.
addressed to R M Harwood
Willow Creek Mont.
W. B. BURKET. P. M.

REGISTRY RECEIPT.

Post Office at Bozeman, Mont.
Registered Letter Parcel No. 267 Rec'd. June 21 1898
of Co Sur.
addressed to J A Roberts
Willow Creek Mont.
e W. B. BURKET. P. M.

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 County Surveyor Board of County Commissioners.

J. J. Roberts

Subscribed and sworn to before me this 8th day

of July 1898

C. M. Hooper
Co. Surveyor.

This must be returned to the County Clerk after execution.

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 Chairman of the Board of County Commissioners.

R. H. Harwood

Subscribed and sworn to before me this 8th day

of July 1898

C. M. Hooper
Co. Surveyor.

This must be returned to the County Clerk after execution.

REPORT OF ROAD VIEWERS.

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

WE, the undersigned Road Viewers, appointed by the ^{Chairman} Board of County Commissioners, ^{and the Co. Surveyor} ~~at the~~
 together with the ^{Co. Surveyor} ~~Term of said Board~~ to view a proposed road running from ^{the S.W. corner}
 of Sec. 20 T. 1 N. R. 1 E.
 to the S.E. corner of Section 24 T. 1 N. R. 1 E. say,
 That on the 8th day of July, 1898, we started from the above
 described corner 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:

The course of the proposed road is from the S.W. corner
 of Section 20 T. 1 N. R. 1 E. East along the section line
 between sections 20 + 29, 21 + 28, 22 + 27 to the S.E. Cor.
 of Sec. 22. ^{said T. & R.} at this point we leave the line as petitioners
 for on account of the impracticability of (see back of report)

2. The estimate of damages to the owner of any land over which it is proposed to run the highway, as follows:

In regard to the claim of A. J. Woodard for damage amounting
 to the cost of 1 3/4 miles of fence. We believe that as there was at
 the time Mr Woodard leased the above land and has been for years
 an open traveled road along or near the line as petitioners

3. The names of land owners who consent to give the right of way, and we hereto attach their written consent, as follows:

Geo. S. Smart owner of 1/2 of NW 1/4 of Sec. 29 T. 1 N. R. 1 E.
 Mr Geo S Smart also gives written consent to give 60 feet ^{right of way} from S.E. corner Sec.
 19 said T. & R. N.W. 1/4 to include the Co. road at the Blecksmith shop.
 State of Montana.

4. The names of land owners who do not consent and the amount of damages claimed by each, as follows:

A. J. Woodard who has leased land in Sec. 20 + 29
 above T. & R. claims damages for cost of 1 3/4 miles of
 fence.

5. The following facts bearing upon the subject, which may be of importance to the Board:

We believe that it is equally important that an outlet for stock be
 provided from the terminus of the above described
 road to run east to the Madison river. a distance of
 about 1 1/2 miles. the road as petitioned for and above described
 We believe said road to be practicable and of public utility and

necessity and do recommend the establishment of the same.

Dated July 8th, A. D., 1898

J. J. Roberts
 C. W. George
 Road Viewers.

(No. 1 Continued)

Crossing Dry Hollow on the line petitioned for, and
run South 1 mile to the S.W. corner of section 26
thence East two miles to the S.E. corner of section 25
While this is not the terminus as described in the petition
we believe that the road as viewed & described above will
~~fully~~ answer the purpose of the petition better than on
the line as petitioned for. The length of the proposed
road is 6 miles. As stated in the petition
the principal object of the road is to give an outlet for
stock, and on this account no work need be done
at present. The probable cost of opening the proposed road
for travel would be \$175.00

(No. 2 Continued)

(until the time it was closed up to him), and also
on account of the benefits to be derived by him from
said proposed road that no damages should be
allowed him. In regard to the balance
of the land along said proposed road we
believe that the benefits will fully equal
the damages.

(No 5 Continued)

passes over land suitable for road building
with very easy grades.

[Faint, mostly illegible text and signatures, possibly bleed-through from the reverse side of the page.]

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 2nd day of June 1898, to view and mark out a proposed County road as prayed for in the petition of James S. Smart, et. al., will in company with the County Surveyor, who is chairman of said Board of Viewers, meet for such view on the 8th day of July, 1898, the time fixed by said Surveyor, and at the point designated in said petition, as the starting point of said proposed road, to-wit:

Beginning at the south west corner of section 20 Township 1, Range 1 East, and running thence due east to the south east corner of section 24 of the same township, a distance of five miles.

Dated this 16th day of June, 1898.

C. M. Thorpe
R. K. Harwood
J. G. Roberts } VIEWERS.

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

C. M. Thorpe being first duly sworn deposes and says, that as the County Surveyor he received from the County Clerk of said County, on the _____ day of _____ A. D., 1898, ~~three copies of the annexed notice, and that~~ the annexed notice, and that on the 2nd day of June 1898 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 the door of the County Clerk's office

and further deponeth sayeth not.

C. M. Thorpe

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

C.M. Thorpe being first duly sworn deposes and says, that as the
County Surveyor he received from
the County Clerk of said County, on the _____ day of _____ A. D.,
189____, ~~three copies of the annexed notice, and that on the 21st day of June 1898~~ ^{the annexed} 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 the door of the County Clerk's office

and further deponeth sayeth not.

Subscribed and sworn to before me this 8th day of Sept. C.M. Thorpe A. D., 1898

H.P. McNaughton Co. Clerk
By E.H. Schumacher Depy

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

J. G. Roberts being first duly sworn deposes and says, that as the
Surveyor appointed for that purpose he received from
the County Clerk of said County, on the 23 day of June A. D.,
1898, ~~three~~ ^{two} copies of the annexed notice, and that on the 24th day of June 1898 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 the blacksmith shop near the starting point of
the proposed road, and one on the line of the
proposed road

and further deponeth sayeth not.

Subscribed and sworn to before me this 8th day of July A. D., 1898

C. M. Thayer

C. Surveyor

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 north end of N 1/2 of NW Sec. 29, T. 1 N. R. 1 E., as viewed and surveyed by J. T. Roberts, R. W. Harwood + C. M. Thayer on the 8th day of July, 1898. And hereby agree to place my fences on said lines without charge to the County.

Signed: Jas. Smart

Dated at Willow Creek this 8th day of July 1898.

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 1/2 of SE 1/4 of Sec. 19, T. 1 N. R. 1 E., from the S.E. corner of said section N.W. to intersect the county road of the adjacent strip and will give a deed to the County of Gallatin for same on the day of 1898. And hereby agree to place my fences on said lines without charge to the County.

Signed: Jas. Smart

Dated at Willow Creek this 8th day of July 1898.

To the County of Gallatin, State of Montana:

I Hereby Agree, and consent to give my right - 60 feet for a Right of Way, for a County Road, through or along the North side NE 1/4 + E 1/2 of NW Sec. 29, T. 1 N. R. 1 E., as viewed and surveyed by R. W. Harwood, J. T. Roberts + C. M. Thayer on the 8th day of July, 1898. And hereby agree to place my fences on said lines without charge to the County. to pay the expense of fencing

Signed: J. Woodward

Dated at Willow Creek this 8th day of July 1898.

To the County of Gallatin, State of Montana:

I **Hereby Agree**, and consent to give ^{my right to} 30 feet for a Right of Way, for a County Road, ~~through or along the~~ South side of Sec. 20, T. 1 N R 1 E., as viewed and surveyed by R.W. Harwood J.T. Roberts + C.M. Thode on the 8th day of July, 1898. And hereby agree to place my fences on said lines ~~without charge~~ to the County. to pay the cost of fencing

Signed: R.W. Harwood

Dated at Willow Creek this 8th day of July, 1898.

Form 1548.
REGISTRY RETURN RECEIPT sent June 21, 1898
 Reg. No. 267 from Post Office at Bozeman, Mont.
 *Reg. Letter Addressed to J.T. Roberts
 Reg. Parcel Addressed to Willow Creek Mt.
 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.T. Roberts
Rees Roberts
 *Erase letter or parcel according to which is sent.

Form 1548.
REGISTRY RETURN RECEIPT sent June 21, 1898
 Reg. No. 266 from Post Office at Bozeman, Mont.
 *Reg. Letter Addressed to R.W. Harwood
 Reg. Parcel Addressed to Willow Creek Mt.
 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.
R.W. Harwood
 *Erase letter or parcel according to which is sent.

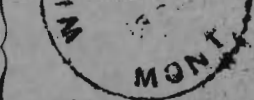
When the registered letter or parcel accompanying this card is delivered, the Postmaster will require signature to the receipt on the other side, also on his record of registered deliveries, and mail this card without cover to address below.
A penalty of \$300 is fixed by law for using this card for other than official business.

Post Office Department,

OFFICIAL BUSINESS.

POST OFFICE AT

Stamp here name of Post Office



and date of delivery.

RETURN TO:

Name of Sender, *W. S. ...*

Street and Number, }
or Post Office Box. }

Post Office at

County of

State of

Bozeman, Mont.

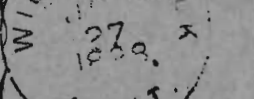
When the registered letter or parcel accompanying this card is delivered, the Postmaster will require signature to the receipt on the other side, also on his record of registered deliveries, and mail this card without cover to address below.
A penalty of \$300 is fixed by law for using this card for other than official business.

Post Office Department,

OFFICIAL BUSINESS.

POST OFFICE AT

Stamp here name of Post Office



and date of delivery.

RETURN TO:

Name of Sender, *W. S. ...*

Street and Number, }
or Post Office Box. }

Post Office at

County of

State of

Bozeman, Mont.

State of Montana.



OFFICE OF

Register of State Lands.

H. D. MOORE,
REGISTER.

ROOM 46, COURT HOUSE.

JOSEPH OKER,
CHIEF CLERK.

Helena, Montana, JULY 26th., 1898.

COUNTY of GALLATIN,
STATE of MONTANA ;

At a meeting of the State Board of Land Commissioners held on the 25th. day of JULY, 1898, upon the application of the County Surveyor of Gallatin County, the State of Montana, by its Board of Land Commissioners consented to give thirty (30) feet for right of way for a County road along the South side of Sections 22, 20 and 26, also on the North side of sections 28 and 36, and the East side of section 26, all in township 1-N., R. 1-E., as viewed and surveyed by C.M. Thorpe, J.D. Roberts and R.W. Harwood on the 8th. day of July, 1898, provided however, that such consent is given subject to any existing leases which may now be in existence on any of said described lands.

In testimony whereof I hereunto set my hand and cause my official seal to be affixed this 26th. day of July, 1898.




Register State Land Office.

Follow Creek Montana
Dec 3rd 1898

To the Honorable Board of
County Commissioners of
Gallatin Co Montana Greeting
for the undersigned residents
and tax payers of Gallatin Co.
respectfully protest against
~~opposing~~ the opening of a road
on the section line commencing
at the N.W. corner of section 29 T1
Range 1E. and running east from
that point, known as the Smart-
Road. for the reasons that the
road is not needed and is unnecessary
as all parties are allowed to pass
through at their pleasure. That it
would allow range stock to crowd
in to the lanes around Follow Creek
and be a great source of annoyance
and expense to the stock interest.
That it would be a source of expense
to the county which is not called
for by the necessities of the case.

Charles Thomas

Joseph H. Gingles

T. Gingles

B. G. Purdon

J. A. Shedd.

Thos. J. Gallagher

Wm. Buttelman.

H. Berdes.

Wm. Luik

H. L. Frederick

Charlie Murray

A. Phelps

Jaron F. Fredericks

Edward. Halbert

Chas. A. Race

J. J. Williams

J. Geo. E. West.

W. C. Wilkins,

Tract

Willow Creek

FILED

DEC 6 1898

W. A. McLaughlin
County Clerk

Regalia

Notice of Opening Public Road.

Notice is hereby given that after sixty days from the date of posting this notice, a public highway will be opened over the following route, to-wit: Commencing at the S.W. corner of Section 20 T.1N. R.1E. thence east along the section line between sections 20 and 29, 21 & 28, 22 & 27 to the S.E. cor. of Sec. 22 said T.1N. R.1E., thence south 1 mile to the S.W. corner of Section 26, thence east two miles to the S.E. corner of Section 25.

The above described line to be the center of a 60 foot right of way

By order of the Board of County Commissioners of Gallatin County, Montana.

Dated Dec. 20 1898

H. P. McNaughton
Clerk,

By _____
Deputy.

Date of Posting Jan 10th 1899

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

being first duly sworn deposes and says, that as the person appointed he received from the County Clerk of said County, on the 10 day of January A. D. 1899 three copies of the annexed notice, and that on the 11 day of January 1899 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 the starting point, one about midway, and one at the terminus as above described.

and further deponeth sayeth not.

Subscribed and sworn to before me this 24 day of Jan A. D., 1899

J. J. Roberts
C. M. Thorpe
Co. Surveyor

Road No 135

Second Board.

and to J. P. Roberts
Millard Creek

1885

Date of Posting

Postage

Date

Year

By order of the Board of County Commissioners of Colfax County, Montana.

Handwritten text, likely a notice or report, containing several lines of cursive script. The text is partially obscured by a large watermark.

Notice of Opening Public Road.

NOTICE OF OPENING PUBLIC ROAD - Colfax County, Montana

Willow Creek Mont

Sept 4th 98

H.P. McLaughlin

P. German Mont

Dear Sir

Your
favor in regard to the Smart
road at hand and noted.

I have offered to give the right
I hold on the land for a road if
you conclude to open one but
prefer to have a lane as that
could be closed up to keep stock
back when we did not want them
down around the ranch.

I have offered to let the neighbors
have a lane if they want one and
many of them prefer it to a road
All parties are allowed to drive their
stock through the field now and

many who first thought we
needed a road see now that
a lane will be better.

I have offered my rights to the
ground for a road, all I ask
is that you fence it if you
conclude to open it.

Yours

A. Woodward