

No. of case Road 150

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

Road South of
Willow Creek
Thos Kelly et al
WALBERT ROAD

FILED vs **FILED** Plaintiff

25 1899

E. D. Blankenship
County Clerk.
Defendant

Action for Sept. Term 1899.
Road Viewers Report adop-
ted. ^{Change in road} Road ordered open
ed Sept 7th 1899.
J. W. Patterson
Chairman

County Surveyor Hooper
reported ^{work on the road} change made ^{at} and the Board ^{the} old road ^{factory}
abandoned and ^{Attorney for Plaintiff} the new road
established a public highway.
By order of the Board
March 7. 1900
J. W. Patterson
Attorney for Defendant

PETITION FOR ROAD.

To the County Surveyor of Gallatin County, Montana:

The Undersigned, your petitioners, citizens of the United States, respectfully show and represent that they are residents of Road District No. _____, in the County of Gallatin, State of Montana, 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 that a County road, sixty feet in width, to be a public highway, be laid out, located and established, 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:

Beginning at a point in the road running up Willow

Creek along the west side of said creek, at a point where

the road leading to Pony leaves said road. Said point

being near the north line of Sec. 6 T.1S. R.1E.

Thence ^{south westerly} ~~southerly~~ along the road leading to Pony to where

the same is crossed by the N.&S. center line of the

west half of ^{said} Sec. 6. Thence south along said center line

of said west half of section 6. to the N.E. Corner of the

S.W. Quarter of the S.W. Quarter of said Sec. 6.

Thence south westerly by the most practical route to the

West line of Sec. 7 T.1S. R.1E. Thence south along or

near the said west line of Sec. 7 ⁺¹⁸ to a point in the

center of the road running east from the west line of

said Sec. ¹⁸ 7. Said point being about thirty rods north

of the ~~south~~ west ^{1/4} cor. of said sec. ¹⁸ 7.

fraction of
road leading from the starting point toward Red Bluff
to where the same is intersected by the above described proposed
road to be located whenever the proposed road shall be
established, all land owners consent to give the right
of way.

NAMES:

1. *James Shields*
2. *John A. Pace*
3. *B. D. West*
4. *H. A. Harwood*
5. *W. B. Tinsley* *William*
6. *W. C. Tinsley* *Chris*
7. *Thos Walbert*

NAMES:

6. *W. C. Tinsley*
7. *Joseph W. Tinsley*
8. *J. J. Walbert*
9. *H. A. Harwood*
10. *W. C. Tinsley*
- John Walbert Sr.*

Office of County Surveyor Gallatin County Montana.

Bozeman April 5th. 1899

Hon. J. L. Patterson,

Chairman, Board of Commissioners of Gallatin County Montana.

You are hereby given notice, that a petition for a county road has been received at my office signed by Thomas Kelly and 12 other residents of Road District No. 1 Through which Dist. said road is to run.

Beginning at a point in the road running up the Willow Creek along the west side of said creek, at a point where the road leading to Pony leaves said road. Said point being near the north line of Sec. 6 T. 1 S. R. 1 E. Thence southwesterly along the road leading to Pony to where the same is crossed by the N. & S. center line of the west half of Sec. 6 Thence south along said said center line of said west half of Sec. 6 to the N. E. Cor. of the S. W. Quarter of said Sec. 6 Thence south westerly by the most practical rout to the west line of Sec. 7 T. 1 S. R. 1 E. Thence south along or near the said west line of Sec. 7 to a point in the center of the road running east from the west line of said Sec. 18. Said point being about thirty rods north of the south west ^{1/4} Cor. of said Sec. 18.

You are hereby requested to appoint one Viewer on the above proposed road

Very Respectfully

C. M. Hooper
County Surveyor.

In pursuance of the above notice I hereby appoint Mr. *J. A. Carlo* to act on behalf of the Board of County Commissioners, As a Viewer on the above petitioned for road.

Dated at Bozeman Montana this ²⁹ day of *June* 1899.

J. L. Patterson
Chairman Board of Commissioners Gallatin County Mont.

WARRANT FOR ROAD VIEWERS.

County Surveyor's Office,
Gallatin County, Montana.

MR. W. B. Winsley

You are hereby notified that you were duly appointed Road Viewer by C. M. Thorpe
County Surveyor of Gallatin County, Montana, on the
29th day of June, 1899, to view and lay out a proposed road, as prayed
for in the petition of Thomas Kelly and others, described as follows, to-wit.

Beginning at a point in the road running up Willow Creek along
the west side of said creek, at a point where the road leading
to Pony leaves said road. Said point being near the north line
of Sec. 6 T. 1 S. R. 1 E. Thence southwesterly along the road
leading to Pony to where the same is crossed by the N. & S. center
line of the west ^{said} 1/2 of Sec. 6 Thence south along said center
line of said west 1/2 of Sec. 6 to the N. E. Cor. of the S. W. 1/4
of the S. W. 1/4 of Sec. 6. Thence southwesterly by the most
practical route to the west line of Sec. 7 T. 1 S. R. 1 E.
Thence south along or near the said west line of Sec. 7 to a
point in the center of the road running east from the west line
of said Sec. 7. Said point being about thirty rods north of
the ~~south west~~ ^{1/4} Cor. of said Sec. ~~7~~ ¹⁸

You are hereby ordered to meet, to be sworn according to law and assume the duties of your office, in
company with J. H. Carls, who was duly appointed as a
Viewer on said road by the Chairman Board of Co. Commissioners and by the
County Surveyor, who is Chairman of said Board of Viewers, on the 19th day of
July, 1899, 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 29th
day of June, 1899.
C. M. Thorpe
County Surveyor.

By _____ Deputy.
Will try to meet at 10 o'clock A. M. at the starting point

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 29 day of June, 1899, to view and mark out a proposed County road as prayed for in the petition of Thomas Kelly et. al., will in company with the County Surveyor, who is chairman of said Board of Viewers, meet for such view on the 19th day of July, 1899, at 10 a.m. 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 a point in the road running up Willow Creek along the west side of said creek, at a point where the road leading to Pony leaves said road. Said point being near the north line of Sec. 6 T. 15. R. 1 E. Thence southwesterly along the road leading to Pony to where the same is crossed by the N. & S. center line of the west 1/2 of said Sec. 6. Thence south along said center line of said ^{west} 1/2 of Sec. 6. to the N. E. Cor. of the S. W. 1/4 of the S. W. 1/4 of said Sec. 6. Thence south westerly by the most practical route to the west line of Sec. 7. T. 15. R. 1 E. Thence south along or near the said west line of Sec. 7 to a point in the center of the road running east from the west line of said Sec. 18. Said point being about thirty rods north of the south west ^{1/4} Cor. of said Sec. 18.

Dated this 29th day of June, 1899.

C. M. Thorpe
W. B. Finley
J. H. Curle } VIEWERS.

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

C. M. Thorpe
 Co. Surveyor

being first duly sworn deposes and says, that as the

the County Clerk of said County, on the _____ day of _____ A. D. 1899, he received from

three copies of the annexed notice, and that on the 30 day of June, 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 front door of the Co. Clerk's office

and further deponeth sayeth not.

Subscribed and sworn to before me this 30 day of June, A. D., 1899.

C. M. Thorpe
County Clerk

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 29 day of June, 1899, to view and mark out a proposed County road as prayed for in the petition of Thomas Kelly et. al., will in company with the County Surveyor, who is chairman of said Board of Viewers, meet for such view on the 19th day of July, 1899, at 10 a.m. the time fixed by said Surveyor,

County of Gallatin.

} SS.

W. B. Tinsley being first duly sworn deposes and says, that as the person appointed by the ~~County~~ Surveyor he received from the County ~~Clerk~~ of said County, on the 5th day of July, 1899, ~~two~~ three copies of the annexed notice, and that on the 6th day of July, 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 point of beginning and one near the N.W. Cor. of Sec. 7 T. 1 S. R. 1 E.

and further deponeth sayeth not.

Subscribed and sworn to before me this 19 day of July, A. D., 1899

W. B. Tinsley
C. M. Thorpe
 County Surveyor

REPORT OF ROAD VIEWERS.

ROAD NO. 150

TO THE HONORABLE BOARD OF COUNTY COMMISSIONERS OF GALLATIN COUNTY, MONTANA:

We, the undersigned Road Viewers, consisting of C. M. Hope Co. Surveyor
N. B. Finley who was appointed by said Surveyor, and
J. H. Carls who was appointed by the Chairman of
 the Board of County Commissioners.

appointed to view a proposed road running from a point where the road leading
to Pony leaves the upper Willow Creek road
 to a point in center of road running east from the N. line of Sec 18 T. 15. R. 1 E.
 as described in the annexed petition, say, That on the 19th day of July
 A. D., 1899 we assembled at the place designated in the petition, as the starting point of such proposed
 road and proceeded to view the same, and submit the following report:

1. The width of the proposed road, the description of the center line of the same, the length, how
 defined, the marks and sources, grades, character of ground, description of the land and owners of the
 same, over which the proposed road passes, and probable cost of constructing the said road, as follows:

The width of the proposed road is 60 feet.
The description of the center line of the proposed road
is as follows to wit: Beginning at a point in the
 road running up Willow Creek along the west side
 of said creek at a point where the road leading to Pony
 leaves said road. Said point being near the north line of
 Sec. 6 T. 15. R. 1 E. thence $S. 61^{\circ} W.$ 1633.5 feet, along
 the road leading to Pony to a point from which the $N. 1/4$
 Sec. Cor. of said Sec. 6 bears $S. 62^{\circ} W.$ 1243.7 feet.
 thence leaving said Pony Road and running $S. 13^{\circ} 4' W.$
 2236.8 feet. thence $S. 9^{\circ} 29' W.$ 1094.2 feet to a point from
 which the S.W. Cor. of said Sec. 6 bears $N. 87^{\circ} W.$ 356.5 feet.
 thence on same course $S. 9^{\circ} 29' W.$ 421 feet. thence $S. 4^{\circ} 14' W.$
 1450.3 feet. thence $S. 7^{\circ} 14' E.$ 2164.2 feet at which
 point we intersect the road leading to Red Bluff.
 (said road having previously been laid out) thence along said
 old road $S. 0^{\circ} 15' W.$ 554.6 feet, thence $S. 24^{\circ} 47' W.$ 790.7 feet
 to the S.W. Cor. of Sec. 7 T. 15. R. 1 E. thence south along the
 west line of Sec. 18 said T. & R. 2231.7 feet. to a point in
 the center of the road running east said point being 414 feet
 north of the $N. 1/4$ Sec. Cor. of said Sec. 18 said point
 being the terminus as described in the petition.

The length of the proposed road as described above is 2.38 miles
The portion of the old road leading to Red Bluff from the
starting point as described above to the point where the proposed
road intersects said old road is to be discontinued whenever
the proposed road shall be granted and whenever the

parties to be benefitted by the proposed change shall make the proposed road equally as good for travel as the said old road in accordance with the annexed agreement.

The center line of the proposed road was surveyed by us and is marked by stone monuments and pins at all angle points. The grades will not exceed 8%, the character of the ground over which the proposed road passes is as good as that over which the old road passes, and

good for road building. It was not practical to follow the subdivision line as described in the petition.

The description of the land and owners of the same is as follows. The road starts on the N.E. 1/4 of Sec 6 T.15R.1E, owned by W.B. Finley, and passes through S.E. 1/4 of N.W. of said Sec. 6 owned by Edward Walbert. The S.W. 1/4 of N.W. 1/4 and N.W. 1/4 of S.W. 1/4 of said Sec. 6 which is U.S. Vacant land, the S.W. 1/4 of S.W. 1/4 of said Sec. 6 owned by Edward Walbert. The N.W. 1/4 of Sec. 7 said T.R. owned by Thomas Kelley. The N.W. 1/4 of Sec. 18 said T.R. owned by W.A. Harwood. The N.E. 1/4 of Sec 13 T.15R.1W. owned by N.P.R.A.

The probable cost of opening the proposed road is \$100.00 which the benefitted parties agree to bear.

BEFORE OF BOARD MEMBERS

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

W.B. Trinsley, Edward Walcutt, and Thomas Kelley
As the road between sections 18 T.15 R.1 E. & Sec 13 T.15
R.1 W. has been previously laid out, and it opened &
traveled, we did not consider it necessary to
get written consent of land owners.

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

All land owners consent.

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

All land owners will be benefitted equally
to the damages.

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

The benefits to be derived from the proposed change
is that it will allow Ed. Walcutt & Thomas Kelley to fence
their land so that stock can get to water and will
save the expense of build + maintaining two lines of
fence diagonally through their land. The proposed
road is about the same length as the old road.

We believe said road ^{change of} _____ to be practical and _____ of public utility and
necessity and do _____ recommend the establishment of the same.

Dated July 20th A. D., 1889

C. M. Thorpe

W. B. Trinsley

J. H. Carls

Road Viewers.

the proposed road shall be granted and when

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.

W. B. Finley

Subscribed and sworn to before me this 19th day

of July 1899

C. M. Thorpe

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.

J. H. Carls

Subscribed and sworn to before me this 19th day

of July 1899

C. M. Thorpe

Co. Surveyor

This must be returned to the County Clerk after execution.

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 N.E. 1/4 of Sec. 6, T. 1 S. R. 1 E., as viewed and surveyed by J. H. Carls, W. B. Tinsley & C. M. Thoburn on the 19th day of July, 1899. And hereby agree to place my fences on said lines without charge to the County.

Signed: W. B. Tinsley

Dated at Willow Creek this 20th day of July 1899.

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.E. 1/4 of N.W. 1/4 and S.W. 1/4 of Sec. 6, T. 1 S. R. 1 E., as viewed and surveyed by W. B. Tinsley, J. H. Carls & C. M. Thoburn on the 19th day of July, 1899. And hereby agree to place my fences on said lines without charge to the County.

Signed: Edward Walbert

Dated at this 20th day of July 1899.

Kelley

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 N. 1/2 of Sec. 7, T. 1 S. R. 1 E., as viewed and surveyed by W. B. Tinsley, J. H. Carls, & C. M. Thoburn on the 19th day of July, 1899. And hereby agree to place my fences on said lines without charge to the County.

Signed: Tomey Kelley

Dated at this 20th day of July 1899.

Willow Creek Mont.

Nov. 27, 1899

Mr C. M. Thayer

Dear Sir -

That road is complete it is ready to receive at any time the grade is all ready set ready to put the wire on and if you cannot come in a day or two please let me know ~~if~~ we can put the wire on or not. Write and let me know when you are coming so I can meet you at the train.

your Truly
Ed. Walbert

Surveyor to inspect

To

Dr.

Willow Creek July 20th 1899

With the undersigned parties to be fulfilled by the proposed change of road in sec 6 & 7 T. 1 S. R. 1 E. as petitioned for by T. Kelley et al agree to furnish all material for bridges, construct same and do all grading required to make the proposed road as good as the old road to be vacated and put to close said old road until the same has been accepted by the Co Surveyor.

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

Ed. Walbert
Tomey Kealey +

being duly sworn says: That the above

REGISTRY RECEIPT.

Post Office at BOZEMAN, MONT.
Registered Letter Parcel No. 327 Rec'd June 30 1899
of Co Run
addressed to J. H. Carls
Willow Creek Mt
W. B. BURKET, P. M. P. M.

REGISTRY RECEIPT.

Post Office at BOZEMAN, MONT.
Registered Letter Parcel No. 328 Rec'd June 30 1899
of Co Run
addressed to W. B. Tinsley
Willow Creek
W. B. BURKET, P. M. P. M.

Form 1548.

REGISTRY RETURN RECEIPT sent June 30
Reg. No. 328 from Post Office at Bozeman, Mont.
*Reg. Letter / Reg. Parcel Addressed to W. B. Tinsley
Willow Creek
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.
When delivery is made to other than addressee, the name of both addressee and recipient must appear.
W. B. Tinsley
E. J. Tinsley
*Erase letter or parcel according to which is sent.

Form 1548.

REGISTRY RETURN RECEIPT sent June 30, 1899
Reg. No. 327 from Post Office at Bozeman, Mont.
*Reg. Letter / Reg. Parcel Addressed to J. H. Carls
Willow Creek
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.
When delivery is made to other than addressee, the name of both addressee and recipient must appear.
J. H. Carls
E. C. Carls
*Erase letter or parcel according to which is sent.