

No. of ~~Case~~ Road 152

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

Thos. S. Kirk Road.

From Dove McLeod Road

North 6 miles, petitioned
for by T.S. Kirk et-al.

Plaintiff

vs.

FILED

MAY 29 1899

E. B. Blankenship

County Clerk

Defendant

D. H. Johnson

Action for

Views Report accepted

*and Road ordered not established
by order Board J. L. Patton
June 8, 1899. Chairman*

Attorney for Plaintiff

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. 2 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.

~~Can be located, consent thereto; (c) if they do not consent; (d) the probable cost of the right-of-way while such consent is not had; (e) the necessity for and the advantages of the proposed road as follows, to-wit:~~

(a) Beginning at a point in the center of the County road known as the "David McLeod" road as surveyed in 1895 (see plat-book of roads page 185) said point being where said road is intersected by the center line of the E. 1/2 of the N.E. 1/4 of Section 32, Township 2 South, Range 4 East, thence north along or near the said center line and the center line of the E. 1/2 of the E. 1/2 of section 29, same Township and Range, thence Northeasterly to the section line between sections 20 and 21 same township and range, thence north along the section line between Section 20 and 21; 16 and 17; 8 and 9 ^{and 10} same township and range, and between Sections 32 and 33 Township 1 South, Range 4 East, to the N.E. corner of the said Section 32 last above mentioned.

(b) Said proposed road will pass over the E. 1/2 of Section 29, Township 2 South, Range 4 East, owned by David McLeod and Jesse Todd, along the section line between Sections 20 and 21 same Township and range on land owned as follows:— The S.E. 1/4 of said Section 20 is public school land, the N.E. 1/4 of said Section 20 is the property of Mark White; the S.W. 1/4 of said Section 21 is the property of W. A. Caldwell; and N.W. 1/4 of said Section 21, is the property of the West Gallatin Irrigation Company. Said road also passes over land along the section line between sections 16 and 17 same township and range over land owned as follows:— The E. 1/2 of said Section 17 is the property of Ezra and George Smart and all of said 16 is public school land. Said road also passes over land along the section line between sections 8 and 9 same township and range owned as follows:— The E. 1/2 of said section 8 is owned by Rev. John A. Vanderhook; the S.E. 1/4 of said section 9 is owned by George Kinkle Jr. and the N.W. 1/4 of said section 9 is owned by William Smart. Said road also passes over land along the section line between sections 4 and 5 same township and range on land owned as follows:— The S.W. 1/4 of said Section 4 is owned by Logan Whitaker; the W.W. 1/4 of said section 4 is owned by T. S. Kirk; the S.W. 1/4 of said Section 5 is owned by Robert and Henry Ferguson; and the N.W. 1/4 of said section is owned by W. J. Nash. Said road also passes along the section line between sections 32 and 33 Township 1 South range 4 East on land owned as follows:— The W. 1/2 of said section 33 is owned by Frank Weiskell; the S.E. 1/4 of said section 32 is owned by W. J. Nash and the N.E. 1/4 of said section 32 is owned by William Lawrence.

(d) That all of the foregoing property holders along said route consent to said road except: (e) Jesse Todd; David McLeod; Ezra and George Smart; John A. Vanderhook; William Smart and Logan Whitaker.

(f) The probable cost of the right of way over the land owned by Jesse Todd is \$130.00; and the probable cost of the right of way over the land owned by David McLeod is \$130.00; and that the others of said non-consenting property owners along the route of said road will not fix any damages, and your petitioners have no means of estimating the probable cost of right of way over the land of such non-consenting property holders.

(g) That said proposed road is necessary in order to furnish an outlet for the residents along the line of said proposed road all of whom with the exception of five or six of the owners of land adjacent to said proposed road, have no means of ingress or egress to their respective tracts of land, and are distant from any public road from one half mile to two miles.

PETITION FOR ROAD.

Dis No-2

Dis No 4	Theo Norman	Robt Ferguson
" " 4	Theodore Antonsen	Theodore Lawrence
" Dis No 9	Warren Kennedy	G. I. Fogle
Dis No 4	Renn Norfoston	Dell Willard
Dis No 4	Stephen A. Ellison	John Harshue
" " 4	W R Selley	Fre & Harshue

NAMES:

- 1 W S Ewring Dis No 4
- 2 John B. Conner Dis No 4
- 3 Brown Harshue Dis No 4
- 4 Henry Ferguson Dis No 4
- V 5 Matt Midal Dis No 4
- Joe W. Reynier Dis No 4

NAMES:

- 6 W P Todd Dis No 4
- 7 W J. Pack Dis No 4
- 8 W S. Kirk Dis No 4
- 9 E. Brown Martin Dis No 4
- 10 C A. Sales Dis No 4
- J C Boyles Dis No 4
- L. W. Chesnut Dis No 4

Office of County Surveyor Gallatin County Montana.

Bozeman April 6th. 1899

Hon.

J. L. Patterson

Chairman Board of Commissioners of Gallatin County Mont.

Dear Sir:-

You are hereby given Notice that a petition for a County road has been received at my office signed by *D. S. Kirk* ~~W. S. Erwin~~ and 12 other residents of road District No. 2 Through which district said road is to run.

Asking that a Road be established from the David McLeod Road north 3 miles, Terminating at Sec. 32 T. 1 S. R. 4 E/
the N.E. Cor. of
Please appoint a viewer to act on this said petition as required by law.
Very Respectfully

C. M. Thorpe

Co. Surveyor.

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

Dated at Bozeman Montana this 7 day of Apr. 1899

J. L. Patterson

Chairman Board of Commissioners Gallatin County Mont.

WARRANT FOR ROAD VIEWERS.

County Surveyor's Office,
Gallatin County, Montana.

MR. Math. Mabel

You are hereby notified that you were duly appointed Road Viewer by C. M. Thorpe
County Surveyor of Gallatin County, Montana, on the
7th day of April, 1897, to view and lay out a proposed road, as prayed

for in the petition of J. S. Kirk and others, described as follows, to-wit.

Beginning at a point in the center of the Co. road known as the "David McLeod" road, said point being where said road is intersected by the center line of the E. 1/2 of the N. E. 1/4 of Sec. 32 T. 2 S. R. 4 E. thence north along or near the said center line to the center line of the E. 1/2 of the E. 1/2 of Sec. 29, said T. & R. thence N. E. 1/4 to the sec. line between sections 20 & 21 said T. & R. thence N. along the sec. line between sections 20 & 21; 16 & 17; 7 & 9 and 4 & 5 same T. & R. and between sections 32 & 33 T. 1 S. R. 4 E. to the N. E. Cor. of the said sec. 32 last above mentioned.

You are hereby ordered to meet, to be sworn according to law and assume the duties of your office, in company with John M. Robinson, 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 22nd day of May at 10 A.M. or as soon here after as we can assemble, 1897, 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 25th
day of April, 1897.

C. M. Thorpe

County Surveyor.

By _____ Deputy.

WARRANT FOR ROAD VIEWERS.

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

MR. John M. Robinson

You are hereby notified that you were duly appointed Road Viewer by J. B. Patterson
Chairman Board of Co. Commissioners of Gallatin County, Montana, on the
7th day of April, 1897, to view and lay out a proposed road, as prayed
for in the petition of G. S. Kirk and others, described as follows, to-wit.

Beginning at a point in the center of the Co. road known as the
"David McLeod" road, said point being where said road is
intersected by the center line of the E. 1/2 of the N. E. 1/4 of
Sec. 32 T. 2 S. R. 4 E. thence north along or near the said
center line and the center line of the E. 1/2 of the E. 1/2 of Sec.
29 said T. & R. thence northeasterly to the Sec. line be-
tween sections 20 & 21 said T. & R. thence north along
the Sec. line between sections 20 & 21; 16 & 17; 8 & 9 and 4 &
5 same T. & R. and between sections 32 & 33 T. 1 S. R. 4 E.
to the N. E. Cor. of said Sec. 32.

You are hereby ordered to meet, to be sworn according to law and assume the duties of your office, in
company with Matt Nisbel, who was duly appointed as a

Viewer on said road by the County Surveyor C. M. Thorne and ^{with} by the
County Surveyor, who is Chairman of said Board of Viewers, on the 22nd day of

May at 10 A.M. or as soon thereafter as we can assemble.
1897, 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 26th

day of April, 1897.

C. M. Thorne

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 7th day of April, 1899,

to view and mark out a proposed County road as prayed for in the petition of

C. S. Kirk

will in company with the County Surveyor, who is chairman of said Board of Viewers, meet for such view on the 22nd day of May, 1899, the time fixed by said Surveyor, ^{at 10 A.M. or as soon after as we can meet}

and at the point designated in said petition, as the starting point of said proposed road, to-wit:

Beginning at a point in the center of the Co. road known as the "David McLeod" road, said point being where said road is intersected by the center line of the E. 1/4 of the N. E. 1/4 of Sec. 32 T. 2 S. R. 4 E. thence north along or near the said center line and the center line of the E. 1/4 of the E. 1/4 of Sec. 29, said T. 2 R. thence north easterly to the Sec. line between sections 20 & 21 said T. 2 R. thence north along the Sec. line between sections 20 & 21; 16 & 17; 8 & 9 and 4 & 5 said T. 2 R. and between sections 32 & 33 T. 1 S. R. 4 E. to the N. E. Cor. of said Sec. 32.

Dated this 25th day of April, 1899.

C. M. Thorpe

Math. Nisbel

John M. Robertson

} VIEWERS.

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

C. M. Thorpe
Co. Surveyor

being first duly sworn deposes and says, that as the

he received from

the County Clerk of said County, on the _____ day of _____ A. D.,

1899, three copies of the annexed notice, and that on the 27 day of apr, 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 27th day of apr, A. D., 1899

C. M. Thorpe
A. Blankenship
County Clerk & Re

REPORT OF ROAD VIEWERS.

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

Matt Nickel and C. M. Thorpe Viewers of the

W.E. the undersigned Road Viewers, appointed by the Board of County Commissioners, at the

Term of said Board to view a proposed road running from a point in the San McLeod

Road said point being where the same is intersected by the center line of the E. 1/4 of the N.E. 1/4 of Sec. 32.

T. 2 S. R. 4 E.

to the N.E. corner of Section 32 T. 1 S. R. 4 E.

say,

That on the 22nd day of May, 1897, we started from above described

starting point the place designated in the petition as the starting point of such proposed road and

as John M. Robinson the minor applicant by the chairman of the Board did not appear we 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 center line of the 60 foot right of way is described as follows to wit: Beginning at a point in the center line of the "San McLeod" Road said point being where the same is intersected by the center line of the E. 1/4 of the N.E. 1/4 of Sec. 32 T. 2 S. R. 4 E. thence North along or near the said

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

follows: San McLeod \$125.00, Jesse Todd \$1.00, J. H. Vanderhook \$125.00, Mrs. Smart \$60.00, Mrs. Lawrence \$60.00, Frank Haskell \$120.00, Geo. Smart \$50.00

all other property owners along said road will be benefited fully equitably

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

consent, as follows: We were unable to see Mark White, or W. A. Caldwell whose understand are in favor of said road. Mrs. + Peter Nash, Robt. Ferguson, and T. Kirk consent.

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

follows: San McLeod \$175.00, Jesse Todd \$1.50, Mrs. Smart \$1.00, J. H. Vanderhook \$140.00, Mrs. Lawrence \$150.00, we were unable to see Geo. Smart, Logan Whitaker, & Frank Haskell, all of whom we understand claim damages.

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

The proposed road passes over very rough ground with grades of 10 to 20%, and is not the natural outlet to this country, and would benefit but few.

We believe said road not to be practicable and not of public utility and necessity and do not recommend the establishment of the same.

Dated May 23rd, A. D., 1897

Matt Nickel
Remi Monforton
C. M. Thorpe

Road Viewers.

(No. 1 Continued)

center line of sec. 32, and the center line of the E. 1/2 of
sec. 29 said T. & R. thence North easterly to the
section line between sections 20 + 21; 16 + 17; 8 + 9;
and 4 + 5 same township and range, and between
sections 32 + 33 T. 1 S, R. 4 E. to the N.E. corner of
the said section 32 last above mentioned.

The length of the proposed road is about 6 miles,
the probable cost of constructing the proposed road is
for bridges + culverts \$900.
for grading. \$1400.
total \$2300.

C. M. THORPE,

County Surveyor and Superintendent of Roads.

BOZEMAN, MONTANA, May 26th. 1899/ 189

To the Honorable Board of Co. Commissioners.

Gentlemen:-

I have the honor to submit herewith the following papers in the matter of the petition of Thos. S. Kirk and others for a Co. road from Dave McLeod Road north 3 miles, as follows:

First, The petition.

Second; ~~Reply~~ Notice to the Chairman of the Board to appoint a viewers and the appointment of the same.

Third; Copy of warrants to 2 viewers with registered letter receipt showing that the same had been duly received.

Fourth; Sworn proof of posting notices with copy attached.

Fifth; Oath of 2 road viewers.

Sixth; Report of road viewers, ~~subscription work and consent of land owners where given.~~

All matters pertaining to the above road will be found in the papers hereto attached.

I have no suggestions to make other than those embodied in ~~my~~ ^{the} report of the viewers.

Yours respectfully,

C. M. Thorpe

Co. Surveyor.

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 ^{Co. Surveyor} Board of County Commissioners.

Walt Siebel

Subscribed and sworn to before me this 22nd day

of May 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 Board of County Commissioners

Remond Montforton

Subscribed and sworn to before me this 22nd day

of May 1899

C. M. Thorpe

Co. Surveyor

☒ This must be returned to the County Clerk after execution.

REGISTRY RECEIPT.

Post Office at BOZEMAN, MONT.
 Registered Letter { No. 129 Rec'd. APR 29 1899 189
 Parcel {
 of Os Sur
 addressed to John M Robinson
Bozeman, Mont.
W. B. BURKET, P. M. P. M.

REGISTRY RECEIPT.

Post Office at BOZEMAN, MONT.
 Registered Letter { No. 130 Rec'd. APR 29 1899 189
 Parcel {
 of Os Sur
 addressed to Matt Nibel
Bozeman, Mont.
W. B. BURKET, P. M. P. M.

Form 1543.
 REGISTRY RETURN RECEIPT sent 4-29-1899
 Reg. No. 130 from Post Office at Bozeman, Mont.
 *Reg. Letter / Addressed to Matt Nibel
 Reg. Parcel / Bozeman 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.
Matt Nibel
 When delivery is made to other than addressee, the name of both addressee and recipient must appear.
 *Please letter or parcel according to which is sent.

Form 1543.
 REGISTRY RETURN RECEIPT sent 4-29-1899
 Reg. No. 129 from Post Office at Bozeman, Mont.
 *Reg. Letter / Addressed to John M Robinson
 Reg. Parcel / Bozeman 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.
John M Robinson
 When delivery is made to other than addressee, the name of both addressee and recipient must appear.
 *Please letter or parcel according to which is sent.