

No. of Case Road 154

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

Road from Hillsdale
to the Horse shoe Mts.
Two petitions
In Dist No 3

FILED

MAY 29 1899

E. W. Blankenship
County Clerk Defendant

Ordered by the Board
Action for that parties claiming
damages be given notice to appear
on July 12, 1899, @ 2 o'clock P.M.
June 8, 1899. J. S. Patterson

deferred until the Board goes
over the route.

July 12, 99. J. S. Patterson
Viewer Report Rejected
By order of Board
Oct 3-99 J. S. Patterson
Attorney for Plaintiff

Attorney for Defendant

May 17th 9 a.m.

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. 3, 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 the S.E. Cor. of Sec. 34 T. 2 N. R. 4 E.
 thence west along the traveled road 1/2 mile to the road
 running north thence north and north westerly
 through sections 34, 27, 22 & 15 T. 2 N.
 R. 4 E. along or near the road as now
 traveled except where it may be practicable to
 follow section or subdivision lines to the north
 line of Road District No 3 the same being the north
 line of said Sec 15 when the same is crossed by said
 old road The owners of the land
 where the proposed Road is are as follows
 of holders
 John Bodkins claims \$75 damage
 George Shew claims \$1000 damage
 Oscar Wade consents
 ditto more
 Tom Murphy
 The road is needed as an outlet for cattle.

NAMES:

- 1 W. E. ...
- 2 G. W. Finney
- 3 W. E. Finney
- 4 G. W. ...
- 5 F. W. Gillet

NAMES:

- 6 Joseph Spragg
 - 7 ...
 - 8 Thos. Gibson
 - 9 John ...
 - 10 Thos. Callenham
- E. J. Moore

Office of County Surveyor Gallatin County Montana.

Bozeman, April 6th. 1899.

Hon^d 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 W. T. Yaden and 10 other residents of road Dist. No. 3, Through which Dist. said road is to run,

Asking that a road be established from Hillsdale to the

Horse shoe Mts. *please appoint a viewer to act on said petition as required by law.*

Very Respectfully

L. M. Thorpe
County Surveyor.

In pursuance of the above notice I hereby appoint

Mr. *J. B. Weaver* to act on behalf of the Board of County Commissioners as a Viewer on the above petitioned for road.

Dated at N 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. L. W. Kinney

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 W. G. Yadon and others, described as follows, to-wit.

Beginning at the S. E. Cor. of Sec 34, T. 2 N., R. 4 E.
thence west along the traveled road 1/2 mile to the
road running north. Thence north-northwest
ly through sections 34, 27, 22 & 15 T. 2 N., R. 4 E.
along or near the road as now traveled, except
where it may be practicable to follow section or
subdivision line to the north line of Road Dist.
No. 3 the ^{same} being the north line of said Sec. 15 where
the same is crossed by said old road.

Will try and meet at the starting point
at 9 o'clock A.M.

You are hereby ordered to meet, to be sworn according to law and assume the duties of your office, in
company with J. B. Weaver, 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 17th day of

May, 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 14th
day of April, 1897.

C. M. Thorpe
County Surveyor.

By _____ Deputy.

RETURN OF SHERIFF

WARRANT FOR ROAD VIEWERS.

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

MR. J. B. Weaver

You are hereby notified that you were duly appointed Road Viewer by J. L. Patterson Chairman Board of Co. Commissioners of Gallatin County, Montana, on the 7th day of April, 1899, to view and lay out a proposed road, as prayed for in the petition of W. J. Gadon and others, described as follows, to-wit.

Beginning at the S.E. Cor. of Sec. 34 T. 2 N. R. 4 E. thence west along the traveled road 1/2 mile to the road running north. Thence north and north westerly through sections 34, 27, 22 + 15 T. 2 N. R. 4 E. along or near the road as now traveled, except where it may be practicable to follow section or subdivision lines to the north line of Road Dist. No. 3 the same being the north line of said Sec. 15 where the same is crossed by said old road. Will try and meet at the starting point at 9 o'clock A.M.

You are hereby ordered to meet, to be sworn according to law and assume the duties of your office, in company with G. W. Kinney, who was duly appointed as a Viewer on said road by the County Surveyor C. M. Thorpe and by the County Surveyor, who is Chairman of said Board of Viewers, on the 17th day of May, 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 14th day of April, 1899.

C. M. Thorpe
County Surveyor.

By _____ Deputy.

RETURN OF SHERIFF

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 G. J. Gadsen et. al.,

will in company with the County Surveyor, who is chairman of said Board of Viewers, meet for such view on the 17th day of May 1899, 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 S.E. Cor. of Sec. 34 T2N. R.4E. thence west along the traveled road 1/2 mile to the road running north thence North & northwesterly through sections 34, 27, 22 and 15 T.2 North R.4E. along or near the road as now traveled, except where it may be practicable to follow Sec. or subdivision lines to the north line of Road Dist. No. 3 the same being the north line of said Sec 15 where the same is crossed by said old

Dated this 14th day of April 1899.

C. M. Thorpe
G. W. Kinney
J. B. Weaver } VIEWERS.

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

C. M. Thorpe being first duly sworn deposes and says, that as the Co. Surveyor 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 15 day of April 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 annexed notice at the front door of the Co. Clerk's office

and further deponeth sayeth not.

Subscribed and sworn to before me this 15th day of April A. D., 1899.

C. M. Thorpe
E. V. Blankenship
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 7th day of April 1899,

to view and mark out a proposed County road as prayed for in the petition of G. F. Gadsen et. al.,

will in company with the County Surveyor, who is chairman of said Board of Viewers, meet for such view on the 17th day of May 1899, 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 S.E. Cor. of Sec. 34 T. 2 N. R. 4 E. thence west along the traveled road 1/2 mile to the road running north thence North & Northwesterly through sections 34, 27, 22 and 15 T. 2 North R. 4 E. along or near the road as now traveled, except where it may be practicable to follow Sec. or subdivision lines to the north line of Road Dist. No. 3 the same being the north line of said Sec. 15 where the same is crossed by said old road

County of Gallatin.

G. W. Kinney being first duly sworn deposes and says, that as the viewer appointed he received from the County Clerk of said County, on the 19th day of April A. D., 1899, three copies of the annexed notice, and that on the 17th day of May 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 S.E. Cor. of Sec 34 T. 2 N. R. 4 E. and one at a point on north line of Sec 15 T. 2 N. R. 4 E. where the same is crossed by the old road to Horsehorn Mt., and further deponeth sayeth not.

Subscribed and sworn to before me this 17th day of May A. D., 1899
G. W. Kinney
Co. Surveyor.

REPORT OF ROAD VIEWERS.

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

C. M. Thorne and S. W. Kinney two of the

WE, the undersigned Road Viewers, appointed by the Board of County Commissioners, at the

Term of said Board to view a proposed road running from the S.E. Cor. of Sec. 34

T. & R. 42 E.

to the North line of Sec. 15 said T. & R. where the same is crossed by the old road near the N. 1/4 Cor. Sec. 15
That on the *17th* day of *May*, 189*9*, we *met* started from at the above

described starting point the place designated in the petition, as the starting point of such proposed road and as J. B. Weaver the viewer appointed by the Chairman did not appear we appointed C. Melton to act in his place 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 center line of the 60 foot right of way is described as follows to wit: Beginning at the said S.E. Cor. of Sec. 34 T. & R. 42 E., thence west to the S. 1/4 Sec. Cor. of said Sec. thence north along the N & S 1/4 Sec. line of said Sec. 1847 feet along a traveled road. thence N. 21° 20' W. 301.8 feet (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:

*Frank Collins \$ Powers and Moore \$ 1500.00
Geo. Shaw \$ 1000.00, O. Wade \$ 400.00, J. Bodkin \$ 150.00
F. Munday \$ 500.00 We believe in all cases the benefits will fully equal the damages. (see note under 5 below).*

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

Mrs. A. Lenham. John Klebs has given 30 feet and constructed his fence leaving a road way 30 ft. wide which is a portion of the main Dry Creek road.

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

Frank Collins does not consent and does not state what he claims, Powers and Moore, claims \$1500.00, Geo. Shaw \$1000.00, O. Wade \$400.00, J. Bodkin \$150.00, F. Munday \$500.00 (see map for location).

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

We find that nearly all the land owners along the proposed road object and claim heavy damages as shown above, and would like to have the road located on the section line 1/2 mile east (continued on next page)

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

Dated *17th* day of *May*, 189*9*, A. D., 189

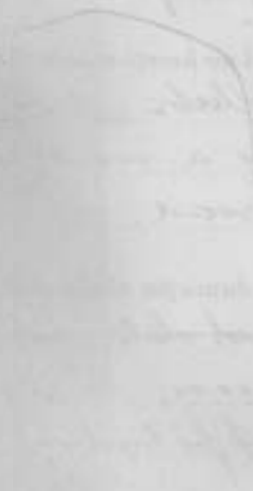
[Signature area with a large X drawn over it]
Road Viewers.

as we believe the benefits resulting from the opening of the proposed

No 1 Controversial

thence N. 9° 02' W. 873.5 ft., thence N. 11° 31' E. 1041 ft., to a point on said N. & S. 1/4 Sec. line of Sec. 34 said point being 961 feet south of the N. 1/4 Sec. Cor. of said Sec. 34 (it was necessary to leave the ~~Sec.~~ line as above described to avoid a big gulch.)

thence north along said 1/4 section line and along the 1/4 Sec. line of Sections ^{27, 22, and 15} ^{Said T. & R.} to the N. 1/4 Section Cor. of said Sec. 15, ^{Said 1/4 Sec. Cor. being about 300 feet west of the old road} a distance of 4 1/2 miles the above described line was surveyed by G.S. and is marked by iron pipe monuments placed at the U.S. Gov. corners and at all angle points. The land over which the proposed road passes is excellent for road building and runs along an even slope and would require no expense for the construction of the same, the greatest grade is in getting up from Dry Creek onto the slope for a short distance is 10%. The old road mentioned in the petition runs along or near the above described line.



(No. 5 continued)

of the above described line, we looked over this line and find that it crosses several deep rocky gulches and would be an expensive road to build. Mr. Gordon and Mr. Prather claim damages on this line. The main Dry Creek road is less than 1 mile east of this section line, to which the settlers who live along this line, have or can get outlets. We therefore do not think the County would be justified in constructing a road on this line.

We find that the old traveled road mentioned in the petition and which runs near the above described $\frac{1}{4}$ section line has been a traveled road for many years, and we believe that if the County can hold any old traveled road of which there is no record that this road can be held as a public highway, it follows the best ground for a road that could be found in the country, and settlers who have taken land along this old road or through which it runs, took it knowing that the old road was there, and knowing that it was needed as an outlet for the Hoosier Basin settlers. We find that portions of this old road have been plowed up by these ^{land owners} ~~settlers~~, and that when the said old road crosses the north line of Sec. 22 T. 2 N. R. 4 E. the road has been fenced by J. Bookkin also on North line of Sec. 15 said T. & R. the old road has been fenced by W. Muddley. also in Sec. 10 said T. & R. mesurveyed said old road has been fenced by R. Prather. We would recommend that if the old road can be held as a county road that the parties who have obstructed the same be punished according to law, and the road opened. We would recommend that the said old road be changed to follow the above described $\frac{1}{4}$ section line where practicable and have so surveyed it, as the ground along said line as surveyed is as good as the old road. For the reasons stated above and as we believe the benefits resulting from the opening of the proposed

road will fully equal the damages, we do not think the parties who claim damages are entitled to any and have no just claim.

We believe said road to be practicable and of public utility and necessity, and do recommend that the petition be granted and the road established.

Dated May 18th 1899,

G. W. Kimmly }
C. M. Thorpe } Road Commissioners
L. Melton }

BOZEMAN, MONTANA, May 26th. 1899. 189

To the Honorable Board of County Commissioners.

Gentlemen:-

I have the honor to submit herewith the following papers in the matter of the petition of Zephaniah White, *et al in Dist. No. 6*
also of the petition of in Dist. No. 3
 W. T. Yaden and others for a Co. road from Hillsdale to the Horse Shoe Mts., as follows; *in connection with each petition.*

First; The petition.

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

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

Fourth; Sworn proof of posting notices with copy attached.

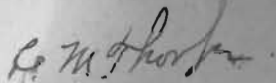
Fifth; An Oath of road viewers.

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 report of the viewers.

Yours respectfully,



County 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 Board of County Commissioners.

Cornelius Melton

Subscribed and sworn to before me this 17th 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~~ Co. Surveyor

G. W. Kinney

Subscribed and sworn to before me this 17th day

of May 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 ^{a strip of land 30 feet in width for 1/2 of a} feet for a Right of Way, for a County Road, through or along the East side of SW 1/4 of Sec. 34, T 2 N R 4 E., as viewed and surveyed by S. M. Kinney, C. Mutton + C. M. Thorpe on the 17th day of May, 1899. And hereby agree to place my fences on said lines without charge to the County.

Signed: J. M. Anderson Denham

Dated at this 17th day of May 1899.

REGISTRY RECEIPT.

Post Office at BOZEMAN, MONT.

Registered Letter Parcel No. 78 Rec'd 4-10-1899

of Co Sur

addressed to J B Weaver Belgrade MT

W. B. BURKET, P. M. P. M.

REGISTRY RECEIPT.

Post Office at BOZEMAN, MONT.

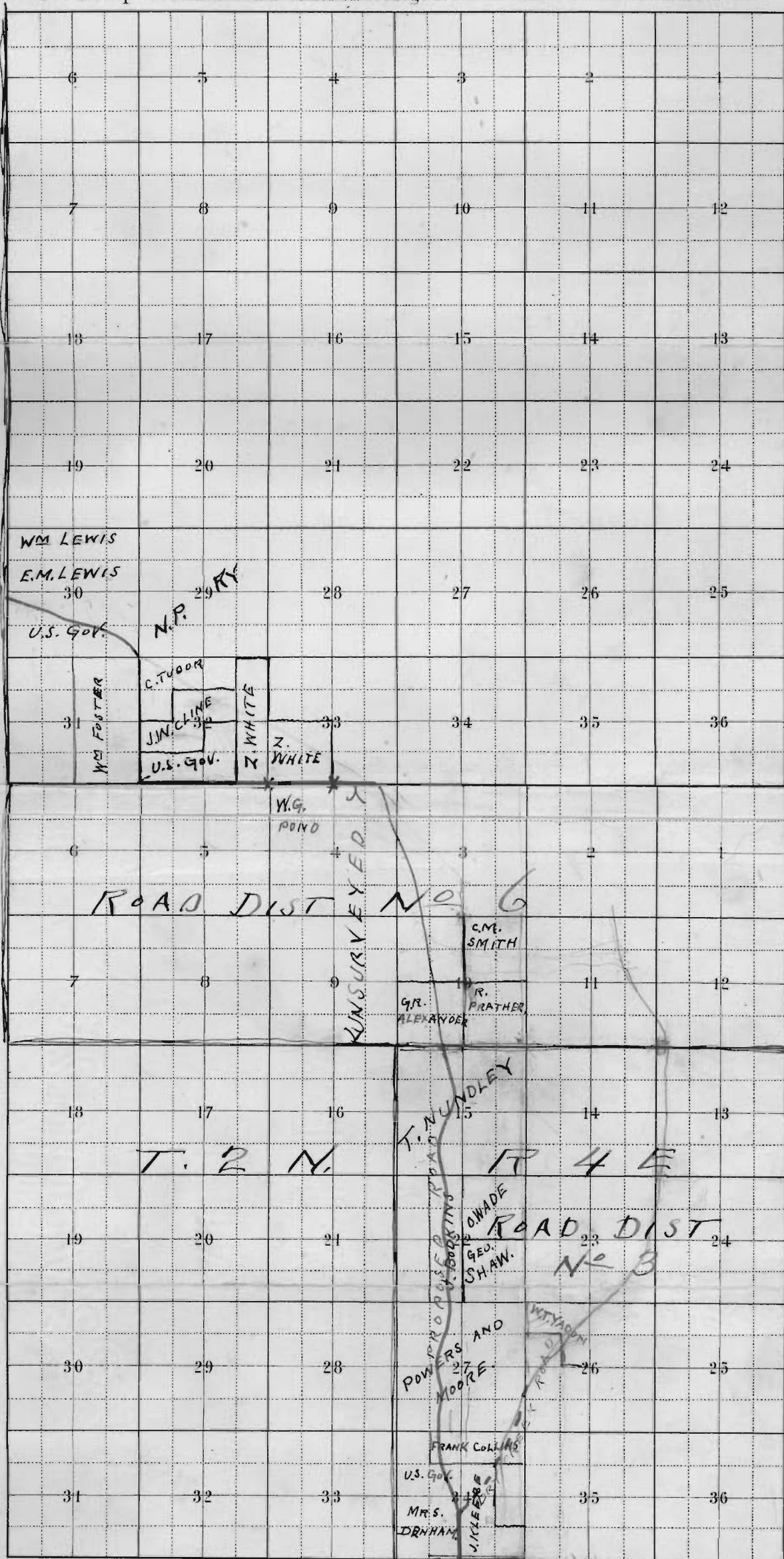
Registered Letter Parcel No. 71 Rec'd 4-15-1899

of Co Sur

addressed to G W Kinney Cedarvale MT

W. B. BURKET, P. M. P. M.

Township No. 3 N Range No. 4 E Mer. P. M.



STANDARD THE CO. MANAGER, MONT.

Form 1548.

REGISTRY RETURN RECEIPT sent *Bozeman, Mont.*, 189

Reg. No. *71* from Post Office at *BOZEMAN, MONT.*

Reg. Letter / Reg. Parcel Addressed to *W. Kinney*
Cedarvale, 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

W. Kinney

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.