

Plattuck 107+109 Vol A

No. of Case <sup>No</sup> 186

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

Common Petition to  
vacate a portion of  
the Martin Road.

Plaintiff

vs

Viewers Report

accepted, This the first  
day of Oct. 1903. By order  
of the Board.

Defendant

Geo. E. Davis

Action for

Chairman

Attorney for Plaintiff

Attorney for Defendant

*Bellevue & Wash  
Grand*

**PAID**

*James B. Smith, 1859  
Wm. B. Smith*

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

The undersigned your petitioners respectfully represent and show:-

1. That they are resident, taxpayers in Gallatin County, Montana residing in road district No. \_\_\_\_\_ in said County and State and in the immediate neighborhood of the road hereinafter described.
2. That your petitioners pray that that certain public highway heretofore declared to be a public road and described as follows: towit:-

Commencing at a point 80 rods east of the South-west corner of Section 24, Township 1 North, Range 4 East in Gallatin County, Montana, thence running North  $1/2$  mile, thence East  $1/4$  mile, thence North  $1/2$  mile through said Section 24, thence North through Section 13, same Township and Range as described in the plat thereof now on file in the office of the County Clerk and Recorder of Gallatin County, Montana, to which plat reference is hereby had and the same made a part hereof, thence North 1 mile through Section 12, same Township and Range, thence North  $1/4$  mile in Section 1, same Township and Range to the point where said road intersects the present County road, running from Bozeman, to Hillsdale, be vacated upon the grounds as follows:-

That there is a public highway one half mile East of the line of the above described road, now open, worked and traveled as such, which last mentioned road is commonly known as the "Compromise Road", and that said Compromise road was opened with the understanding that the road first above mentioned known as the "Martin" road should be vacated, and the Honorable Board of County, Commissioners of Gallatin County, Montana did intend to vacate the same and did undertake so to do and fully believe

*August Accola*  
they had legally vacated said "Martin" road and ordered the same closed and the same has been since January 1897 closed and has not been worked or traveled.

That since the opening of the said "Compromise" road there is no use for the said "Martin" road first above described, and in order that the same may lawfully be closed and all questions as to its having been legally declared vacated, your petitioners pray that said road as first above described be vacated.

That no person or persons will be injuriously affected by the vacating of said road and that all travel which might go over said road now goes over the said "Compromise" road; that the said "Martin" road was laid out over difficult ground and a good and substantial road cannot be maintained over the said route for the reason that much of the distance is through wet and swampy ground.

That a large amount of unnecessary fencing will be saved to the adjoining property owners by the vacating of said road.

That the owners of the adjoining land on either side of said Martin road hereby petitioned to be vacated are:-

Jno. Moore; J.S. Ballard; Wm. Cox; Andrew Benhart; C. Melton; S.H. Conrow; Thornton Street; J.M. Moore;

J. D. Morgan  
August Accota

Chas. Johnson

B. S. Duncan

G. L. Miller

G. T. Miller

D. S. Stiles

G. D. Watson

Henry Davis

W. L. Brainard

J. H. Yates

W. B. Murray

Welford Dale  
Mark

Archib. M. Martin

S. H. Curran



OFFICE OF

County Clerk and Recorder,

GALLATIN COUNTY, MONTANA.

HON. J. L. PATTERSON,  
Chairman of the Board of County Commissioners, Gallatin County, Montana.

DEAR SIR:—You are hereby notified that a petition <sup>to vacate</sup> for a County Road has been received in this office,  
signed by S. A. Courrow et al

of Road District No 9

The petition above referred to, petitions that a Road be <sup>vacated</sup> ~~established~~, commencing

Commencing at a point 80 rods East of the South-west corner of Section 24, Township 1 North, Range 4 East in Gallatin County Montana, thence running North 1/2 mile, thence East 1/4 mile, thence North 1/2 mile through said Sec. 24, thence North through Sec. 12, same Twp. and Range as described in the plat thereof, on file in the Recorder's Office, thence North through Sec. 12, same Twp., and Range, thence North 1/4 mile in Sec. 1, same Twp. and Range to a point where said road intersects the present County Road running from Fossil to Millvale, and intersects the present County Road

You are hereby notified to appoint three Viewers to view the above proposed Road.

Yours, Very Respectfully,

E. V. Blankenship  
County Clerk and Recorder.

Dated at, Bozeman, Montana, this 7th day of February 1901.

OFFICE OF

The Board of County Commissioners,

GALLATIN COUNTY, MONTANA.

MR. E. V. BLANKENSHIP,  
County Clerk, Gallatin County, Montana.

DEAR SIR:—In pursuance of the above notice, I hereby appoint:

C. M. Thorpe  
J. B. Ballard  
P. S. Johnston

to act in behalf of the Board of County Commissioners as viewers of the above petitioned Road

Yours, Very Respectfully,

J. L. Patterson  
Chairman of the Board of County Commissioners, Gallatin County, Montana.

Dated at Bozeman, Montana, this 8 day of Feb 1901.

NOTICE OF TWO PETITIONS TO VACATE A PUBLIC HIGHWAY.

NOTICE is hereby given that thirty three residents of Road Districts No's 3 and 6 of Gallatin County State of Montana have filed 2 petitions in writing with the Clerk of the Board of County Commissioners of Gallatin County, State of Montana.

Said petition praying that a certain Highway be vacated.

A description of the route of the road which it is proposed to vacate and discontinue is as follows, to-wit:-

Commencing at a point 80 rods East of the South-west corner of Section 24, Township 1 North, Range 4 East in Gallatin County, Montana, thence running North one-half mile, thence East one-fourth mile, thence North one-half mile through said Section 24, thence North through Section 13, same township and Range as described in the plat thereof now on file in the Office of the County Clerk and Recorder of Gallatin County, Montana, to which plat reference is hereby had and the same made a part hereof, thence North one mile through Section 12, same township and range, thence North one-fourth mile in Section 1, same township and range to a point where the said road intersects the present County Road, running from Bozeman to Hillsdale.

Said proposed discontinuance of Public Highway will be considered and the route of the, same will be viewed by viewers appointed by the Chairman of the Board of County Commissioners, according to law, who will commence said view at the place of beginning of said highway so proposed to be vacated, on Thursday the Twenty-Eighth (28th) day of February A.D. 1901, said viewing to commence at Ten (10) O'clock A.M. of said day.

Respectfully

*E. V. Blankenship*  
County Clerk, as Clerk of the Board of County Commissioners, Gallatin County, Montana.

*Copy posted at this office Feb 28th 1901*

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

*E. V. Blankenship* being first duly sworn deposes and says, that ~~as the~~ <sup>he</sup> posted a copy of the above notice at the front door of ~~the Recorder's Office~~ <sup>the Recorder's Office</sup> the County Clerk of said County on the \_\_\_\_\_ day of \_\_\_\_\_ A. D., 189\_\_\_\_, three copies of the annexed notice, and that on the 7th day of February 1901 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 \_\_\_\_\_

and further deponeth sayeth not.

Subscribed and sworn to before me this 4th day of March A. D., 1901

*E. V. Blankenship*  
*C. M. Hooper*  
Co. Surveyor

NOTICE OF TWO PETITIONS TO VACATE A PUBLIC HIGHWAY.

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Said petition praying that a certain Highway be vacated.

A description of the route of the road which it is proposed to vacate and discontinue is as follows, to-wit:-

Commencing at a point 80 rods East of the South-west corner of Section 24, Township I North, Range 4 East in Gallatin County, Montana, thence running North one-half mile, thence East one-fourth mile, thence North one-half mile through said Section 24, thence North through Section 13, same township and Range as described in the plat thereof now on file in the Office of the County Clerk and Recorder of Gallatin County, Montana, to which plat reference is hereby had and the same made a part hereof, thence North one mile through Section 12, same township and range, thence North one-fourth mile in Section 1, same township and range to a point where the said road intersects the present County Road, running from Bozeman to Hillsdale.

Said proposed discontinuance of Public Highway will be considered and the route of the, same will be viewed by viewers appointed by the Chairman of the Board of County Commissioners, according to law, who will commence said view at the place of beginning of said highway so proposed to be vacated, on Thursday the Twenty-Eighth (28th) day of February A. D. 1901. Said viewing to commence at Ten (10) O'Clock A. M. of said day.

Respectfully

*E. V. Blankenship*  
County Clerk, ss Clerk of the Board of County Commissioners, Gallatin County, Montana.

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

*S. H. Courrow* being first duly sworn deposes and says, that ~~on the~~

he received from the County Clerk of said County, on the 13th day of February A. D.,

1901, three copies of the annexed notice, and that on the 15th day of February 1901 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 beginning and over point of termination

and further deponeth sayeth not.

Subscribed and sworn to before me this 16th day of February A. D. 1901

*S. H. Courrow*  
*E. V. Blankenship*  
County Clerk.



# Warrant for Road Viewers.

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

Messrs *C. M. Shupe, J. S. Ballard & R. Johnston*

You are hereby notified that you were duly appointed Road Viewer by *Mr. J. L. Patterson*  
Chairman of the Board of County Commissioners of Gallatin County, Montana, on the *8th*  
day of *February* — 1901, to view and ~~lay out a~~ <sup>discontinue a</sup> proposed road, as prayed for in the  
petition of *S. H. Courrow* and others, described as follows, to-wit:

Commencing at a point 80 rods East of the South-west corner of Section  
24, Township I North, Range 4 East in Gallatin County Montana, thence run-  
ning North 1/2 mile, thence East 1/4 mile, thence North 1/2 mile through  
said Sec. 24, thence North through Sec. 13, same Twp and Range as described  
in the plat thereof, on file in the Recorder's Office, thence North thro-  
ugh Sec. 12, same Twp., and Range, thence North 1/4 mile in Sec., 1, same Twp  
and Range to a point where said road intersects the present County Road  
running from Bozeman to Hillsdale.

You are hereby ordered to meet, to be sworn according to law and assume the duties of your office, in  
company with *(Each other)*, who were duly appointed as  
Viewers on said road by the Chairman of the Board of County Commissioners, on the *28th*  
day of *February* — 1901, commencing at the place designated in said petition as the  
starting point of the ~~road sought to be~~ <sup>discontinued</sup> *at 10 o'clock A.M.* and proceed to view ~~and to~~  
~~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 practical 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~~ <sup>discontinuance of the</sup> ~~highway, if opened,~~ <sup>discontinuance</sup> and whether the ~~opening~~ <sup>discontinuance</sup> 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 practical, be laid out on subdivisional or section lines.

In witness whereof I hereunto set my hand, at my office this *16th*  
day of *February* — 1901.

*J. E. Blankenship*  
County Clerk,

By \_\_\_\_\_ Deputy.

# 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.

*R. Johnston*

Subscribed and sworn to before me this 28<sup>th</sup> day  
of Feb 1901

*G. M. Thrope*

*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.

*G. M. Thrope*

Subscribed and sworn to before me this 26<sup>th</sup> day  
of Feb 1901

*E. V. Blaukenship*  
*A. P. Morgan*

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.

*J. S. Ballard*

Subscribed and sworn to before me this 28<sup>th</sup> day  
of Feb. 1901

*C. M. Thorne*

*Co. Surveyor*

This must be returned to the County Clerk after execution.

## REPORT OF ROAD VIEWERS.

On petition to vacate the "Martin Road."

ROAD NO. \_\_\_\_\_

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

We, the undersigned Road Viewers, consisting of P. S. Johnston,  
J. S. Ballard, and C. M. Hooper, who were  
 appointed by J. L. Patterson, Chairman of the  
 Board of County Commissioners.

appointed to view a proposed road running from a point 80 rods East of the  
 S.W. Corner of <sup>vacation of a</sup> Sec. 24 T. 1 N. R. 4 E. and known as the "Martin Road"  
 to a point on the N+S. Center line of Sec. 1 said T. & R. where  
 the same is intersected by the Bozeman & Hillsdale Road.  
 as described in the annexed petition, say, That on the 28<sup>th</sup> day of February

A. D., 1901 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 road sought to be vacated is 60 feet.  
 The description of the center line is as follows to-wit:  
 Beginning at a point 80 rods east of the South West  
 Corner of Section 24 T. 1 N. R. 4 E. in Gallatin  
 County, Montana, thence running north  $\frac{1}{2}$  mile,  
 thence East  $\frac{1}{4}$  mile, thence north  $\frac{1}{2}$  mile through  
 said Section 24, thence north through Section  
 13, same Township and Range as described  
 in the plat thereof now on file in the office of the  
 County Clerk and Recorder of Gallatin County,  
 Montana, thence north 1 mile through Section 12,  
 said T. & R. thence north  $\frac{1}{4}$  mile, more or less,  
 in Section 1. said T. & R. along the N+S. Center  
 line of said Section, to the intersection of  
 said line with the Bozeman and Hillsdale Road.

We would respectfully recommend that all of the above  
 described road be vacated as petitioners for,

Except so much of said road as may be needed  
 as an outlet for A. Benhart, and A. Lundell,  
 which portion of said road is described as follows  
 to-wit: Beginning at the S.W. Corner of the  
 N.  $\frac{1}{2}$  of the S. E.  $\frac{1}{4}$  of Section 13 T. 1 N. R. 4 E.  
 thence north along the N+S. Center line of said Sec.  
 13, to angle point No. 5 of the survey of the said  
 Martin Road, see said plat thereof, and that  
 the width of the above described portion be reduced  
 from 60 feet, to 40 feet. We submit herewith our



Agreement between S.H. Courson, and A. Benhart,  
by which S.H. Courson agrees to deed to the  
County of Gallatin a 40 foot right of way from  
the Tabors, described as right Point No. 5, of  
the survey of said Martin Road, North westerly  
to A. Benhart's land, provided A Benhart does  
as specified in said agreement, to which he has  
fully agreed.

REPORT 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:~~

~~.....  
.....  
.....  
.....~~

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

~~.....  
.....  
.....  
.....~~

~~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:~~

~~.....  
.....  
.....  
.....~~

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

~~.....  
.....  
.....  
.....  
.....  
.....~~

*See above*  
We believe said road \_\_\_\_\_ to be practical and \_\_\_\_\_ of public utility and necessity and do \_\_\_\_\_ recommend the establishment of the same.

Dated *Feb. 28* A. D., 189*01*

*J. S. Ballard.*  
*R. Johnston.*  
*C. M. Hooper.* } Road Viewers.

Articles of Agreement.

Made this 27<sup>th</sup> day of February, 1901,  
between S.H. Connor, the owner of the N.W. 1/4  
of Section 13 T. 1 N. R. 4 E. party of the first  
part, and A. Benhart who resides on  
Section 12 said T. + R. party of the second part  
Witnesseth;

That the said party of the first part hereby  
agrees to convey by quit claim deed to  
the County of Gallatin, a 40 foot right of  
way for a county road, through the N.W. 1/4  
of said Sec. 13. from angle point No. 5 of  
the survey of the Martin Road, N. 6° 54' W. 130.5 ft.  
N. 80° 40' W. 215 ft. N. 42° 55' E, 235 ft.  
S 88° 49' W 490 ft. N. 10° 45' W 1320 ft. to  
a point on the N. line of said N.W. 1/4 of Sec. 13  
said point being 1527 ft. E. of the N.W. Cor.  
of said Sec 13. as surveyed by C.M. Thorpe  
on May 1<sup>st</sup> 1899 and as the same has been

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furrow by A. Benhart. provided the party of the second part shall first change the ditch <sup>owned by said second party</sup> which now runs near the west side of said right of way so that said ditch shall run along the west side of the furrow on the west side of said right of way as near to the same as practical. said ditch to be of a sufficient size to carry the water to which said second party is entitled. also provided said second party shall fill the old ditch in a manner suitable for said first party to pass over the same in working said land.

And provided said second party shall also agree to keep the furrow along the above described right of way in good repair.

Also provided said second party shall agree to allow a substantial self opening gate to be constructed and maintained on the west side of the "Compromised Road." at the

S.E. Corner of the  $\frac{N}{2}$  of the S.E.  $\frac{1}{4}$  of said Sec. 13 when the road from said second party, <sup>place</sup> connects with said "Compromise Road". In consideration of the benefits to be derived said second party hereby fully agrees to comply with all of the above provisions, and requirements, and to change said ditch as above required, on or before July 1<sup>st</sup> 1901, also to do his part in constructing and maintaining the above specified gate.

It is mutually agreed that all the covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, and assigns of the respective parties.

In witness whereof the parties to these presents have hereunto set their hands

and seals the day and year first above  
written,

S. H. Curran *seal*

C. M. Hooker (Witness) } the party of the first part.

P. Johnston ( " ) } A. Benhart, *seal*

J. S. Bellard ( " ) } the party of the second part.



