

#661

VOID

BY county Commissioner
order in July

Road Petition

661

Lionhead Subdiv

West Yellowstone

Street Abandon 9/6/73

Changes made:

Recorders 9/18/73

Commissioner's Book 38
page 210

PETITION TO ABANDON ROAD

To the Honorable Board of
County Commissioners
Gallatin County, Montana

Gentlemen:


We the undersigned Freeholders of Gallatin County, Montana, taxable therein for road purposes, do hereby petition your Honorable Body to abandon as a public highway a portion of street in Lionhead Homesites, and being more particularly described as follows, and shown in red on the attached plat:

The Northerly 100 feet long by 50 feet wide of Central Avenue, which lies between tract 3 and Tract 4 in the Lionhead subdivision in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 23, Township 13 South, Range 4 East.

Total distance 100 feet.

NAMES OF PETITIONERS

DESCRIPTION OF LAND OWNED BY PETITIONERS

<i>C. B. Cherrault</i>	<i>Lot 9 } Box 345</i>
<i>L. L. Gillispie</i>	<i>" 3 } West Yellowstone, Montana</i>
	<i>59758</i>
<i>Geraldine Hendry</i>	<i>" 4 and</i>
<i>Quinn Hendry</i>	<i>8</i>

LAKE AVENUE

50'	1A	Young Sandy	Alexander	Caemwallt
	Plummer	19	18	10

PINE AVENUE

25'	B	Young	Jones	Caemwallt
	Plummer	20	12	9

CENTRAL AVENUE

50'	E	Plummer	Plummer	Hunt	Cabbage	Hendry	
			24	21	16	12	8

CEDAR AVENUE

25'	Park	Holt	Holt	Hunt	Peck
		23	22	14	7

BIRCH AVENUE

Plummer	Gieschen
2	1

Gillespie
3

Hendry
4

Peck
5

Peck
6

CB Chem 1000
8-4345
W. Yellowstone

FIRST STREET

FIRST STREET

25'

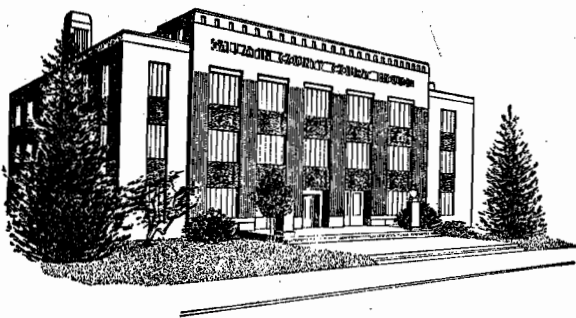
STREET

PARK

HIGHWAY 191

50' EASEMENT

LIONHEAD HOMESITES
WEST YELLOWSTONE, MONT.



State of Montana
COUNTY OF GALLATIN


◆
Bozeman

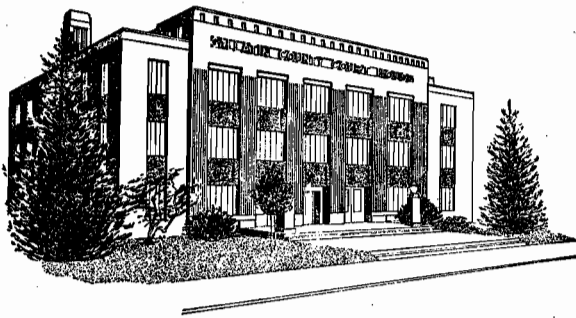
August 20, 1973

Petition Number 661

We, the undersigned, acting as the Board of Viewers for the County of Gallatin, made inspection of the street as described in petition number 661 on August 16, 1973, and the Board of Viewers do hereby recommend the closing of this street.


George Gillette - Commissioner


Earl R. Best, County Surveyor



State of Montana
COUNTY OF GALLATIN

◆
Bozeman

August 21, 1973

NOTICE TO PETITIONERS & ADJOINING LANDOWNERS

This is to notify you that the Board of County Commissioners have accepted the report of the Board of Viewers, Mr. Earl R. Best, ^{County} Private Surveyor, and Commissioner George Gillette, on Road Petition No 661. This petition is for the abandonment of the following Street.

The Northerly 100 feet long by 50 feet wide of central Avenue, which lies between Tract 3 and Tract 4 in the Lionhead Homesites in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 23, Township 13 South, Range 4 East.

A hearing on the above matter has been set by the Board of County Commissioners for Thursday the 6th day of September, A.D., 1973 at 10:00 A.M., in the Commissioners office in Bozeman, Montana, at which time the Commissioners will make final determination of the merits of said matter, and at which time all persons interested may make objections or offer suggestions relative to the proposals in the Road Petition.

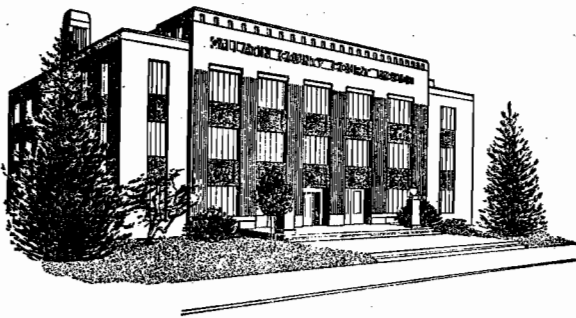
Unless a landowner or taxpayer wants to protest this petition you are not required to attend.

Dated this 22nd day of August, A. D., 1973 at Bozeman, Montana

Yours truly,

Gale Thompson
Road Office Supervisor

Bozeman, Montana



State of Montana
COUNTY OF GALLATIN

◆
Bozeman

NOTICE TO PETITIONERS & LANDOWNERS

This is to notified you that the B oard of County Commissioners held a hearing on Road Petition Number 661 on September 6th for the closing of a street in the Lienhead Homesites, in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 23, Township 13 South, Range 4 East.

There being no objections it was unanimously carried by the Beard of County Commissioners that Road petition Number 661 is hereby approved.

Yours truly,

Gale Thompson
Road Office Supervisor

P. O. Box 908

September 10, 1973

Board of County Commissioners
Gallatin County, Montana
Bozeman, Montana

Gentlemen:

In connection with Road Petition Number 661 approved by you on September 6, for the closing of a street in the Lionhead Homesites in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 23, Township 13 South, Range 4 East.

The closure of this street being approved by the County Commissioners on September 6, and inasmuch as this portion of the street lies between tract # 3 and tract # 4 in the Lionhead Homesites; we, as owners of tract # 4 hereby petition to have $\frac{1}{2}$ of this 50 foot street abandonment be added to our deed and added to the tax rolls for our lot-tract # 4.

Mrs. Verla Chenault, owner of tract # 3 will contact you on our behalf, as we cannot appear in person at this time on account of illness in the family but thought you might want written verification.

Also, Mr. Portman resurveyed this Homesite area recently and the metal survey stakes are still all in place.

Thank you very much.

Yours truly,

Orion L. Hendry
J. Geraldine J. Hendry
Orion L. & Geraldine J. Hendry
144 Davis Drive
Pocostello, Idaho 83201

cc- Gale Thompson, Road Supervisor
P.O. Box 908 - Bozeman

cc- County Assessor, Gallatin County
P.O. Box 1030 - Bozeman

LAW OFFICES

DRYSDALE, McLEAN &

SCRENAR

DOUGLAS R. DRYSDALE

JAMES A. McLEAN

~~DRYSDALE, McLEAN & SCRENAR~~

James J. Screnar

215 WEST MENDENHALL

POST OFFICE BOX 1122

BOZEMAN, MONTANA 59715

TELEPHONE (406) 587-4425

May 26, 1976

Gallatin County Commissioners
Gallatin County Courthouse
Bozeman, Montana 59715

Dear Sirs:

RE: Abandonment of a Portion of Central Avenue,
Lionhead Subdivision, Section 23, Township
13 South, Range 4 East

On September 6, 1973, the Gallatin County Commissioners purportedly abandoned a public highway in Lionhead Homesites in Gallatin County, more particularly described as follows:

The northerly 100 feet long by 50 feet wide of Central Avenue, which lies between Tract 3 and Tract 4 in the Lionhead Subdivision, in the SE 1/4 of SE 1/4 of Section 23, Township 13 South, Range 4 East.

Enclosed is a copy of the Petition to Abandon Road, Notice to Petitioners and Landowners, and a copy of the plat indicating that portion purportedly abandoned in red.

Our clients, Robert F. Dye and Raymond G. Carkeek, are the owners of South Fork Properties, a Subdivision immediately to the North and abutting on the North end of Central Avenue. They purchased this property pursuant to a contract for deed dated July 1, 1973, wherein Carkeek & Dye purchased the property known as South Fork Properties, a subdivision lying in Section 23, Township 13 South, Range 4 East, M.P.M., Gallatin County, Montana, from Alvin Maynard Parmer and Virginia Parmer, husband and wife, Donald Parmer and Pamela Parmer, husband and wife, Emil Calvano and Marion Calvano, husband and wife, Edward Gieschen and Audrey Gieschen,

Gallatin County Commissioners

Page 2

May 26, 1976

husband and wife, Kenneth Gieschen and Marcy Gieschen, husband and wife, who are the record owners of the said property.

There was no notice of the proposed closing of the portion of Central Avenue given to either the record owners of the property or to Carkeek and Dye as required by Montana law, Section 32-4004, R.C.M., 1947, and the case of United States of America v. the County of Gallatin, Robert F. Arnold, et al., CV No. 2008, United States District Court for the District of Montana, Butte Division.

Therefore, we make demand upon the County Commissioners of Gallatin County, Montana, to order the opening of Central Avenue of Lionhead Subdivision as a public highway for the reason that the previous order to abandon the road is void by reason of lack of notice to Carkeek & Dye or record owners abutting the North end of Central Avenue as required by Section 32-4014, R.C.M., 1947, which reads as follows:

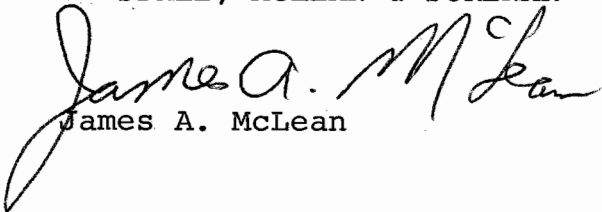
"Abandonment or vacation of county roads. All county roads once established must continue to be county roads until abandoned or vacated by operation of law, or by judgment of a court of competent jurisdiction, or by the order of the board. No order to abandon any county road shall be valid unless preceded by notice and public hearing."

And furthermore, the Gallatin County Commissioners approved the plat of South Fork Properties upon which was indicated that the road to the subdivision was Central Avenue.

Apparently at the time the subdivision was approved, it was not indicated upon the County plat record that an order had been made by the County Commissioners abandoning the road.

Yours very truly,

DRYSDALE, McLEAN & SCRENAR


James A. McLean

gw

Enclosures

cc Mr. Don White
Mr. R. G. Carkeek
Mr. Robert F. Dye

PETITION TO ABANDON ROAD

To the Honorable Board of
County Commissioners
Gallatin County, Montana

Gentlemen:


We the undersigned Freeholders of Gallatin County, Montana, taxable therein for road purposes, do hereby petition your Honorable Body to abandon as a public highway a portion of street in Lionhead Homesites, and being more particularly described as follows, and shown in red on the attached plat:

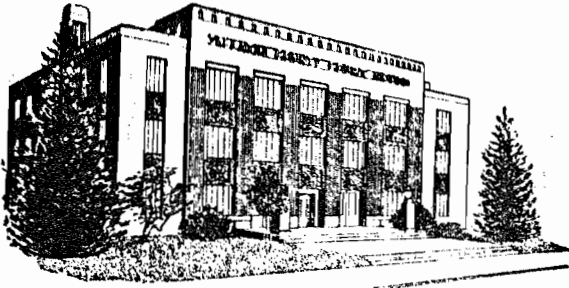
The Northerly 100 feet long by 50 feet wide of Central Avenue, which lies between tract 3 and Tract 4 in the Lionhead subdivision in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 23, Township 13 South, Range 4 East.

Total distance 100 feet.

NAMES OF PETITIONERS

DESCRIPTION OF LAND OWNED BY PETITIONERS

<i>C. B. Chesnut</i>	<i>Lot 9 } Box 345</i>
<i>Leah Gilchrist</i>	<i>" 3 } West of Lionhead, Montana</i>
	<i>59758</i>
<i>Genevieve Hendry</i>	<i>" 4 and</i>
<i>Orion Hendry</i>	<i>8</i>



State of Montana
COUNTY OF GALLATIN

◆
Bozeman

NOTICE TO PETITIONERS & LANDOWNERS

This is to notified you that the B oard of County Commissioners held a hearing on Road Petition Number 661 on September 6th for the closing of a street in the Lionhead Homesites, in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 23, Township 13 South, Range 4 East.

There being no objections it was unaminously carried by the Board of County Commissioners that Road petition Number 661 is hereby approved.

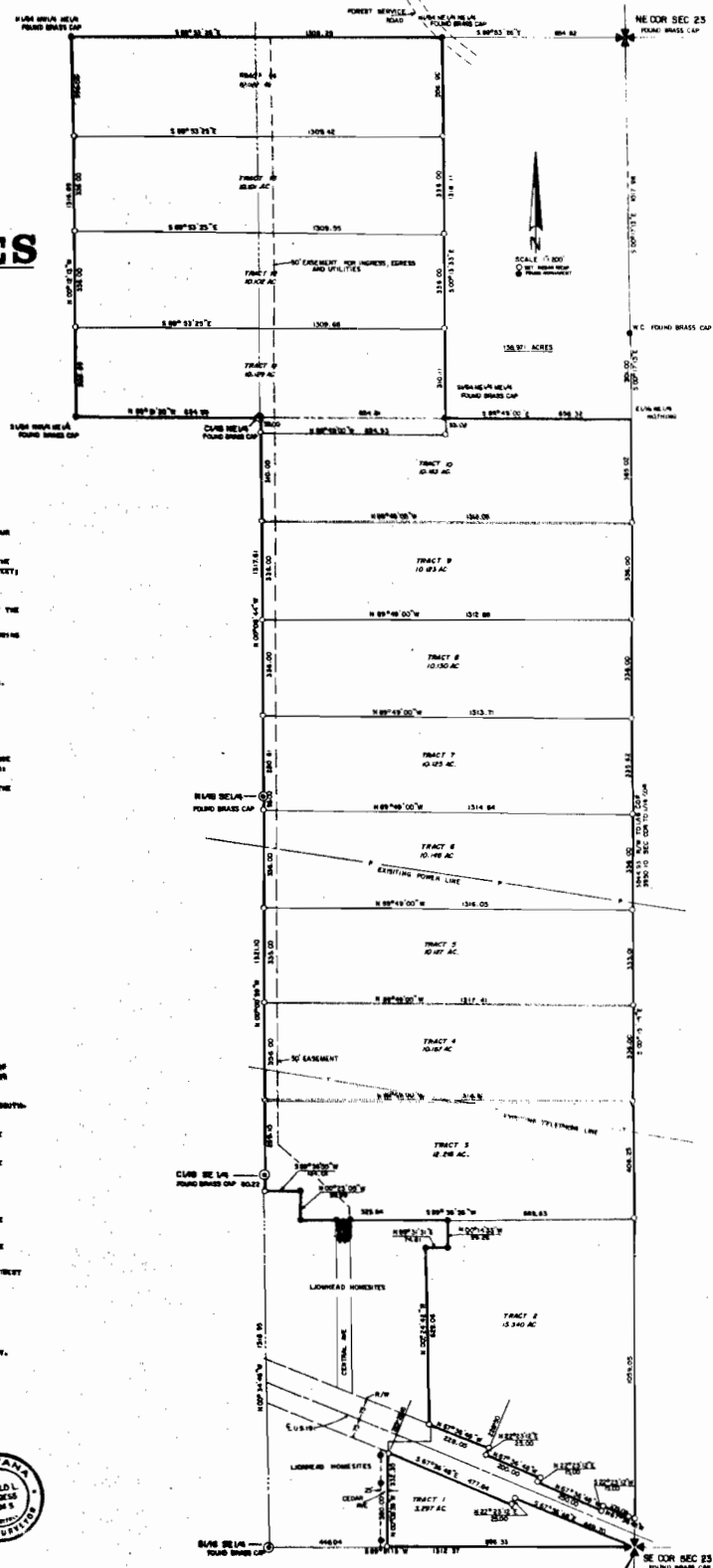
Yours truly,

Gale Thompson
Road Office Supervisor

P. O. Box 908

SOUTH FORK PROPERTIES

A PORTION OF SEC 23 T13S R4E MPM
GALLATIN CO. MONTANA



TRACT 1

A TRACT OF LAND SITUATE IN SECTION TWENTY-THREE (23), TOWNSHIP THIRTEEN (13) SOUTH, RANGE FOUR EAST, MONTANA PENNSYLVANIAN MERIDIAN, GALLATIN COUNTY, MONTANA, AND DESCRIBED AS FOLLOWS:
 BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY OF U. S. 101 WITH THE SOUTH LINE OF SAID SECTION 23, SAID POINT BEING SOUTH 89° 21' 12" WEST, A DISTANCE OF 50.70 FEET;
 THENCE CONTINUE ALONG SAID SOUTH LINE OF SECTION 23, A DISTANCE OF 506.23 FEET TO THE SOUTHWEST CORNER OF LINDENBACH SUBDIVISION;
 THENCE SOUTH 89° 20' 48" WEST, A DISTANCE OF 308.00 FEET TO THE POINT OF INTERSECTION OF THE EAST LINE OF SAID LINDENBACH SUBDIVISION WITH SAID SOUTHERLY RIGHT-OF-WAY OF U. S. 101;
 THENCE EASTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY OF U. S. HIGHWAY 101 THROUGH THE FOLLOWING COURSES:
 SOUTH 89° 20' 48" EAST, A DISTANCE OF 477.84 FEET;
 SOUTH 89° 20' 18" EAST, A DISTANCE OF 30.00 FEET;
 SOUTH 89° 20' 48" EAST, A DISTANCE OF 441.70 FEET TO THE POINT OF BEGINNING.
 SAID TRACT BEING 5.207 ACRES, ALONG WITH AND SUBJECT TO ANY EXISTING ENCUMBRANCES.

TRACT 2 THRU 10

A TRACT OF LAND SITUATE IN SECTION TWENTY-THREE (23), TOWNSHIP THIRTEEN (13) SOUTH, RANGE FOUR EAST, MONTANA PENNSYLVANIAN MERIDIAN, GALLATIN COUNTY, MONTANA, AND DESCRIBED AS FOLLOWS:
 BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY OF U. S. 101 WITH THE EAST LINE OF SAID SECTION TWENTY-THREE (23); AND BEING SOUTH 89° 15' 12" WEST, A DISTANCE OF 104.17 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION TWENTY-THREE (23);
 THENCE WESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY THROUGH THE FOLLOWING COURSES:
 ALONG A NON-FURNISHING CURVE TO THE RIGHT HAVING A RADIUS OF 1118.00 FEET THROUGH A CENTRAL ANGLE OF 88° 10' 10" (A LENGTH OF 26.08 FEET);
 SOUTH 89° 20' 48" WEST, A DISTANCE OF 108.00 FEET;
 SOUTH 89° 20' 18" WEST, A DISTANCE OF 15.00 FEET;
 SOUTH 89° 20' 48" WEST, A DISTANCE OF 300.00 FEET;
 SOUTH 89° 20' 18" EAST, A DISTANCE OF 15.00 FEET;
 SOUTH 89° 20' 48" WEST, A DISTANCE OF 300.00 FEET;
 SOUTH 89° 20' 18" WEST, A DISTANCE OF 15.00 FEET;
 SOUTH 89° 20' 48" WEST, A DISTANCE OF 308.00 FEET TO THE EAST LINE OF LINDENBACH SUBDIVISION;
 THENCE ALONG THE BOUNDARY OF SAID LINDENBACH SUBDIVISION THROUGH THE FOLLOWING COURSES:
 SOUTH 89° 20' 48" WEST, A DISTANCE OF 308.00 FEET;
 SOUTH 89° 21' 21" EAST, A DISTANCE OF 74.61 FEET;
 SOUTH 89° 14' 23" WEST, A DISTANCE OF 80.38 FEET;
 SOUTH 89° 20' 48" WEST, A DISTANCE OF 308.00 FEET;
 SOUTH 89° 20' 18" WEST, A DISTANCE OF 150.00 FEET TO THE SOUTHWEST CORNER OF SAID LINDENBACH SUBDIVISION AND BEING THE WEST LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION TWENTY-THREE (23);
 THENCE NORTH 89° 20' 48" WEST, A DISTANCE OF 308.00 FEET TO THE SOUTHWEST CORNER OF THE SOUTH EAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (S2E2S2);
 THENCE NORTH 89° 00' 48" WEST, A DISTANCE OF 120.10 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (S2E2S2);
 THENCE NORTH 89° 00' 48" WEST, A DISTANCE OF 4817.81 FEET TO THE SOUTHWEST CORNER OF THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (E1/2 S2E2S2);
 THENCE NORTH 89° 15' 12" WEST, A DISTANCE OF 104.17 FEET TO THE SOUTHWEST CORNER OF THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (E1/2 S2E2S2);
 THENCE SOUTH 89° 20' 18" EAST, A DISTANCE OF 150.00 FEET TO THE SOUTHWEST CORNER OF THE WEST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (W1/2 S2E2S2);
 THENCE SOUTH 89° 20' 18" EAST, A DISTANCE OF 1216.11 FT. TO THE SOUTHWEST CORNER OF THE WEST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (W1/2 S2E2S2);
 THENCE SOUTH 89° 20' 18" EAST, A DISTANCE OF 308.00 FEET TO THE SOUTHWEST CORNER OF THE WEST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (W1/2 S2E2S2);
 THENCE SOUTH 89° 15' 12" EAST, A DISTANCE OF 3044.00 FEET TO THE POINT AS BEGINNING.
 SAID TRACT BEING 126.97 ACRES ALONG WITH AND SUBJECT TO ANY EXISTING ENCUMBRANCES, AND IS PARTIALLY ENCUMBERED FOR THE EXISTING POWER LINES AND TELEPHONE LINES THROUGH THE TRACT.

WITNESSES OF SURVEY

I, RONALD L. BURDICK, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF MONTANA, CERTIFICATE NUMBER 07004, ON ORDER RECEIVED FROM THE SURVEYOR OF THE ABOVE DESCRIBED TRACT OF LAND, HAVE CONDUCTED THIS SURVEY IN ACCORDANCE WITH CHAPTER 802, TITLE 107, MONTANA CODE ANNOTATED. THAT THE SURVEY WAS COMPLETED ON THE 12TH DAY OF JUNE, 1974.

Ronald L. Burdick
 PROFESSIONAL LAND SURVEYOR
 105 COMMERCIAL DRIVE, BUTTE, MONTANA



COUNTY OF GALLATIN —STATE OF MONTANA—



OFFICE OF THE COUNTY ATTORNEY

GALLATIN COUNTY COURTHOUSE

P.O. BOX 1049
BOZEMAN, MONTANA 59715
TELEPHONE: 406-587-3161

July 12, 1976

DONALD E. WHITE
COUNTY ATTORNEY
JOHN P. SCULLY
CHIEF DEPUTY
BRIAN SULLIVAN
DEPUTY
OLETA DAVIS
OFFICE COORDINATOR
E.J. TYPOLT
SUPPORT OFFICER

County Commissioners
Gallatin County Courthouse
Bozeman, MT 59715

Gentlemen:

Re: Abandonment of a portion of Central Avenue
Lionhead Subdivision, Section 23, Township
13 South, Range 4 East

I have reviewed the records of the purported abandonment of a public highway in Lionhead Homesites, more particularly described as follows:

The northerly 100 feet long by 50 feet wide of Central Avenue, which lies between Tract 3 and Tract 4 in the Lionhead Subdivision, in the Southeast one-quarter of the Southeast one-quarter (SE 1/4 SE 1/4) of Section 23, Township 13 South, Range 4 East.

It appears from my examination of the records that no notice of the closing of the portion of Central Avenue above described was given to the record owners of the property lying immediately North of the said public road and abutting the northerly portion thereof, which property is described as follows:

The West Half of the Northeast Quarter of the Northeast Quarter (W 1/2 NE 1/4 NE 1/4) and the East Half of the Northwest Quarter of the Northeast Quarter (E 1/2 NW 1/4 NW 1/4) and the Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4) and the East Half of the Southeast Quarter (E 1/2 SE 1/4), less Lionhead Subdivision and highway, in Section 23, Township 13 South, Range 4 East, M.P.M., containing 141.95 acres.

County Commissioners
Page Two
July 12, 1976

The record owners of the aforesaid described property at the time of closing were Melvin Baynard Parmer and Virginia Parmer, husband and wife, Donald Parmer and Thelma Parmer, husband and wife, and Emil Calvano and Marion Calvano, husband and wife, and Edward Gieschen and Audrey Gieschen, husband and wife, and Kenneth Gieschen and Marcy Gieschen, husband and wife.

I have been advised by James A. McLean that the record owners have sold the aforementioned described property to Raymond G. Carkeek and Robert F. Dye, of Bozeman, Montana, by Contract for Deed.

It is my opinion that because of Gallatin County's failure to give notice of the abandonment to the record owners or to Raymond G. Carkeek or Robert F. Dye, the abandonment of that portion of Central Avenue ordered abandoned by the Gallatin County Commissioners on September 6, 1973, is invalid.

Section 32-4002, 1947, provides:

"Any ten, or majority of the freeholders of a road district taxable therein for road purposes, may petition the board in writing to open, establish, construct, change, abandon or discontinue any county road in the district. If the county is not divided into districts the entire county shall be one road district."

Only four petitioners petitioned for abandonment of the northerly 100 feet of Central Avenue. Section 324014, 1947, provides:

"Abandonment or vacation of county roads. All county roads, once established, must continue to be county roads until abandoned or vacated by operation of law, or by judgment of a court of competent jurisdiction, or by order of the Board. No order to abandon the county road shall be valid unless preceded by notice and public hearing."

County Commissioners
Page Three
July 12, 1976

The case of United States of America v. County of Gallatin, Robert F. Arnold and Alma E. Arnold, et al., civil No. 2008, in the United States District Court for the District of Montana, Butte Division, James F. Battin, United States District Judge presiding, held that failure to give notice to an abutting property owner of a proposed road abandonment denies the person not receiving notice of due process of law as required by the Fourteenth Amendment.

Therefore, for the foregoing reasons, it is my recommendation that you draw up an order that the abandonment of the herein described public road, pursuant to road petition No. 661, be set aside as invalid and void and file the same with the Petition in the Clerk and Recorder's Office.

Yours very truly,



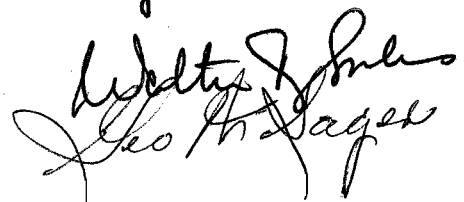
Donald E. White
Gallatin County Attorney

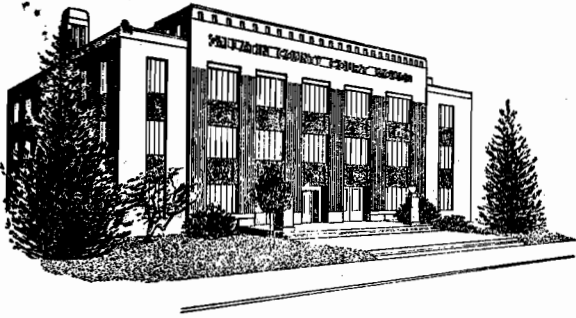
cc: James A. McLean

jt

Carl Stucky
Gallatin Co. Clk. + Sec.

We hereby declare that the abandonment of Central Ave. in Lionhead Subdivision under Road Petition #661 be set aside as invalid and void in accordance with the findings of the County Attorney.





State of Montana
COUNTY OF GALLATIN

◆
Bozeman

October 17, 1974

Mr. Gale Thompson
Gallatin County Courthouse
Bozeman, Montana 59715

Re: Abandonment of a portion of Lionhead
Subdivision

Dear Mr. ^{Gale}~~Thompson~~:

Enclosed is a letter from Mr. McLean concerning an abandonment of a highway in Lionhead Homesites. It would appear that one of the parties was not given notice and that the abandonment would not apply as to that person. Would you please check this over and then get together with me.

Very truly yours,

Thomas A. Olson
Gallatin County Attorney

TAO:jz
Enclosure

make file - Lionhead road closure

LAW OFFICES

DRYSDALE, McLEAN & SCULLY

DOUGLAS R. DRYSDALE
JAMES A. McLEAN
JOHN P. SCULLY

215 WEST MENDENHALL
POST OFFICE BOX 1122
BOZEMAN, MONTANA 59715
TELEPHONE (406) 587-4425

October 10, 1974

Mr. Thomas A. Olson
Gallatin County Attorney
P. O. Box 967
Bozeman, MT 59715

Dear Tom:

Re: Abandonment of a Portion of Central Avenue, Lionhead Subdivision, Section 23, Township 13 South, Range 4 East.

On September 6, 1973, the Gallatin County Commissioners purportedly abandoned a public highway in Lionhead Homesites in Gallatin County, more particularly described as follows:

The northerly 100 feet long by 50 feet wide of Central Avenue, which lies between Tract 3 and Tract 4 in the Lionhead Subdivision, in the SE 1/4 of SE 1/4 of Section 23, Township 13 South, Range 4 East.

Enclosed is a copy of the Petition to Abandon Road, Notice to Petitioners and Landowners, and a copy of the plat indicating that portion purportedly abandoned in red.

Our clients, Robert F. Dye and Raymond G. Carkeek are the owners of South Fork Properties, a Subdivision immediately to the North and abutting on the North end of Central Avenue. They purchased this property pursuant to a contract for deed dated July 1, 1973, wherein Carkeek & Dye purchased the property known as South Fork Properties, a subdivision lying in Section 23, Township 13 South, Range 4 East, M.P.M., Gallatin County, Montana, from Alvin Maynard Parmer and Virginia Parmer, husband and wife, Donald Parmer and Pamela Parmer, husband and wife; Emil Calvano and Marion Calvano, husband and wife; Edward Gieschen and Audrey Gieschen,

Mr. Thomas A. Olson
Page 2
October 10, 1974

husband and wife; Kenneth Gieschen and Marcy Gieschen, husband and wife, who are the record owners of the said property.

There was no notice of the proposed closing of the portion of Central Avenue given to either the record owners or Carkeek and Dye as required by Montana law, Section 32-4004, R.C.M., 1947, and the case of United States of America v. the County of Gallatin, Robert F. Arnold, et al., CV No. 2008, United States District Court for the District of Montana, Butte Division.

Therefore, we make demand upon the County Commissioners of Gallatin County, Montana, to order the opening of Central Avenue of Lionhead Subdivision as a public highway for the reason that the previous order to abandon the road is void by reason of lack of notice to Carkeek & Dye or record owners abutting the North end of Central Avenue.

Yours very truly,

DRYSDALE, McLEAN & SCULLY


James A. McLean

skm

cc Mr. R. G. Carkeek
Mr. Robert F. Dye

PETITION TO ABANDON ROAD

To the Honorable Board of
County Commissioners
Gallatin County, Montana

Gentlemen:


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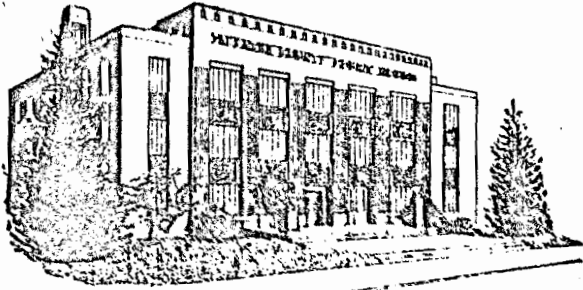
Total distance 100 feet.

NAMES OF PETITIONERS

DESCRIPTION OF LAND OWNED BY PETITIONERS

<i>C. B. Chesnut</i>	lot 9 } Box 345
<i>L. H. Phillips</i>	" 3 } West of Lionhead, Montana
	
<i>Geraldine Hendry</i>	" 4 and
<i>Lois Hendry</i>	8

59758



State of Montana
COUNTY OF GALLATIN
◆
Bozeman

NOTICE TO PETITIONERS & LANDOWNERS

This is to notified you that the B oard of County Commissioners held a hearing on Road Petition Number 661 on September 6th for the closing of a street in the Lionhead Homesites, in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 23, Township 13 South, Range 4 East.

There being no objections it was unanimously carried by the Board of County Commissioners that Road petition Number 661 is hereby approved.

Yours truly,

John Thompson
Road Office Supervisor

P. O. Box 908

November 11, 1974

The Board of County Commissioners
County of Gallatin
Bozeman, Montana

Gentlemen:

We have received correspondence from Mr. and Mrs. C.B. Chenault in relation to Road petition # 661 of the Lionhead Homesites.

We understand there is some movement afoot to try to reopen this portion of Central Avenue by the new owners of the Plummer homestead, now evidently known as 'South Fork Properties'. Since we had never heard of these gentlemen- Carkeek and Dye- until this summer and have never received any notification of any kind; find it rather disturbing and think a few things need to be clarified.

In the first place--George Plummer, before his death years ago, had legally separated, plotted and set aside, the Lionhead Homesites from the rest of his property to be sold as private property to people who would keep it in as nearly a natural state as possible. This area is separate and apart from the rest of the estate and these people have plenty of access through their own land, from Highway 191, without trying for additional access through the Lionhead Homesites.

The road in question had never been developed nor used as an access to any other property. To grant access or to reopen this road would devalue and destroy this summer home area, as such.

There was certainly no reason on our part to notify either the heirs of the homestead, or Carkeek and Dye, as their property is completely separate from the Lionhead Homesites.

We know Road petition # 661 to be valid and certainly approve of the decision of the County Commissioners to close this portion of Central Avenue and we were very surprised when Mr. and Mrs. Chenault informed us there was an attempt to reopen it.

Actually, all these roads in the Lionhead Homesites should be--once and for all time--designated as private roads for the use of the people in the Lionhead Homesites. We feel qualified to comment on these matters as we had known Mrs. Plummer for twenty years and bought our lots some fifteen years ago. We are planning to build next summer upon retirement. We also stayed with Mrs. Plummer many years on our vacations and know the area of the homestead "Southfork Properties" very well and can assure you they have good access through their own land and we feel this would be an encroachment on our property and our rights by these speculators.

To repeat; we wholly approve of the County Commissioners and Road Supervisor's decision to close this portion of Central Avenue and trust you will maintain this decision as it now stands.

(Owner of Tracts # 4 and 8 of
Lionhead Homesites)

Yours truly,

O L Hendry

Mr. O.L. Hendry
144 Davis Drive
Pocatello, Idaho 83201

cc Thomas A. Olson, Gallatin Co. Atty

November 4, 1974

Walter Sales, Chairman
Board of Gallatin County Commissioners
Bozeman, Montana

Dear Sir:

Regarding the letter dated October 22, 1974 by Gayle Thompson requesting information for you on Read Petition #661.

In answer to your questions of line three of said Petition #661, as I recall Mr. and Mrs. Hendry originally signed both names on Line three, and then decided to sign individually on lines four and five as shown.

Regarding the enclosure of a demand upon the County Commissioners thru the Gallatin County Attorney to reopen a portion of Central Avenue of Lionhead Homesites Subdivision as a public highway of which it never was. Lionhead Homesites has been a separate subdivision for a number of years and has no connection with the undeveloped land purchase by the present owners. The streets in Lionhead Homesites were designated exclusively for the subdivision owners, and we don't wish the removal of trees or any change of streets between our lots.

My Attorney advises me that Montana Law also states that when purchased property already has an Established Right of Way, it is not mandatory for previous property owners to forfeit their rights in order to provide additional access, or an attempt to establish a newly proposed public highway. Central Avenue was never used as an access to adjoining property, either before becoming Lionhead Homesites or since the establishment of same.

Therefore, we consider your previous decision of approval in closing a portion of Central Avenue, granted as a result of Petition #661 to be a valid one.

Representing the property owners of Lionhead Homesites Subdivision, I remain:

Sincerely,



C. B. Chennault
3717 Westcliff Road North
Fort Worth, Texas 76109

cc: Thomas A. Olson, Gallatin County Attorney

October 22, 1974

Mr. C. B. Chennult
3717 Westcliff Rd. N
Fort Worth, Texas 76109

Dear Mr. Chennult:

Enclosed is a copy of a letter from the law firm of Drysdale, McLean and Scully in regards to Road Petition #661, also included is a copy of Road Petition #661. Mr. Walter Sales, Chairman of the Board of County Commissioners ask me to write you in regards to this petition.

You will notice that someone sign the petition on the third line, and then blotted out their signature. The original petition on file in the Clerk and Recorders office shows that the signature was cross out in red and ink over in blue. The Commissioners questions are. When you acquired the necessary signatures was their a signature on the third line? Was it cross out before you mailed it to Gallatin County? Could this of been Parmer signature?

Since we don't remember this signature being crossed out, we are wondering if someone crossed out the signature in the Clerk and Recorders Office. Would appreciate hearing from you as soon as possible.

Yours truly,

Gale Thompson
Road Office Supervisor

P. O. Box 908

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Y

1 IN THE DISTRICT COURT OF THE EIGHTEENTH JUDICIAL DISTRICT
2 OF THE STATE OF MONTANA IN AND FOR THE COUNTY OF GALLATIN

3 * * *

4 C. B. CHENNAULT and MRS. C. B.)
CHENNAULT,)

5 Plaintiffs,)

6 v.)

No. 24886

7 GEORGE SAGER, JOHN BUTTLEMAN,
8 and JOY NASH, County Commis-)
sioners in and for the County)
of Gallatin, and)

9 THE COUNTY OF GALLATIN,)

10 Defendants.)

11 SUBPOENA DUCES TECUM

12 THE STATE OF MONTANA SENDS GREETINGS TO: Mrs. Lucille Bridges,
13 Clerk and Recorder of the County of Gallatin, State of Montana.

14 We command you, that all and singular business and
15 excuses being laid aside, you appear and attend before the Dis-
16 trict Court of the Eighteenth Judicial District of the State of
17 Montana, in and for the County of Gallatin, at a term of said
18 Court, to be held at the Courthouse in the County of Gallatin,
19 State of Montana, on Thursday, the 5th day of July, 1979, at 9:30
20 o'clock A. M. of said day, and then and there to testify in the
21 above-entitled action now pending in said District Court of the
22 Eighteenth Judicial District of the State of Montana in and for
23 the County of Gallatin, on the part of the plaintiff, and dis-
24 obedience will be punished as contempt of Court. You are re-
25 quired to bring with you and produce in evidence the following:

26 (1) Copy of plat of Lionhead Home Sites as recorded
27 in Book 27, page 169, office of the Clerk and Recorder in and for
28 Gallatin County, Montana;

29 (2) Copy of Petition No. 661;

30 (3) Copy of Report of Viewers dated August 20, 1973,
31 said report dealing with Petition No. 661;
32

1 (4) Copy of Notice to Petitioners and Adjoining Land-
2 owners dated August 21, 1973, said notice dealing with Petition
3 No. 661;

4 (5) Receipt showing mailing and receipt of Notice to
5 Petitioners and Adjoining Landowners to Mr. Orion L. Hendry;

6 (6) Copy of receipt showing mailing and receipt of
7 Notice to Petitioners and Adjoining Landowners to C. B. Chen-
8 nault;

9 (7) Copy of receipt showing mailing and receipt of
10 Notice to Petitioners and Adjoining Landowners to Mrs. Veryle
11 Gallespie;

12 (8) Copy of minutes of meeting of County Commissioners
13 dated September 6, 1973;

14 (9) Copy of Notice to Petitioners and Landowners re
15 vacation of street, said notice being signed by Gayle Thompson,
16 Road Office Supervisor, following the meeting of September 6,
17 1973;

18 (10) Copy of letter dated July 12, 1976, from County
19 Attorney, Don White, to County Commissioners with respect to the
20 vacation of a portion of Central Avenue;

21 (11) Copy of any and all actions taken by the County
22 Commissioners pursuant to said letter dated July 12, 1976 from
23 County Attorney, Don White, to said County Commissioners.

24 WITNESS, the Honorable W. W. Lessley, Judge of the
25 Eighteenth Judicial District, at the Courthouse in the County of
26 Gallatin, and the Seal of said Court, this ____ day of June, 1979.

27 ATTEST, my hand and the Seal of said Court, the day and
28 year last above written.

29 /s/ Gelia Smiley
Clerk

30 BY: ELEANOR STARK
31 Deputy Clerk

GALLATIN COUNTY ROAD DEPT.
P. O. BOX 908
BOZEMAN, MONTANA



NAME _____
1st Notice 9-24
2nd Notice _____
Return _____

RETURN RECEIPT REQUESTED

Mr. Orien L. Hendry
Lienhead Homesites
WestYellowstone, Montana

SEP 22 1973



REASON CHECKED
Unclaimed
Addressed incorrectly
Insufficient address
No such street
No such office in state
Do not re-mail in this envelope

CERTIFIED
No. 492365
MAIL

No. 492360

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO <i>Mr Orion L. Hendry</i>	POSTMARK OR DATE
STREET AND NO. <i>Lionhead Homesites</i>	
P.O., STATE AND ZIP CODE <i>West Yellowstone MONT</i>	
OPTIONAL SERVICES FOR ADDITIONAL FEES	
RETURN RECEIPT SERVICES	1. Shows to whom and date delivered 15¢ With delivery to addressee only 65¢ 2. Shows to whom, date and where delivered .. 35¢ With delivery to addressee only 85¢
DELIVER TO ADDRESSEE ONLY	50¢
SPECIAL DELIVERY (2 pounds or less)	45¢

POD Form 3800 July 1969 NO INSURANCE COVERAGE PROVIDED— (See other side) NOT FOR INTERNATIONAL MAIL * GPO: 1970 O-397-488

No. 492365

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO <i>Mr. Orion L. Hendry</i>	POSTMARK OR DATE
STREET AND NO. <i>Lionhead Homesites</i>	
P.O., STATE AND ZIP CODE <i>West Yellowstone, Montana</i>	
OPTIONAL SERVICES FOR ADDITIONAL FEES	
RETURN RECEIPT SERVICES	1. Shows to whom and date delivered 15¢ With delivery to addressee only 65¢ 2. Shows to whom, date and where delivered .. 35¢ With delivery to addressee only 85¢
DELIVER TO ADDRESSEE ONLY	50¢
SPECIAL DELIVERY (2 pounds or less)	45¢

POD Form 3800 July 1969 NO INSURANCE COVERAGE PROVIDED— (See other side) NOT FOR INTERNATIONAL MAIL * GPO: 1970 O-397-488

No. 492361

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO <i>Mrs Verylle Gillespie</i>	POSTMARK OR DATE
STREET AND NO. <i>Lionhead Homesites</i>	
P.O., STATE AND ZIP CODE <i>West Yellowstone, Montana</i>	
OPTIONAL SERVICES FOR ADDITIONAL FEES	
RETURN RECEIPT SERVICES	1. Shows to whom and date delivered 15¢ With delivery to addressee only 65¢ 2. Shows to whom, date and where delivered .. 35¢ With delivery to addressee only 85¢
DELIVER TO ADDRESSEE ONLY	50¢
SPECIAL DELIVERY (2 pounds or less)	45¢

POD Form 3800 July 1969 NO INSURANCE COVERAGE PROVIDED— (See other side) NOT FOR INTERNATIONAL MAIL * GPO: 1970 O-397-488

No. 492366

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO <i>Mr. C. B. Chennault</i>	POSTMARK OR DATE
STREET AND NO. <i>P. O. Box 345</i>	
P.O., STATE AND ZIP CODE <i>West Yellowstone, Montana</i>	
OPTIONAL SERVICES FOR ADDITIONAL FEES	
RETURN RECEIPT SERVICES	1. Shows to whom and date delivered 15¢ With delivery to addressee only 65¢ 2. Shows to whom, date and where delivered .. 35¢ With delivery to addressee only 85¢
DELIVER TO ADDRESSEE ONLY	50¢
SPECIAL DELIVERY (2 pounds or less)	45¢

POD Form 3800 July 1969 NO INSURANCE COVERAGE PROVIDED— (See other side) NOT FOR INTERNATIONAL MAIL * GPO: 1970 O-397-488

No. 492362

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO <i>C. B. Chennault</i>	POSTMARK OR DATE
STREET AND NO. <i>P. O. Box 345</i>	
P.O., STATE AND ZIP CODE <i>West Yellowstone, MONT</i>	
OPTIONAL SERVICES FOR ADDITIONAL FEES	
RETURN RECEIPT SERVICES	1. Shows to whom and date delivered 15¢ With delivery to addressee only 65¢ 2. Shows to whom, date and where delivered .. 35¢ With delivery to addressee only 85¢
DELIVER TO ADDRESSEE ONLY	50¢
SPECIAL DELIVERY (2 pounds or less)	45¢

POD Form 3800 July 1969 NO INSURANCE COVERAGE PROVIDED— (See other side) NOT FOR INTERNATIONAL MAIL * GPO: 1970 O-397-488

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO <i>Mrs. Verylle Gillespie</i>	POSTMARK OR DATE
STREET AND NO. <i>Lionhead Homesites</i>	
P.O., STATE AND ZIP CODE <i>West Yellowstone, Montana</i>	
OPTIONAL SERVICES FOR ADDITIONAL FEES	
RETURN RECEIPT SERVICES	1. Shows to whom and date delivered 15¢ With delivery to addressee only 65¢ 2. Shows to whom, date and where delivered .. 35¢ With delivery to addressee only 85¢
DELIVER TO ADDRESSEE ONLY	50¢
SPECIAL DELIVERY (2 pounds or less)	45¢

POD Form 3800 July 1969 NO INSURANCE COVERAGE PROVIDED— (See other side) NOT FOR INTERNATIONAL MAIL * GPO: 1970 O-397-488

492367 No.

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S).
REQUIRED FEE(S) PAID.

Show to whom, date and address
where delivered

Deliver ONLY
to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.	1 2	SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)
CERTIFIED NO. 492361		SIGNATURE OF ADDRESSEE'S AGENT, IF ANY
INSURED NO.		
DATE DELIVERED 8-24-73	3	SHOW WHERE DELIVERED (only if requested)

c55-16-71548-11 347-198 GPO

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S).
REQUIRED FEE(S) PAID.

Show to whom, date and address
where delivered

Deliver ONLY
to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.	1 2	SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)
CERTIFIED NO. 492366		SIGNATURE OF ADDRESSEE'S AGENT, IF ANY
INSURED NO.		
DATE DELIVERED 9-7-73	3	SHOW WHERE DELIVERED (only if requested)

c55-16-71548-11 347-198 GPO

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S).
REQUIRED FEE(S) PAID.

Show to whom, date and address
where delivered

Deliver ONLY
to addressee

RECEIPT

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INSURED NO.		
DATE DELIVERED 8-24-73	3	SHOW WHERE DELIVERED (only if requested)

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