

Road Petition # 812

All that part of Newman Lane as shown  
on teh plat know as Minor Sub. #176  
Section 20, T2S, R5E

## CHECKLIST OF PROCEDURES FOR ROAD PETITIONS

Original signed petition must be submitted to the Clerk and Recorder along with a map showing the area of the road under consideration. Stamp the date received on the petition. Get name and phone number of contact person for questions.

NAME Cindy E. Youngkin PHONE 587-5571

- 1) Determine if there are sufficient qualified signatures.
- 2) Check list of adjacent landowners for completeness.
- 3) Complete "Report of Qualified Signatures".
- 4) Schedule petition on Commissioner's agenda. DATE: 8/6/02
- 5) Make copies of petition and report. Forward to:
  - Notice County Attorney (attach note of date on Commissioner's agenda)
  - County Road Superintendent (attach note of date on Commissioner's agenda)
  - County Commission (3 copies)
  
- 6) Commissioners receive petition and assign viewing committee.
- 7) Assign Road Petition Number. 812
- 8) Type regular mail envelopes for:
  - All landowners named on the petition
  - All signers on the petition
  - All individuals named in the petition who could be affected
  - The postmaster of the area
  - The Public Lands Access AssociationType and prepare certified mail envelopes for:
  - All owners of land abutting the road
  - All individuals named in the petition who could be affected
  - The postmaster of the area
  - The Public Lands Access Association
  
- 9) Viewing committee completes road report.
- 10) Schedule public hearing on Commissioner's agenda and prepare notice. DATE 12-3-02
- 11) Publish public hearing notice one time. DATE 11-27-02
  
- 12) Send a copy of the viewing committee report and public hearing notice to the following:
  - Persons listed in #8
  - County Road Superintendent
  - County Attorney
  - County Commissioners (3 copies)
  
- 13) Prepare affidavit of mailing for petition file (regarding the viewers report).
- 14) Commissioners hold public hearing to grant or deny petition.
- 15) County Attorney drafts resolution for Commissioners to consider at next public hearing.
- 16) Commissioners pass resolution
- 17) Within 10 days of passage of resolution send copies of resolution to all persons listed in #7 (BY CERTIFIED MAIL)
- 18) Type affidavit of mailing for petition file (regarding the boards decision).
- 19) If the petition is granted, a certified copy of the resolution must be recorded.



THE LAW FIRM

**MOORE, O'CONNELL & REFLING**

A PROFESSIONAL CORPORATION

PERRY J. MOORE  
BARRY G. O'CONNELL  
MARK D. REFLING  
WM. RUSSELL McELVEA  
CINDY E. YOUNKIN  
ALLAN H. BARIS  
MICHAEL J. L. GUSICK

BART L. RICKENBAUGH (1966-2002)

601 HAGGERTY LANE  
SUITE 10, LIFE OF MONTANA BUILDING

*Reply to*

P.O. BOX 1288

BOZEMAN, MONTANA 59771-1288

TELEPHONE: (406) 587-5511

FAX: (406) 587-9079

E-MAIL: [morlaw@qwest.net](mailto:morlaw@qwest.net)

July 2, 2002


Eric Semerad  
Gallatin County Clerk & Recorder's Office  
311 West Main #204  
Bozeman, MT 59715

RE: Our file no: 95033\003

Dear Eric:

Enclosed please find an original Petition to Abandon County Road known as the cul-de-sac of Newman Lane located just off of Gooch Hill Road. Should you have any questions, please feel free to contact either me or Ray White, the primary petitioner whose address and phone number are shown on the Petition. I anticipate hearing from you and look forward to having this matter resolved.

Sincerely,



CINDY E. YOUNKIN

CEY/smk

cc: Ray White

Enc.

SK3407.WPD

PETITION TO ABANDON COUNTY ROAD

RECEIVED  
Date 7-5-02  
Clerk & Recorder  
Gallatin County, Mont.

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

COME NOW the undersigned freeholders of the road district of Gallatin County, Montana, and petition this board pursuant to Section 7-14-2601, MCA, to abandon a county road located in Gallatin County, Montana and represent as follows:

*ok  
copy*

1. The road to be abandoned is particularly described as the westerly end of Newman Lane as shown on the plat known as Minor Subdivision #176 located in the NESENW of Section 20 of Township 2 South, Range 5 East, Gallatin County, Montana.

2. The road is commonly known as the cul-de-sac of Newman Lane.

3. The general route of the road is shown on the attached map hereto.

4. The land and owners immediately adjacent to the road are:

A. Ramon and Shirly White                      4224 Blackwood Road      7-368?  
Bozeman, MT 59718

Property Description: NWSENW, Section 20, Township 2 South, Range 5 East

B. Jack M. White                                      6995 Gooch Hill Road  
Joan White Family Trust                      Bozeman, MT 59718  
(Jack M. White, Trustee)  
Denise Pugh  
Deborah Sjostrom  
Diane White  
Doris Linse

Property Description: SWSENW and SESENW, Section 20, Township 2 South, Range 5 East

C. Cook-Lehrkind                                      7675 River Road  
Gene Cook    Bozeman, MT 59718  
Marlys Cook  
Sarah Cook

Property Description: Tract 1, Certificate of Survey 2241

5. None of the landowners adjacent to the abandonment object thereto and are all shown as freeholder signers on this petition.

6. All landowners adjacent to the proposed abandoned road have been identified and are listed in paragraph No. 4 above.

7. The undersigned are unable to determine any landowners other than those listed in paragraph no. 3 above who could be effected by the abandonment of the road.

8. The necessity for an advantage of the abandonment of the road is that it will relieve the County of any future responsibility or liability for road maintenance and improvements. All of the property currently adjacent to this road is either currently owned entirely by Raymond and Shirley White or is accessible by other routes of access.

9. The undersigned state that they are owners of real property in the Gallatin County road district which is taxable for the County general road tax.

1. ✓ Ramon White 4224 Blackwood Road  
Bozeman, MT 59718

Property Description: co-owner Tracts 1-5, Minor Subdivision #176

Signature Ramon White

2. ✓ Shirley A. White 4224 Blackwood Road  
Bozeman, MT 59718

Property Description: co-owner Tracts 1-5, Minor Subdivision #176

Signature Shirley A. White

3. ✓ Gene Cook 7675 River Road  
Bozeman, MT 59718

Property Description: Tract 1, Certificate of Survey 2241, Gallatin County, Montana

Signature Gene Cook

4. ✓ Marlys Cook 7675 River Road  
Bozeman, MT 59718

Property Description: Tract 1, Certificate of Survey 2241, Gallatin County, Montana.

Signature Marlys Cook

5. Sarah Cook 7675 River Road  
Bozeman, MT 59718

Property Description: Tract 1, Certificate of Survey 2241, Gallatin County, Montana

Signature \_\_\_\_\_

6. ✓ Jack M. White 6995 Gooch Hill Road  
Bozeman, MT 59718

Property Description: co-owner SWSE and SESE Section 20, Township 2 North, Range 5 East

Signature Jack M. White, Trustee

7. ✓ Doris Linse 1202 Ridge Drive  
Laurel, MT 59044

Property Description: co-owner SWSE and SESE, Section 20, Township 2 North, Range 5 East

Signature Doris Linse

8. ✓ Denise Pugh Denise Pugh  
375 Comfort Lane, Bozeman MT  
59718

Property Description: co-owner SWSE and SESE, Section 20, Township 2 North, Range 5 East

Signature Denise Pugh

4. Marlys Cook 7675 River Road  
Bozeman, MT 59718

Property Description: Tract 1, Certificate of Survey 2241, Gallatin  
County, Montana.

Signature Marlys Cook

5. Sarah Cook 7675 River Road  
Bozeman, MT 59718

Property Description: Tract 1, Certificate of Survey 2241, Gallatin  
County, Montana

Signature \_\_\_\_\_

6. Jack M. White 6995 Gooch Hill Road  
Bozeman, MT 59718

Property Description: co-owner SWSENW and SESENW Section 20,  
Township 2 North, Range 5 East

Signature Jack M. White, Trustee

7. Doris Linse \_\_\_\_\_  
\_\_\_\_\_

Property Description: co-owner SWSENW and SESENW, Section 20,  
Township 2 North, Range 5 East

Signature \_\_\_\_\_

8. Denise Pugh Denise Pugh  
375 Comfort Lane, Bozeman MT  
59718

Property Description: co-owner SWSENW and SESENW, Section 20,  
Township 2 North, Range 5 East

Signature Denise Pugh



9. ✓ Deborah Sjostrom 1335 Kamin View  
Helena MT 59602

Property Description: co-owner SWSEW and SESEW, Section 20,  
Township 2 North, Range 5 East

Signature Deborah Sjostrom

10. ✓ Diane White Diane White  
827 11th Ave  
Helena, MT 59601

Property Description: co-owner SWSEW and SESEW, Section 20,  
Township 2 North, Range 5 East

Signature Diane White

11. ✓ Cindy E. Younkin 1115 N. Spruce  
Bozeman, MT 59715

Property Description: Tract 2730 Certificate of Survey 36A in Section  
27, Township 2 South, Range 7 East.

Signature Cindy Younkin

12. ✓ Terry P. Koral 1115 N. Spruce  
Bozeman, MT 59715

Property Description: Tract 2730 Certificate of Survey 36A in Section  
27, Township 2 South, Range 7 East.

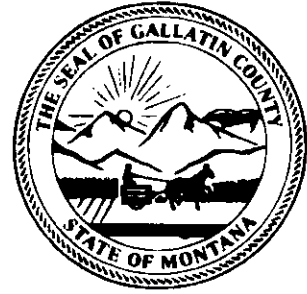
Signature Terry P. Koral



State of Montana

*County of Gallatin*

Bozeman



**NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Board of Gallatin County Commissioners will conduct a public hearing on December 3, 2002, at 9:00 A.M., in the Bozeman City Commission Meeting Room, 411 E. Main, Bozeman, Montana. Public opinion shall be heard regarding a petition to abandon all that part of Newman Lane located within Minor Subdivision #176. All interested parties are encouraged to attend.

Further information may be obtained from Gallatin County Commissioners Bill Murdock, Jennifer Smith Mitchell, or John Vincent at 311 W. Main, Room 301, Bozeman, Montana 59715, telephone 582-3000.

Dated this 20<sup>th</sup> day of November 2002.

*Shelley Vance*

Shelley Vance  
Clerk and Recorder  
Gallatin County, Montana

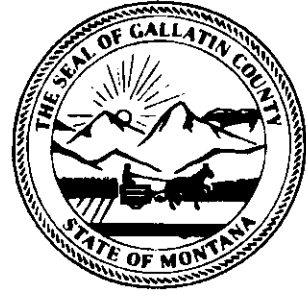
Please publish: November 27, 2002

Please Bill: Clerk & Recorder

State of Montana

*County of Gallatin*

Bozeman



November 19, 2002

Board of County Commissioners  
Gallatin County Courthouse  
Bozeman, MT 59715

RE: abandonment of Newman Lane within Minor Subdivision #176

Dear Board,

The undersigned viewed the area described in Road Petition No. 812 on November 15, 2002. Gallatin County Road Superintendent Lee Provance accompanied the viewing committee as a consultant.

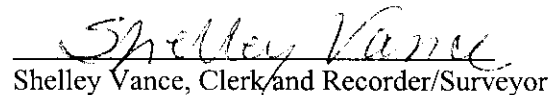
According to 7-14-2603 M.C.A., the Board of County Commissioners shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of the petition. The investigation shall be sufficient to properly determine the merits or demerits of the petition.

Newman Lane is the primary access to lots within Minor Subdivision #176. The road has been constructed. If the abandonment were granted there would be no access to any of the lots shown on Minor Subdivision #176. All lots would be land-locked.

The viewing committee does not believe it is feasible or desirable to grant the petition.

Respectfully submitted,

  
John Vincent, County Commissioner

  
Shelley Vance, Clerk and Recorder/Surveyor

**PUBLIC MEETING**

**TUESDAY THE 3rd DAY OF DECEMBER 2002**

The meeting was called to order by Chairman Bill Murdock at 9:05 A.M., at the City Commission Meeting Room. Also present were County Commissioner John Vincent, and Acting Clerk to the Board Mary Miller. Commissioner Mitchell was on vacation.

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Chairman Murdock requested everyone to stand for the Pledge of Allegiance. The following proceedings were had to wit:

**NOVEMBER 25, 2002**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Grants Administrator Larry Watson, Chairman Lonny Walker – Four Corners Advisory Council, Commission Secretary Rose Murrish, and Commission Assistant Glenda Howze. The Commissioners discussed personnel needed for the West Yellowstone Solid Waste Refuse District. Mr. Watson explained that they need individuals for management operations. The Board prefers to use the County payroll system and have benefits provided through the County. Mr. Watson requested utilization of HR Director Randy Kuyath in defining the positions for the basis of the RFP, and the Board will be required to hire their staff through the County processes. The Commission agreed to this plan.

The Commissioners considered approval of a request from the Strategic Planning Recruit and Retain Team for health club membership fee supplementation. The funding of this would come from the health insurance pool, not taxpayer monies. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a request for asset disposal from the County Attorney's Office. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered a request from ITS to raise the pay of Anita Malmquist, as she has exceeded that of her initial job posting and is deserving of additional compensation. Commissioner Vincent made a motion to approve said request. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered amending the Maxim Web contract. The amendment is for an additional \$5,000 into the FY 03 budget for web-based surveys. Commissioner Vincent made a motion to approve the amendment to the Maxim Web contract. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

**NOVEMBER 26, 2002**

- The Commissioners conducted regular County business.

**NOVEMBER 27, 2002**

- The Commissioners attended a regularly scheduled office meeting. In attendance were Commissioners Murdock and Vincent, Commission Secretary Rose Murrish and Commission Assistant Glenda Howze. The Commissioners considered approval of a request for a transfer of fund balance for the Health Department. Commissioner Vincent made a motion to approve said request, per the recommendation of Finance Officer Ed Blackman. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a credit card application for the Planning Office. Commissioner Vincent made a motion to approve said request, per the recommendation of Mr. Blackman and Auditor Joyce Schmidt. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners considered approval of a Logan Landfill Intercap Loan Agreement for FY 03. Commissioner Vincent made a motion to approve said agreement, finding that Mr. Blackman and Chief Deputy County Attorney Chris Gray have recommended approval. Commissioner Murdock seconded the motion. All voted aye. Motion carried with a vote of two to zero.

The Commissioners continued consideration of a request for funding from Sheriff Cashell regarding the jail-overcrowding situation. The discussion surrounded the memo sent to the Commission by the Sheriff, dated November 20, 2002. Commissioner Vincent made a motion to approve/sanction requests two, three, and four as noted in the memo (see minutes of November 21 for details).

Commissioner Murdock seconded the motion. In discussion it was noted that the first request would be discussed at an appropriate time at a public meeting. All voted aye. Motion carried with a vote of two to zero.

### **NOVEMBER 28-29, 2002**

- The Commissioners conducted regular County business.

#### **The following items were on the consent agenda:**

1. Claims were presented for approval by the Auditor dated November 27, 2002, in the amount of \$635,841.77.
2. Approval of Contract(s): Modification to Impound Agreement, Contract #2002-095; and Architectural Services-Taylor, Hanson, Kane Architects – Martel Bldg. Renov.
3. Request for a “Mortgage Survey” Exemption for JKC Land Partnership, located in the SW ¼ of Section 21, T2N, R4E. (7447 Round Mountain Road, Belgrade, MT). Gallatin County Planner Christopher Scott reported the exemption appears to meet the criteria allowed under the Montana Subdivision and Platting Act.

Commissioner Vincent read the consent agenda. There was no public comment. **Commissioner Vincent moved adoption of the consent agenda. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

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Commissioner Murdock announced that a request was made to move regular agenda Item #10, the public hearing to consider abandonment of a portion of a 60' Frontage Road in the Peakview Subdivision, closer to the beginning of the agenda because of a scheduling conflict. The Commission was in agreement to the change, making it Item #4.

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The Commission agreed to continue presentation of the proclamation declaring December 2002 as Drunk and Drugged Driving (#D) Prevention Month in Gallatin County, until later on in the agenda when a member of the DUI Task Force was in attendance. **No action taken.**

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Commissioner Vincent on behalf of Gallatin County Fiscal Officer Ed Blackman reported on the public hearing and a resolution amending the Sheriff-Detention Center Activity FY 2003 operating budget to include unanticipated expenses associated with increase in per meal costs by the County Rest Home in the amount of \$14,800.00. There was no public comment. **Commissioner Vincent moved to approve Resolution #2002-124. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

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Commissioner Vincent on behalf of Gallatin County Fiscal Officer Ed Blackman reported on the consideration of a resolution of intent to amend the Search and Rescue Fund FY 2003 operating budget to include utilization of operating reserves and correction of cash from FY ending 06/30/01 in the amount of \$31,600.00 for the operations of Search and Rescue including capital expenses. There was no public comment. **Commissioner Vincent moved to approve Resolution of Intent #2002-125. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of approximately 200' of a 60' Frontage Road adjacent to Lot 8, Block 1 in Peakview Subdivision #2. (Road Petition #809) Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #809 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The road has been constructed. There is limited access onto Gallatin Road and the frontage road is used as an internal loop system for access to lots within this subdivision. The frontage road has been

blocked off with large posts lying on the ground on the north end of the lot, with no trespassing signs. The intersection of the frontage road and Wheeler Mountain Way has been removed. A large sign (Antique Barn), paved parking lot, and approximately five feet of the west side of a commercial building have been constructed on the portion of frontage road to be abandoned. Although no one would be land-locked if the abandonment were granted citizens would be denied access to public lands. Therefore, in the best interest of the public's access and safety, the viewing committee believes that it is not desirable to grant the petition. Petitioner Ken Shepard submitted Exhibit "A", a copy of the plat in the area of the proposed abandonment, showing additional accesses onto Gallatin Road. Mr. Shepard explained the processes he followed in order to submit the petition and pointed out that there were additional accesses. Mr. Provance confirmed that the encroachments drawn in on Exhibit "A" were in place. He noted that the road was created to service the subdivision from Garnet Mountain Way to Wheeler Mountain Way so traffic would not have to go onto the highway in order to access the other portion of the subdivision. Because there were already obstructions in the roadway, Commissioner Vincent questioned whether the public safety and well being was unduly compromised or whether the other accesses to the road were adequate to protect the public safety and convenience. Mr. Provance suggested the Commission obtain comment from EMS services such as Gallatin Fire and the Sheriff with regard to health and safety issues. Before making a final decision, Commissioner Vincent preferred a continuance in order to consult with the Gallatin Gateway Volunteer Fire Department with regard to any concerns relative to fire services. Public comment was closed. In response to questions concerning the plat, Ms. Vance noted when the plat was recorded a certificate of dedication from the landowners was included, stating that the tract of land should be known and dedicated as Peakview Subdivision #2 and all land included in the streets of the subdivision are hereby granted and donated to the use of the public forever. Commissioner Murdock explained in some of the older subdivisions it was common practice to have that dedication on the plat however the county did not require the roads to be built and improved. Mr. Shepard was in agreement to a continuance until December 17, 2002. **No action taken.**

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Gallatin County Clerk and Recorder Shelley Vance reported on withdrawal of a petition to abandon a 20' unnamed road fronting Lots 218, 219, and 220, approximately 298.4' in length, running in a N-S direction commencing at the northwest end of Milwaukee Avenue and terminating at a dead end at the northwest corner of the Rainbow Subdivision of Bozeman Hot Springs in the N ½ and SE ¼ of Section 14, T2S, R4E. (Road Petition #804) Ms. Vance explained that this road petition, filed by Morrison-Maierle Inc., was a duplicate, to Road Petition #810 filed by Randy Cain. She read into the record a letter received from Morrison-Maierle dated November 22, 2002, withdrawing their petition in favor of Mr. Cain's petition, with the understanding that the Gallatin County road-viewing committee believes that it is feasible and desirable to grant Road Petition #810, filed by Mr. Cain. Deputy County Attorney Kate Dinwiddie confirmed that the petitioners could withdraw their petition from consideration. Following further discussion, the Commission agreed to continue their decision until after consideration of Road Petition #810. There was no public comment. **No action taken.**

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\* Commissioner Murdock announced that he received notification to continue regular agenda Item #12, public hearing to consider abandonment of Newman Lane within Minor Subdivision #176. (Road Petition #812) Gallatin County Clerk and Recorder Shelley Vance explained that it was not to be continued however there was a request submitted for withdrawal. It was determined by the Commission to consider regular agenda Item #12 at this time. Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance read into the record a letter received from Ray and Shirly White dated December 2, 2002, requesting that their request be withdrawn from consideration. The viewing committee report was not entered into the record. Deputy County Attorney Kate Dinwiddie confirmed that the petitioners could withdraw their petition from consideration however the Commission had the discretion to consider the request since she did not believe there was enough information to decide if all those signing the petition concurred with the withdrawal. Ray White stated that their intent was to convert it from a public right-of-way to private, and after receiving the viewing committee report they made the decision to withdraw their request. He noted that the law did not address changing a public right-of-way to private. They had no intention of abandoning the road and land locking the 5 lot minor subdivision. He explained that he and his wife were 100 percent of the properties affected and 8 of the petition signers were his immediate family. **The Commission agreed to grant the applicant's request to withdraw their petition.**

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of Milwaukee Avenue and Indigo Road located south and west of Lot 220 and west of Lots 218 and 219 in Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #810). Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Randy Cain submitted the petition. Ms. Vance and Commissioner Vincent viewed the described road in petition #810 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: Milwaukee Avenue has been constructed and ends approximately at the southeast corner of Lot 213. The portions of roads to be abandoned have not been constructed. There are several mature trees located on the portion of road adjacent to Lots 218 and 219. Leelynn Corp. currently owns lots 218 and 219. According to the petition submitted these lots would have access from the North Star Subdivision, which received preliminary plat approval from the Gallatin County Commission on January 22, 2002. No one would be land locked provided the final plat is approved for North Star Subdivision. No one would be denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition provided final plat approval is granted for North Star Subdivision. Public comment: Michael Kvasnick was concerned he would not have access from his property if the North Star Subdivision was not granted final plat. He was not against the closure as long as everyone's needs in the area were met for the future. Tony Kolnik was concerned that traffic from the North Star Subdivision, a light industrial commercial development, would be allowed access through all the small ten-acre lots in the area. As a member of the Advisory Council, Mr. Kolnik requested a continuance so they could review this and gather input from the neighborhood. Clinton Cain stated that he constructed Milwaukee Road and spoke in support of the abandonment. Public comment was closed. Mr. Provance expressed the importance of considering public safety when abandoning a road that is serving property before having a replacement road approved first. He suggested that the Commission continue their decision on these road abandonment's until after final plat was granted to the North Star Subdivision. The Commission agreed to continue action on the abandonment until December 17, 2002, giving them time to review the North Star Subdivision preliminary plat and the conditions of approval to make sure they were addressing all the concerns. **No action taken.**

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of Azure Street located between Lots 188-194 and Lots 199-205 in the Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #805) Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #805 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The portion of road to be abandoned has not been constructed. There are two old buildings, brush, and some trees located near the platted road. Lot 198 has access from Milwaukee Avenue. Leelynn Corp. owns Lots 188-194 and 199-205. According to the petition submitted these lots would have access from the North Star Subdivision, which received preliminary plat approval from the Gallatin County Commission on January 22, 2002. No one would be land locked provided the final plat is approved for North Star Subdivision. No one would be denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition provided final plat is granted for North Star Subdivision. Deputy County Attorney Kate Dinwiddie noted that there was no statutory timeframe for the Commission to make a decision therefore they could continued action based on whether or not North Star is granted final approval. Public comment: Clinton Cain pointed out a natural gas pipeline and a power line that runs along Azure Road and questioned how the Northwestern Energy right-of-way might conflict in order for them to legally service the line. Marty Gagnon, with Morrison-Maierle on behalf of PC Development stated that they were working with Northwestern Energy on providing easements for the gas line and the power line on the final plat. Mr. Gagnon also stated that PC Development had no problem with the Commission continuing their decision on the road abandonments until final plat approval is granted for North Star. He added that an easement document has been prepared for the Milwaukee Railroad right-of-way, which has not been signed by the owner Dennis Simpson. Public comment: Sam Harvey, on behalf of the Gallatin Valley Snowmobile Association stated that they had no concern with the road abandonments however their concern was an appropriate access for their large equipment. Mike Kvasnick commented regarding his concern with access and the Milwaukee Railroad easement. Lonny Walker quoted from State Statute regarding public utilities, noting that abandonment would not affect the utilities right to maintain their structures. Tony Kolnik stated that he had contacted Northwestern Energy and requested that they attend a meeting with the Advisory



Council. The Commission agreed to continue action on the abandonment until December 17, 2002, giving them time to review the North Star Subdivision preliminary plat and the conditions of approval to make sure they were addressing all the concerns. **No action taken.**

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of Central Street located between Lots 183, 184, 185, and 186 in the Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #806) Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #806 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The portion of road to be abandoned has not been constructed. There are large cottonwood and aspen trees and a small stream located on or near the platted road. Lots 183 and 187 have access from Milwaukee Avenue. (Ms. Vance noted an error on the viewing committee report stating Lots 182 and 187). Leelynn Corp. currently owns lots 183-186. According to the petition submitted these lots would have access from the North Star Subdivision, which received preliminary plat approval from the Gallatin County Commission on January 22, 2002. No one would be land locked provided the final plat is approved for North Star Subdivision. No one would be denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition provided final plat approval is granted for North Star Subdivision. Public comment: Tony Kolnik was concerned with the public safety factor of getting out on Norris Road to the highway. He also noted concerns of some neighbors with filed water rights issues who have used the Barker Ditch near Central Street to convey West Gallatin water. Teri Kolnik stated that she would like to see Central Avenue built and used as a major access to the Rainbow Subdivision. Sam Harvey, on behalf of the Gallatin Valley Snowmobile Association had no objection to the abandonment however they requested more information on future access through the North Star Subdivision. Stuart Aasgaard had no objection to the abandonment however future planning was relevant. He did not support extension of the road because he did not want the traffic near his property. Marty Gagnon with Morrison-Maierle on behalf of PC Development commented that a buffer zone is shown on the plat around Mr. Aasgaard's lot. He also noted that the Barker Ditch does not run down the right-of-way that is proposed to be abandoned. Mr. Gagnon agreed to provide a copy of the plat for the Commission as requested. Mike Kvasnick commented on the North Star plat. Public comment was closed. The Commission agreed to continue action on the abandonment until December 17, 2002, giving them time to review the North Star Subdivision preliminary plat and the conditions of approval to make sure they were addressing all the concerns. **No action taken.**

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of Magenta Road located between Lots 206-209 and Lots 214-217 in the Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #807) Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #807 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The portion of road to be abandoned has not been constructed. Power polls are located on or near the platted road. Lot 213 has access from Milwaukee Avenue. Leelynn Corp. currently owns lots 206-212 and 214-217. According to the petition submitted these lots would have access from the North Star Subdivision, which received preliminary plat approval from the Gallatin County Commission on January 22, 2002. No one would be land locked provided the final plat is approved for North Star Subdivision. No one would be denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition provided final plat approval is granted for North Star Subdivision. Public comment: Tony Kolnik submitted Exhibit "A", a letter from himself and his wife to the Commission, attached to a copy of the North Star Project preliminary plat application. He pointed out what he believed were inaccuracies on the application with regard to who owns the property in question. He spoke regarding concerns with the utilities and public safety. Clinton Cain spoke in support of the road abandonment. He also would like to see access from Rainbow Subdivision to Norris Road. Public comment was closed. The Commission agreed to continue action on the abandonment until December 17, 2002, giving them time to review the North Star Subdivision preliminary plat and the conditions of approval to make sure they were addressing all the concerns. **No action taken.**

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a portion of an alley located between Lots 1-3 and 67-69 in Rainbow Subdivision of Bozeman Hot Springs. (Road Petition #808) Lonny Walker submitted the petition. Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #808 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as follows: The petition submitted did not list all lands and owners immediately adjacent to the road, nor did the petition identify any adjacent landowners who do not consent to the proposed abandonment. Lonny Walker currently owns Lots 1-3 and 67-69. Eric and Christine Berger currently own Lots 4-6. Mary Askvig and West Roberts currently own Lots 65 and 66. The Commission received two letters stating opposition to the abandonment of this alley. (Letter dated July 31, 2002 from Mary L. Askvig and letter dated July 29, 2002 from West Roberts). Montana Code Annotated 7-14-2615 (4) states: "The board may not abandon a county road or right-of-way used to access private land if the access benefits two or more landowners unless all of the landowners agree to the abandonment." The portion of alley to be abandoned has been constructed. Two 6-inch posts have been placed in the alley between the property lines of Lots 3/67 and Lots 4/66. Another roadway is constructed from the alley onto Highway 191 on land between the Walker property and Berger property that is approximately 10 feet in width. It is unknown whether or not this access has been permitted by the State Department of Transportation, and there is no guarantee that this access will remain in the future. According to County Road Superintendent Lee Provance, access from the State Department of Transportation could be limited onto Highway 191 due to safety issues. No one would be denied access to public lands if the abandonment were granted. The viewing committee does not believe it is feasible, desirable, or lawful to grant the petition. Lonny Walker briefly summarized the history of the alley, noting portions of the alley that have already been abandoned. Mr. Walker provided the Commission with several documents, exhibits from the previous alley abandonments, and copies of the law, which were not submitted as exhibits. He did not realize that he had to notify those whose property did not abut the portion of alley to be abandoned. In response to 7-14-2615(4) MCA, he contends the other landowners agreed to the abandonment because they had abandoned the alley adjacent to their property. He stated that Mr. Roberts put in the fence posts to construct his fence. Mr. Walker provided documentation (Bargain and Sale Deed - 77fm2147) where the Department of Highways in 1983 purchased future rights-of-way along Highway 191, reserving ingress and egress to the access he shares with Mr. Berger. Public comment: Tony Kolnik commented with regard to public safety noting that they will need access for the Berger's to bring in water and sewer. Eric Berger stated if the access onto Highway 191 and this alley were to cease, he would be land locked. Mike Kvasnick commented to the previous alley abandonments. Public comment was closed. Commissioner Murdock did not view this request in the same context as the rest of the abandonments. He did not believe this alley was part of a larger transportation network in the area. He stated that it was a fair request and he could not see where it would not be in the public's interest to abandon it. Mr. Provance commented on the potential of the access being cut off onto Highway 191, noting that the easement is not perpetual. He believed the prior abandonment's should not set precedence. Deputy County Attorney Kate Dinwiddie noted provision (7-14-2615(4)) of the law that Mr. Walker quoted was amended in 1999, and the previous abandonment's occurred in 1991. She added that the issue of notification of property owners and what is an access are under advisement in the Cimmaron Road abandonment case with Judge Guenther. Based on the law, Ms. Dinwiddie stated that the statute requires the Commission not grant this petition because of the two or more private landowners that have objected. She believed the decision by Judge Guenther would provide more of a guideline to evaluate these road abandonments. Given Ms. Dinwiddie's legal input, Commissioner Vincent believed it would be wise to wait until they got the summary judgment from Judge Guenther. He had concerns with what the state will do with Highway 191, because of the growth in this area. The Commission agreed to continue action until December 17, 2002. Ms. Dinwiddie stated that she would not be available however she would provide a written report. **No action taken.**

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Gallatin County Clerk and Recorder Shelley Vance reported on the public hearing to consider abandonment of a 60' road south of Lot 13 in the Sourdough Hills Subdivision. (Road Petition #811) Dave Garber submitted the petition. Notice of this public hearing was published in the High Country Independent Press on November 27, 2002, and in addition notice of this public hearing and a copy of the viewing committee report was mailed to all those listed in the petition on November 21, 2002. Ms. Vance and Commissioner Vincent viewed the described road in petition #811 on November 15, 2002, with Gallatin County Road and Bridge Superintendent Lee Provance as a consultant. Ms. Vance outlined the viewing committee report as

follows: Sourdough Hills' subdivision plat indicates that lots are accessible by the road right-of-ways surrounding the tracts. The right-of-ways shown on the plat to the north, east, and south have not been constructed. The tracts are located on a hillside and a steep gully runs on the east side of Tracts 8 through 10. The contour of the land makes it impractical and cost prohibitive to construct roads that meet county standards within the existing right-of-ways shown on the plat. No one would be land locked nor denied access to public lands if the abandonment were granted. The viewing committee believes that it is feasible and desirable to grant the petition. Dave Garber stated that he had to put a deed restriction on his property to get a land use permit because of the position of the right-of-way. His main reason for petitioning for the abandonment was to get the deed restriction off the property as well as allow more room through the hilly area. He stated that the neighbors were in favor of the request. There was no public comment. Commissioner Vincent stated that he would vote to approve this request, noting the primary reason was the impracticality of constructing the road from Sourdough to the east, and the improbability of building a road from north to south on the backside. **Given the topographical considerations in this application, Commissioner Vincent moved to approve the road abandonment of 60' of road south of Lot 13 in Sourdough Hills Subdivision. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

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The Commission agreed to consider regular agenda Item #16 next.

Gallatin County GIS Coordinator Allan Armstrong reported on the public hearing and consideration of a resolution of a road name change in Gallatin County. (Non-existing name to Claim Creek Road). This was a resident initiated petition. There was no public comment. **Commissioner Vincent moved to approve Resolution #2002-126. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

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Gallatin County Planner Sean O'Callaghan reported on the public hearing and consideration of approval for C & H Engineering and Surveying, Inc., on behalf of Homelands Development Co. LLC on an extension of preliminary plat approval of the Ramshorn View Estates Major Subdivision, Phases 3 & 4, located in Section 8, T7S, R4E, P.M.M., Gallatin County, Montana. Preliminary plat was granted on May 5, 1998, with an expiration date of May 5, 2001. The preliminary plat of Phases 3 & 4 of the Ramshorn View Estates Subdivision was granted a one-year extension on April 10, 2001, extending the plat's expiration date to May 2, 2002. If approved by the Commission, the preliminary plat of Phase 3 & 4 would expire May 5, 2003. Attorney Susan Swimley, representing Homelands Development Co. LLC stated the reason for the extension was to complete the sewer system. Mark Chandler, on behalf of C & H Engineering was available to answer questions. There was no public comment. **Commissioner Vincent moved to approve the request for a one-year extension for preliminary plat for the Ramshorn View Estates Major Subdivision Phases 3 and 4. Seconded by Commissioner Murdock. None voting nay. Motion carried.**

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Gallatin County Planner Christopher Scott reported on the continuation of a request for a common boundary relocation exemption for Kenneth Vidar and Thomas Langel, located in the NW ¼ NE ¼ of Section 22, T2N, R3E. (Deerhaven Road, Gallatin River Ranch). Mr. Scott briefly stated the claimant's justification for the boundary relocation was to better utilize existing roads and to enhance the property. Although this claim appeared to meet the criteria for the exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act (76-3-201 through 76-3-210 MCA), the Planning Department noted some history, which made it unclear that it meets the criteria for the exemption. Mr. Scott summarized a timeline of events where the claimants were involved in other boundary relocations in this area, some of which were denied. The hearing on October 29, 2002, was continued and the Commission requested that the applicant better state their justification for the boundary relocation, as the applicant's representative could not answer some of their questions. The applicant Kenneth Vidar was sworn in and testified under oath, answering questions by the Commission to assist with their determination as to whether the exemption should be approved as an appropriate claim or denied as an attempt to evade subdivision review. He explained that they were not creating any additional parcels or gaining an additional building site. Because of the topography in the area, he stated the only thing they would be gaining would be aesthetics by not having to bring a road up to the ridgeline. There was no public comment. Commissioner Murdock reiterated that Gallatin River Ranch should have under gone subdivision review and gotten some of the public health, safety and welfare concerns met, and in this case a much better configuration for lots and roads. Mr. Vidar commented that this was submitted for subdivision

review with 52 less lots, and the Commission at that time was primarily against it. Commissioner Murdock did not believe any more boundary relocations should be approved and suggested the applicant go through a common unified scheme and work something out. Commissioner Vincent was unclear, and preferred to postpone action until after looking into Commissioner Murdock's concern relative to the process as well as review 76-3-201 through 76-3-210 MCA, in order to conclude if it is unclear. It was agreed that the Commission would continue their decision until January 2, 2003, in order to accommodate everyone's schedule. **No action taken.**

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Gallatin County Planner Christopher Scott reported on the request for a common boundary relocation exemption for Kenneth Vidar and Thomas Langel (Meken Corp. & Hill Country, Inc. dba Gallatin River Ranch) and Thomas C. and Sharon D. Andrews, located in the SE ¼, NW ¼ of Section 22, T2N, R3E. (High Meadow Road, Gallatin River Ranch). Mr. Scott explained the claimant's justification for the boundary relocation was to convey enough acreage to the Andrew's, the owners of Tract 40, making the parcel 20 acres, so they can receive a property tax reduction. It was the Andrew's understanding when they purchased the property that it was a 20-acre parcel, and upon further investigation it was found to be less than 20 acres. The Andrew's intend to retain Tract 40A as open space and Tract 40 as their residence. They were only moving the lot line and not changing the orientation of the line. He added that because of the topography, Lot 40A was not a build able tract. Based on review and past history in this area, Mr. Scott stated that this claim did not appear to meet the criteria for the exemption to subdivision regulations allowed under the Montana Subdivision and Platting Act. (76-3-201 through 76-3-210 MCA). Upon further staff investigation the following options were suggested for Mr. Andrews to receive a tax deduction: Request from the Montana Department of Revenue a classification of agricultural property, for properties under 20 acres; or purchase the adjacent lot. Thomas Andrews submitted a picture of his property. Mr. Andrews reiterated his reason for the request, adding that it would be very hard to him to do either of the staffs suggested options. He stated that he purchased the property thinking the property was 20 acres. Commissioner Vincent suggested that Commissioner Mitchell should see the picture since she requested it before they made a decision. Even though it was only 4 feet, he was concerned with setting a precedent and he wanted to review the statute. Public comment: Kenneth Vidar commented that it seemed he was being penalized because this was being counted as an exemption he was applying for. He stated that nothing would change at the ranch and they were only doing it because the Andrew's requested it. He explained the definition, of legal land twentys which were created when they did the aliquant parts, noting that the Assessor has a different way to calculate and determine what is or isn't a 20-acre parcel. Commissioner Murdock asked if Mr. Vidar could guarantee there would never be another exemption request by a land buyer for similar reasons. Mr. Vidar replied that it would never happen again although he believed it was to bad that he would have to say no. Further discussion took place with regards to the acreage being on the certificate of surveys and prior to that when it was not required. Commissioner Vincent agreed that this should have gone through subdivision review however in fairness he wanted to learn more about how this was marketed and exact measurements of the acreage. Gallatin County Clerk and Recorder Shelley Vance stated that she would like to verify this however based on her memory this area was created in 20 acre deeds, prior to 1993 before the subdivision law changed. She read into the record how the legal description was written on the Andrew's deed and stated that the acreage was on the certificate of survey. It was agreed that the Commission would continue their decision until January 2, 2003, in order to research some issues. **No action taken.**

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The Commission agreed to continue the proclamation declaring December 2002 as Drunk and Drugged Driving (#D) Prevention Month in Gallatin County until December 10, 2002, when a member of the DUI Task Force was in attendance. **No action taken.**

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There were no pending resolutions. There being no further business the meeting was adjourned at 12:45 P.M.

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CHAIRMAN APPROVAL

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CLERK ATTEST



Public Land Access Association  
& Bill Fairhurst  
105 3rd Ave East  
Three Forks, MT 59752

Bozeman Postmaster  
5711 Baxter Lane East  
Bozeman, MT 59719

Ramon & Shrily White  
4224 Blackwood Road  
Bozeman, MT 59718

Cook-Lehrkind  
Gene & Marlys & Sarah Cook  
7675 River Road  
Bozeman, MT 59718

Jack M. White  
Joan White Family Trust  
6995 Gooch Hill Road  
Bozeman, MT 59718

Denise Pugh  
375 Comfort Lane  
Bozeman, MT 59718

Doris Linse  
1202 Ridge Drive  
Laurel, MT 59044

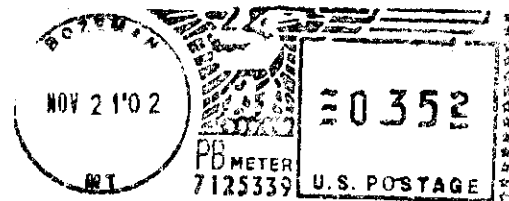
Deborah Sjostrom  
1335 Ranch view  
Helena, MT 59602

Diane White  
827 11th Ave  
Helena, MT 59601

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**% Bill Fairhurst**  
**105 3rd Ave East**  
**Three Forks, MT 59752**

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Street, Apt. No., or PO Box No.  
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**Deborah Sjostrom**  
Street, Apt. No., or PO Box No.  
**1335 Ranch View**  
**Helena, MT 59602**

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**Doris Linse**  
Street, Apt. No., or PO Box No.  
**1202 Ridge Drive**  
**Laurel, MT 59044**

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**1202 Ridge Drive**  
**Laurel, MT 59044**

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**CERTIFIED MAIL**

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Total Postage & Fees	\$	

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Denise Pugh  
Street, Apt. No., or PO Box No.  
375 Comfort Lane  
City, State, ZIP+4<sup>®</sup>  
Bozeman, MT 59718

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Jack M. White & Joan White Family Trust  
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6995 Gooch Hill Road  
City, State, ZIP+4<sup>®</sup>  
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Joan White Family Trust  
6995 Gooch Hill Road  
Bozeman, MT 59718

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 Registered  Return Receipt for M  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF RETURN ADDRESS. FOLD AT DOTTED LINE. **CERTIFIED MAIL**



7000 0520 0014 2179 7768  
7000 0520 0014 2179 7768

**U.S. Postal Service CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Recipient's Name (Please Print Clearly) (To be completed by mailer)  
Cook-Lehrkind, Gene, Marlys, Sarah Cook  
Street, Apt. No., or PO Box No.  
7675 River Road  
City, State, ZIP+4<sup>®</sup>  
Bozeman, MT 59718

PS Form 3800, February 2000 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
Cook-Lehrkind  
Gene & Marlys & Sarah Cook  
7675 River Road  
Bozeman, MT 59718

2. Article Number (Transfer from service label) 7000 0520 0014 2179 7768

PS Form 3811, August 2001 Domestic Return Receipt

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  X

B. Received by (Printed Name) C. Date

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for M  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF RETURN ADDRESS. FOLD AT DOTTED LINE. **CERTIFIED MAIL**



7000 0520 0014 2179 7751  
7000 0520 0014 2179 7751

**U.S. Postal Service CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Recipient's Name (Please Print Clearly) (To be completed by mailer)  
Ramon & Shirly White  
Street, Apt. No., or PO Box No.  
4224 Blackwood Road  
City, State, ZIP+4<sup>®</sup>  
Bozeman, MT 59718

PS Form 3800, February 2000 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
Ramon & Shirly White  
4224 Blackwood Road  
Bozeman, MT 59718

2. Article Number (Transfer from service label) 7000 0520 0014 2179 7751

PS Form 3811, August 2001 Domestic Return Receipt

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  X

B. Received by (Printed Name) C. Date

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for M  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)