

## CHECKLIST OF PROCEDURES FOR ROAD ABANDONMENT PETITIONS

Original signed petition must be submitted to the Clerk and Recorder along with a map showing the entire area of the road under consideration and property within a 1 mile radius (please refer to County GIS if a map is needed). Stamp the date received on the petition. Get name and phone number of contact person for questions.

NAME Jim McMillin PHONE 581-3599  
581-4297 ( Vicki )

- ☒ 1) Determine if petition has sufficient information for processing. (Copy to County Attorney.) It should address all the pertinent information listed in:
  - ☒ a) The form of the petition
  - ☒ b) Section 7-14-2602
  - ☒ c) Identify owners abutting the road to be abandoned (7-14-2604)
  - ☒ d) Owners of private land to which the road gives access (7-14-2615(4))
- ☒ 2) Determine if there are sufficient qualified signatures as per 7-14-2601.
- ☒ 3) Complete "Report of Qualified Signatures".
- ☒ 4) Schedule the first hearing on the petition on Commissioner's agenda. DATE: 7/11/17
  - ☒ a) Prepare draft resolution appointing viewing committee and assigning Petition # 845
  - ☐ b) Forward copy to county attorney for review
- ☒ 5) Make copies of petition and Report of Qualified Signers. Forward to:
  - ☐ 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 at first hearing via resolution.
- ☒ 7) Viewing committee (7-14-2603) completes road report and report is received. DATE: 1/22/18
- ☒ 8) County Attorney and other county staff identify owners abutting the road to be abandoned and owners of private land to which the road gives access
- ☒ 9) Schedule public hearing on Commissioner's agenda and prepare notices. DATE 11/27/18
- ☒ 10) a) Type regular mail envelopes for:
  - ☒ 1) All landowners named on the petition
  - ☒ 2) All signers on the petition
  - ☒ 3) All landowners determined by viewing committee and county staff abutting the road to be abandoned and landowners of private land to which the road gives access.
  - ☐ 4) The postmaster of the areab) Type and prepare certified mail envelopes for:
  - ☐ 1) All landowners abutting the road to be abandoned and landowners of private land to which the road gives access.
  - ☐ 2) The postmaster of the area
- ☒ 11) Mail a copy of the public hearing notice and viewers report to the people listed in 10) a) above.
- ☒ 12) Publish public hearing legal notice two times in Chronicle for a county road (7-1-2121) and if necessary in another newspaper. DATES 11/4 11/18
- ☒ 13) Post notice in ~~4~~ public places 30 days prior to hearing and prepare affidavit of posting. At least 2 of the postings should be on or near the portion of road to be abandoned on yellow notice signs.
- ☒ 14) Post a copy of the viewing committee report and public hearing notice to the following online and with County Commission staff.
- ☒ 15) Prepare draft resolution for Commissioners to consider at next public hearing. Email to County Attorney for review.
- ☒ 16) Commissioners hold public hearing to grant or deny petition and pass resolution if granted.
- ☒ 17) Within 10 days of passage of resolution send copies of resolution to all persons listed in #10b (BY CERTIFIED MAIL) and forward certified copy to County Road Superintendent (per 7-14-2613).
- ☒ 18) Type affidavits of mailing and posting for the notice, and the final board decision.
- ☐ 19) If the petition is granted, a certified copy of the resolution must be recorded.
- ☐ 20) Scan petition file and file away in basement drawer for road petitions.

RECEIVED

JUN 09 2017

PETITION TO ABANDON COUNTY ROAD

Clerk & Recorder  
Gallatin County, Mont.

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

COME NOW the undersigned freeholders of the road district consisting of Gallatin County, Montana, in its entirety and petition this Board pursuant to Title 7, Chapter 14, Part 26 MCA, to abandon a county road or right-of-way ("road") located in Gallatin County, Montana and represent as follows:

1. The road or portion of the road to be abandoned:

Cactus Road North/South Section

2. The general route of the road or portion of road to be abandoned is described as follows (please include a map(s) that shows the location of the road or portion of the road to be abandoned and shows all property within a 1 mile radius):

Maps Attached

3. The lands and owners affected by the abandonment (include names and addresses of property owners which abut the road or portion of the road to be abandoned or owners of private land to which the road gives access): (do not sign in this section)

**LANDOWNER(S) (please print)**

**MAILING ADDRESS**

1. James H + Vickie S McMullen

3950 Dry Creek Rd  
Belgrade, MT 59714

Legal Description of Property

S19 T01 N R05 E Acres 109.66 Lot 1 + E2 NW4 HW

2. Ashwill Trust

17952 Sky Park CIR STE C  
Irvine, Ca 92614-4422

Legal Description of Property

S19 T01 N R05 E Acres 151 NE 4 less Cos 1491

3. \_\_\_\_\_

Legal Description of Property \_\_\_\_\_

4. \_\_\_\_\_

Legal Description of Property \_\_\_\_\_

5. \_\_\_\_\_

Legal Description of Property \_\_\_\_\_

**LANDOWNER(S) (please print)**

**MAILING ADDRESS**

6. \_\_\_\_\_  
\_\_\_\_\_

Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

7. \_\_\_\_\_  
\_\_\_\_\_

Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

8. \_\_\_\_\_  
\_\_\_\_\_

Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

9. \_\_\_\_\_  
\_\_\_\_\_

Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

10. \_\_\_\_\_  
\_\_\_\_\_

Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

11. \_\_\_\_\_  
\_\_\_\_\_

Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

12. \_\_\_\_\_  
\_\_\_\_\_

Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

13. \_\_\_\_\_  
\_\_\_\_\_

Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

14. \_\_\_\_\_  
\_\_\_\_\_

Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

15. \_\_\_\_\_

Legal Description of Property \_\_\_\_\_

4. Do all the landowners who abut the road to be abandoned or owners of private land to which the road gives access listed in Section 3 above consent to the abandonment? YES If no, list those landowners and their reasons for not consenting:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. If an abutting landowner listed in Section 3 cannot be found to determine the landowner's consent, identify the landowner and state the efforts made to locate the landowner:

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. The necessity for and advantage of the abandonment is as follows:

SEE ATTACHED  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Is the road providing access to public lands or waters? If yes, explain and provide location of public lands and waters on the attached map.

No  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Does the road or portion of the road contain any utilities?

YES - PHONE LINE NEXT TO EAST FENCE LINE FOR ASHWILL HOME  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

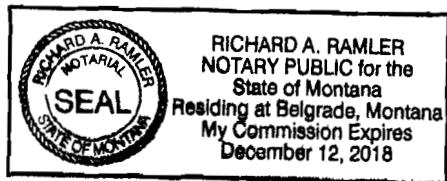
State of Montana  
County of Gallatin

I swear that the information contained herein is correct and complete to the best of my knowledge.

James H. McMillan  
(Signature of petition gatherer.)

Signed and sworn to (or affirmed) before me on June 7, 2017  
by James H. McMillan

(Seal, if any)



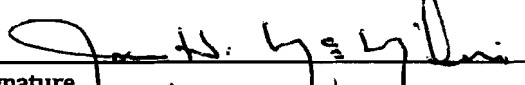
Richard Ramler  
Signature of notarial officer

Notary Public  
Name - typed, stamped, or printed

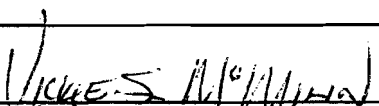
Belgrade, MT  
Title (and Rank)

Residing at  
My commission expires: 12/12/2018

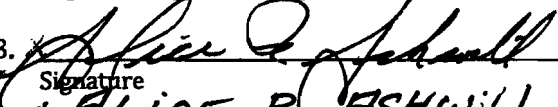
The undersigned state that they are freeholders in the Gallatin County Road District and petition to abandon the road set forth herein. If more than 10 freeholders sign, use additional pages.

1.  3950 DRY CREEK RD  
Signature Address  
JAMES H. McMILIN DEGRADE, MT 59714  
Printed Name City, State, Zip  
6/1/17  
Date

Legal Description of Property \_\_\_\_\_

2.  3950 DRY CREEK RD.  
Signature Address  
VICKIE S. McMILIN DEGRADE, MT 59714  
Printed Name City, State, Zip  
6/1/17  
Date

Legal Description of Property \_\_\_\_\_

3.  x 17932 x Haystack Circle ste C  
Signature Address  
x ALICE R. FISHWILL x Irvine, Ca 92614  
Printed Name City, State, Zip  
x 4-20-2017  
Date

Legal Description of Property \_\_\_\_\_

4. \_\_\_\_\_  
Signature Address  
\_\_\_\_\_  
Printed Name City, State, Zip  
\_\_\_\_\_  
Date

Legal Description of Property \_\_\_\_\_

5. \_\_\_\_\_  
Signature Address  
\_\_\_\_\_  
Printed Name City, State, Zip  
\_\_\_\_\_  
Date

Legal Description of Property \_\_\_\_\_

6. \_\_\_\_\_

The undersigned state that they are freeholders in the Gallatin County Road District and petition to abandon the road set forth herein. If more than 10 freeholders sign, use additional pages.

1. Orlynn J. Halladay 225 Cactus Road  
Signature ORLYNN J. HALLADAY Address Belgrade, MT 59714  
Printed Name April 29, 2017 City, State, Zip  
Date

Legal Description of Property S18, T01N, R05E, Acres 39.42, SE4SW4 Less TR

2. Bethel S. Halladay 225 CACTUS ROAD  
Signature BETHEL S. HALLADAY Address BELGRADE, MT 59714  
Printed Name 04-29-2017 City, State, Zip  
Date

Legal Description of Property S18, T01N, R05E, ACRES 39.42, SE4SW4 LESS TR

3. Timothy R. Halladay 225 Cactus Road  
Signature TIMOTHY R. HALLADAY Address Belgrade, MT 59714  
Printed Name 21 April 2017 City, State, Zip  
Date

Legal Description of Property S18, T01N, R05E, Acres 39.42, SE4SW4 Less TR

4. Michael Kreikemeier 1520 Hamilton Rd.  
Signature Michael Kreikemeier Address Belgrade MT. 59714  
Printed Name 5/6/2017 City, State, Zip  
Date

Legal Description of Property \_\_\_\_\_

5. Joy Kreikemeier 1520 Hamilton Rd  
Signature Joy Kreikemeier Address Belgrade, MT 59714  
Printed Name 5/20/2017 City, State, Zip  
Date

Legal Description of Property \_\_\_\_\_

6. \_\_\_\_\_

Signature

Address

Printed Name

City,State,Zip

Date

Legal Description of Property

7.

Signature

Address

Printed Name

City,State,Zip

Date

Legal Description of Property

8.

Signature

Address

Printed Name

City,State,Zip

Date

Legal Description of Property

9.

Signature

Address

Printed Name

City,State,Zip

Date

Legal Description of Property

10.

Signature

Address

Printed Name

City,State,Zip

Date

Legal Description of Property

11. Signature Scott W. Jones 4794 Thompson Rd.  
Printed Name CLARENCE, N.M.  
Date 4/29/17 City, State, Zip

Legal Description of Property LOTS 12, 13, 14, 15, 16 AND 17  
COS 620, SECTION 19, T01 N04E, R05E

12. Signature Karen E Jones 4794 Thompson Rd.  
Printed Name KAREN E JONES CLARENCE, N.M. 14031  
Date 4/29/17 City, State, Zip

Legal Description of Property LOTS 12, 13, 14, 15, 16 & 17  
COS 620, SECTION 19, T01 N04E, R05E

13. Signature Address  
Printed Name City, State, Zip  
Date

Legal Description of Property

14. Signature Address  
Printed Name City, State, Zip  
Date

Legal Description of Property

15. Signature Address  
Printed Name City, State, Zip  
Date

Legal Description of Property

The undersigned state that they are freeholders in the Gallatin County Road District and petition to abandon the road set forth herein. If more than 10 freeholders sign, use additional pages.

1. Mary Kay M. Milesnick 5805 Dry Creek Rd  
Signature Address  
Mary Kay Milesnick Belgrade, Mt. 59714  
Printed Name City, State, Zip  
May 7, 2017  
Date

Legal Description of Property Acres 106.2 TOLN, R04E Sec 12  
512 TOLN, R04E, C.O.S. 470 Parcel E

2. Tom O. Milesnick 5805 Dry Creek Rd.  
Signature Address  
Tom O. Milesnick Belgrade, Mt. 59714  
Printed Name City, State, Zip  
May 7, 2017  
Date

Legal Description of Property Acres 106.2 TOLN, R04E Sec 12  
512 TOLN, R04E, C.O.S. 470 Parcel E

3. \_\_\_\_\_  
Signature Address  
\_\_\_\_\_  
Printed Name City, State, Zip  
\_\_\_\_\_  
Date

Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

4. \_\_\_\_\_  
Signature Address  
\_\_\_\_\_  
Printed Name City, State, Zip  
\_\_\_\_\_  
Date

Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

5. \_\_\_\_\_  
Signature Address  
\_\_\_\_\_  
Printed Name City, State, Zip  
\_\_\_\_\_  
Date

Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

6. \_\_\_\_\_  
Signature Address  
\_\_\_\_\_  
Printed Name City, State, Zip  
\_\_\_\_\_  
Date

Signature	Address
Printed Name	City,State,Zip
Date	
Legal Description of Property	

7.

Signature	Address
Printed Name	City,State,Zip
Date	
Legal Description of Property	

8.

Signature	Address
Printed Name	City,State,Zip
Date	
Legal Description of Property	

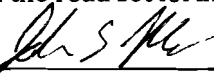
9.

Signature	Address
Printed Name	City,State,Zip
Date	
Legal Description of Property	

10.

Signature	Address
Printed Name	City,State,Zip
Date	
Legal Description of Property	

The undersigned state that they are freeholders in the Gallatin County Road District and petition to abandon the road set forth herein. If more than 10 freeholders sign, use additional pages.

✓ 1.   
Signature John S Milesnick Address 907 Paisley drive  
Printed Name 5/23/2017 City,State,Zip Belgrade MT 59714  
Date

Legal Description of Property FIELDSTONE SUB, S35, T11N, R04E  
BLOCK 2, LOT 6, ACRES 0.195, PLAT J-281

2. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City,State,Zip \_\_\_\_\_  
Date \_\_\_\_\_

Legal Description of Property \_\_\_\_\_

3. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City,State,Zip \_\_\_\_\_  
Date \_\_\_\_\_

Legal Description of Property \_\_\_\_\_

4. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City,State,Zip \_\_\_\_\_  
Date \_\_\_\_\_

Legal Description of Property \_\_\_\_\_

5. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City,State,Zip \_\_\_\_\_  
Date \_\_\_\_\_

Legal Description of Property \_\_\_\_\_

6. \_\_\_\_\_

Signature	Address
Printed Name	City,State,Zip
Date	
Legal Description of Property	

7.

Signature	Address
Printed Name	City,State,Zip
Date	
Legal Description of Property	

8.

Signature	Address
Printed Name	City,State,Zip
Date	
Legal Description of Property	

9.

Signature	Address
Printed Name	City,State,Zip
Date	
Legal Description of Property	

10.

Signature	Address
Printed Name	City,State,Zip
Date	
Legal Description of Property	

Signature

Address

Printed Name

City, State, Zip

Date

Legal Description of Property

7. Sue VanDelinder  
Signature  
Sue VanDelinder  
Printed Name  
April 24, 2017  
Date

275 Hamilton Road  
Address  
Belgrade, Mt. 59714  
City, State, Zip

Legal Description of Property S19 T01N R05E C0S 320 LOT 18 20.011 AC

8. Carol Van Delinder  
Signature  
Carol Van Delinder  
Printed Name  
April 24, 2017  
Date

275 Hamilton Rd.  
Address  
Belgrade, MT 59714  
City, State, Zip

Legal Description of Property S19 T01N R05E C0S 320 LOT 18 20.011 AC

9. Signature

Address

Printed Name

City, State, Zip

Date

Legal Description of Property

10. Signature

Address

Printed Name

City, State, Zip

Date

Legal Description of Property

The undersigned state that they are freeholders in the Gallatin County Road District and petition to abandon the road set forth herein. If more than 10 freeholders sign, use additional pages.

1. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City,State,Zip \_\_\_\_\_  
Date \_\_\_\_\_  
Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City,State,Zip \_\_\_\_\_  
Date \_\_\_\_\_  
Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

3. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City,State,Zip \_\_\_\_\_  
Date \_\_\_\_\_  
Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

4. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City,State,Zip \_\_\_\_\_  
Date \_\_\_\_\_  
Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

5. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City,State,Zip \_\_\_\_\_  
Date \_\_\_\_\_  
Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

6. \_\_\_\_\_

11.

Signature

Buddy Drake

Printed Name

5/13/17

Date

Address

1477 HAMILTON RD  
BELLGRADE, MT ~~59712~~

City,State,Zip

59714

Legal Description of Property

S19, T01N, R05E, C0S1491  
TRACT A, NE4 5 ACRES

12.

Signature

Valerie Drake

Printed Name

5/13/17

Date

Address

1477 Hamilton Rd  
Bellgrade, MT 59714

City,State,Zip

Legal Description of Property

S19, T01N, R05E, C0S1491  
TRACT A, NE4 5 ACRES

13.

Signature

Address

Printed Name

City,State,Zip

Date

Legal Description of Property

14.

Signature

Address

Printed Name

City,State,Zip

Date

Legal Description of Property

15.

Signature

Address

Printed Name

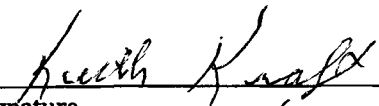
City,State,Zip

Date

Legal Description of Property

11. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City, State, Zip \_\_\_\_\_  
Date \_\_\_\_\_  
Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

12. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City, State, Zip \_\_\_\_\_  
Date \_\_\_\_\_  
Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

13.  \_\_\_\_\_  
Signature \_\_\_\_\_ Address 514 W. Broadway  
Printed Name Keith Kraft. Belgrade Mont. 59714  
Date 5/6/17 City, State, Zip \_\_\_\_\_  
Legal Description of Property S17 T01N R05 E Acres 77.7 W2SW4  
\_\_\_\_\_

14. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City, State, Zip \_\_\_\_\_  
Date \_\_\_\_\_  
Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

15. \_\_\_\_\_  
Signature \_\_\_\_\_ Address \_\_\_\_\_  
Printed Name \_\_\_\_\_ City, State, Zip \_\_\_\_\_  
Date \_\_\_\_\_  
Legal Description of Property \_\_\_\_\_  
\_\_\_\_\_

The north-south section of Cactus Road is an unimproved dirt road. Whenever it is muddy it is barely passable to average road vehicles. The mud bogging that is being done on this road renders the road deeply rutted and torn up. This activity is extremely reckless and hazardous with great potential for a tragic accident. The vehicles often become stuck, which brings more vehicles and much noise ensues. This activity occurs at all hours of the day and night. Damage has been done to fences and much trash is left behind.

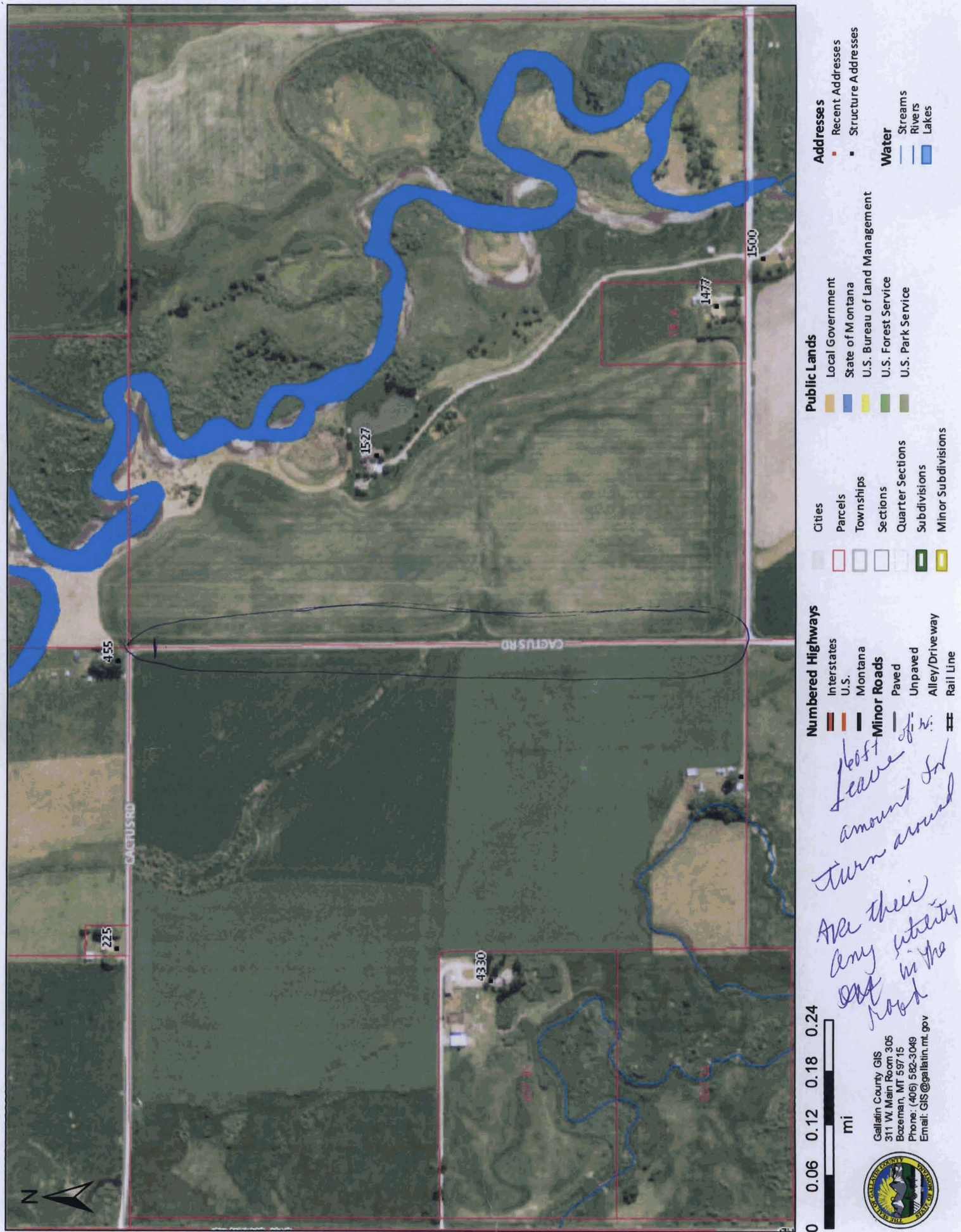
When the road is impassable, passenger vehicles mistakenly try to drive on this road and they too become stuck.

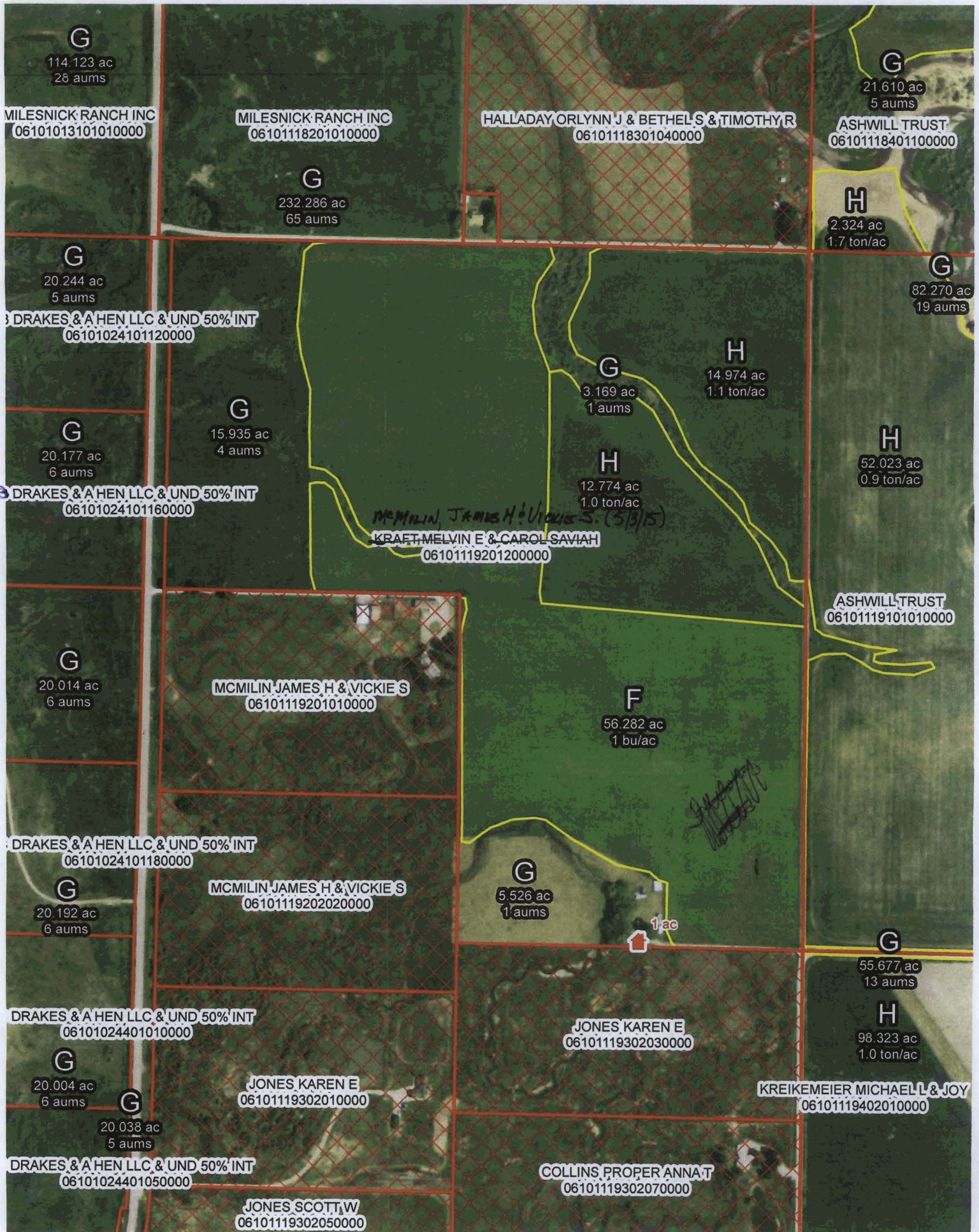
The road lends itself to other hazards in the area, as deer poachers and gopher hunters shoot high powered rifles across the flat open fields.

Even when this north-south section of Cactus Road is passable, it serves few vehicles. Hamilton Road is conveniently in the immediate area and is effective in serving the needs of the area. We request that this portion of Cactus Road be permanently abandoned.

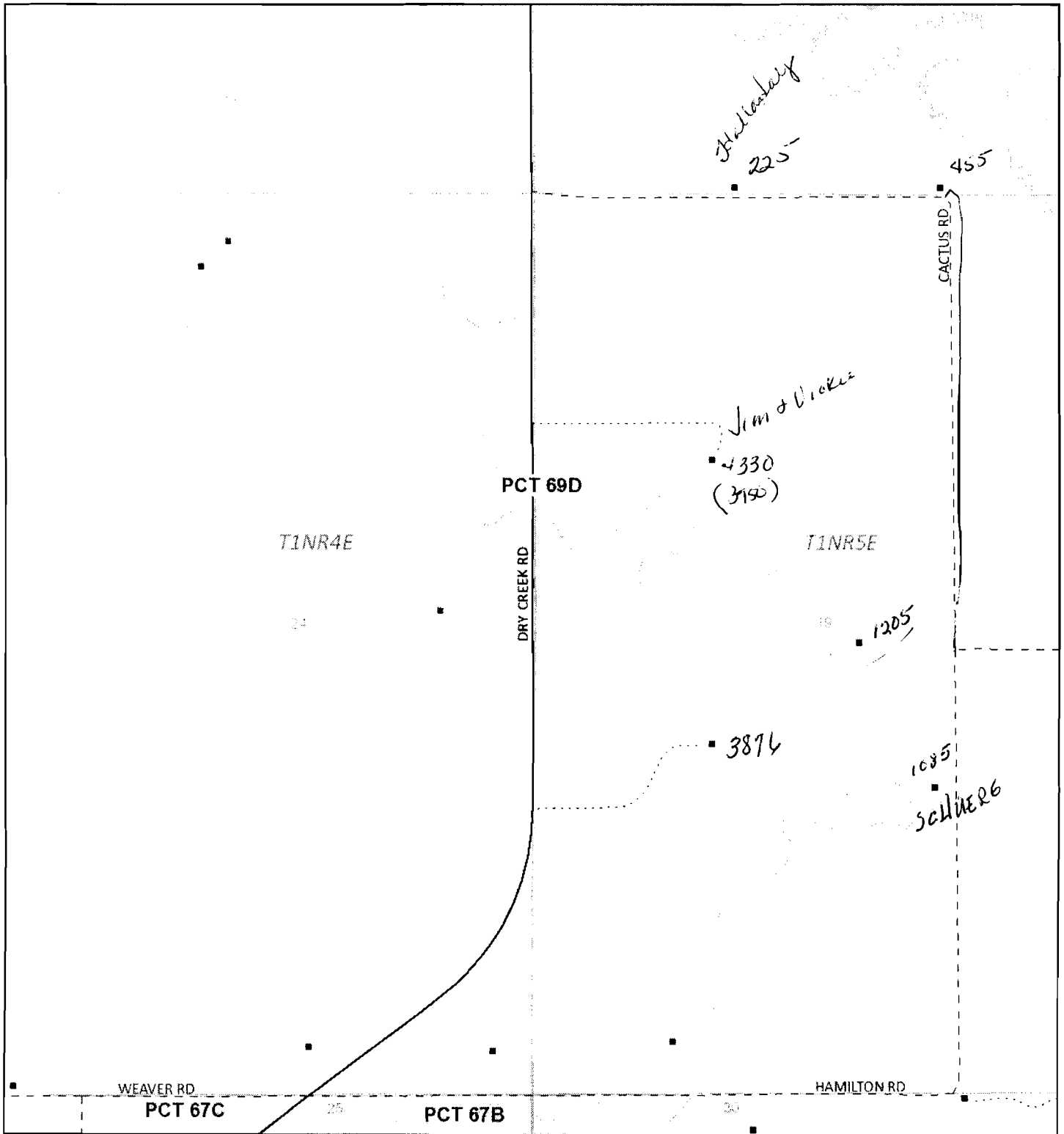


March 24, 2017





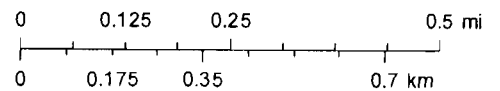
# Cactus



July 27, 2017

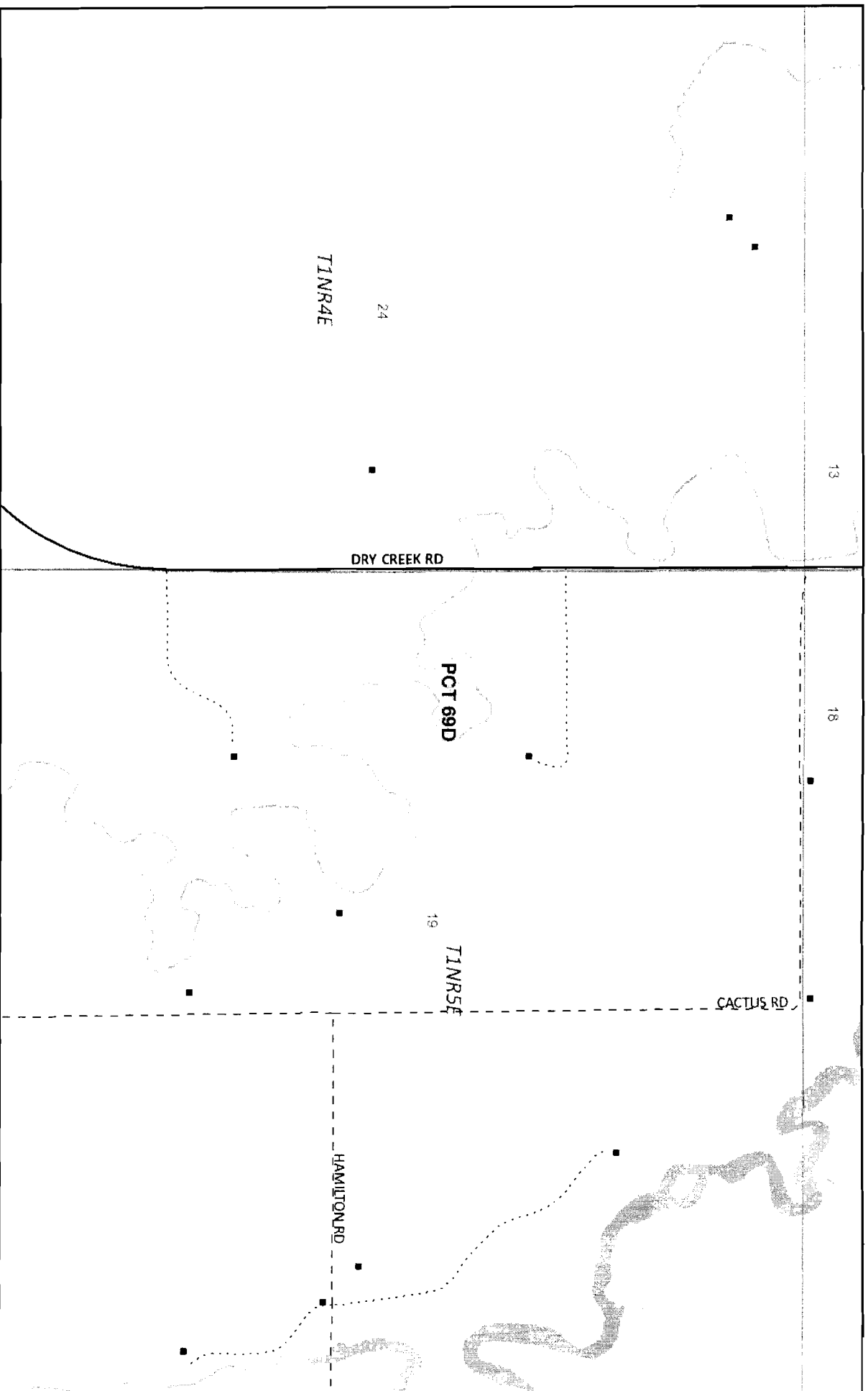
1:14,445

- Recent Addresses
- Bozeman Structures
- Structure Addresses



Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community

# Cactus



July 27, 2017

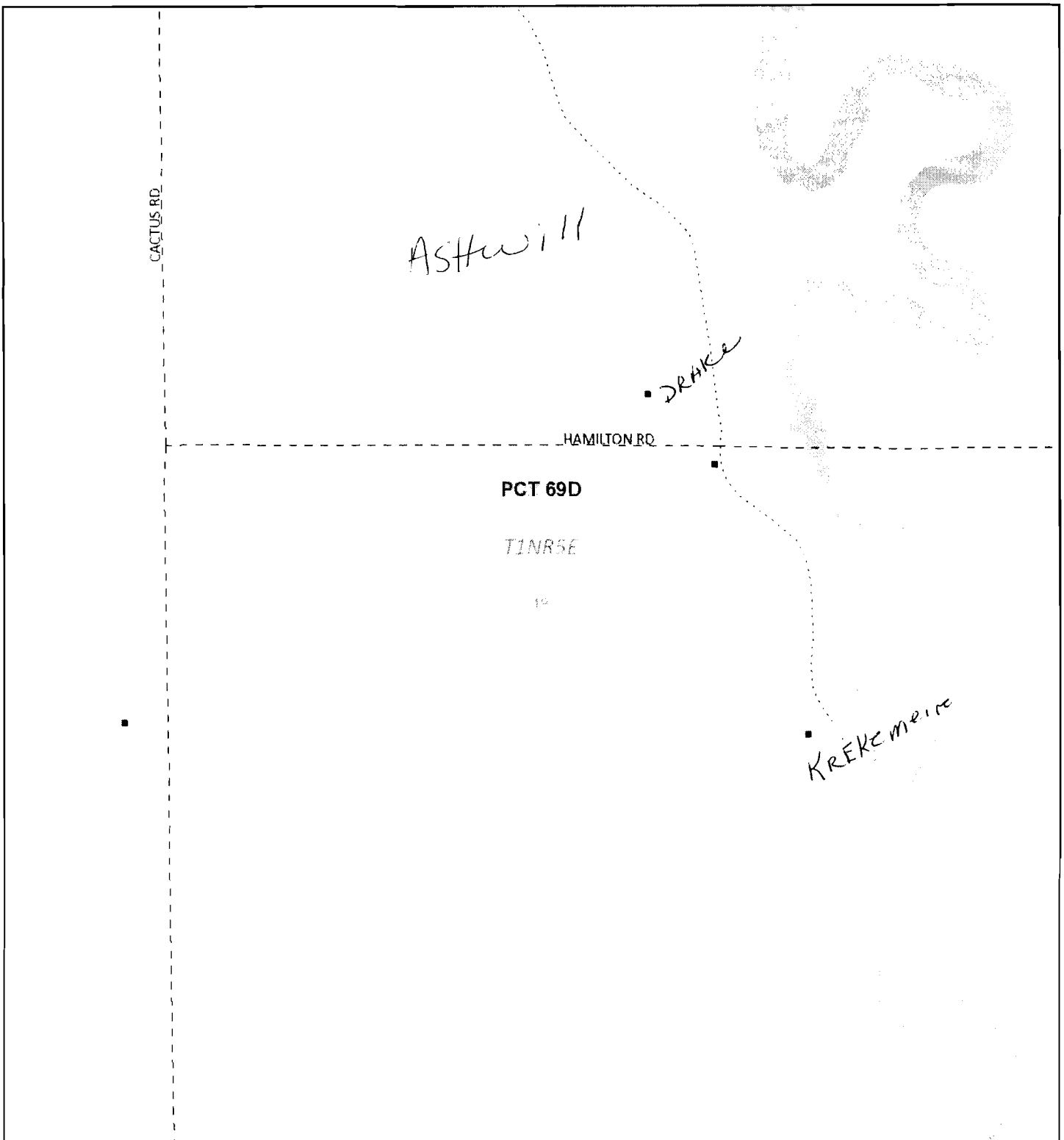
- Recent Addresses
- Bozeman Structures
- Structure Addresses

1:13,542

0 0.1 0.2 0.35 0.4 0.7  
mi km

Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand),

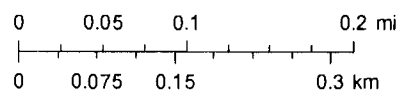
# Cactus



July 27, 2017

1:7,222

- Recent Addresses
- Bozeman Structures
- Structure Addresses



Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community

COMPROMISE ROAD NO 102  
SURVEYED JULY 1895.  
SEE W.L.A. R. 49 BY C.M. THORPE.

ROUTE NO. 290

FAS PROJ. NO S-40(2)

BUILT 1956-1957

PT. 182+09.0 AH  
182+19.0 BH

Closed by Petition 615  
1956

Oicola Bro.

E.E. Slaughter.

SEC. COR.  
EAST 1/4 SEC. 16, T. 1 N., R. 10 E., S. 10 E.

ROAD No 137 PETITIONED FOR BY  
Jas. M. MOORE ET-AL.  
SURVEYED JULY 2 1902 BY C.M. THORPE

See Deed Rcd. 50  
305

ORLANDO POWERS

JOHN C. MILLER

TA 132+41 HERE COR.

EXP. E. 79.3  
W. 19.3  
S. 4. 47.5

M. W. HAMM

HARRIET MELTON

J. M. MOORE

CHAS.

F.K. ARMSTRONG

ROAD No 3

ROAD No 10

JA

19

ROAD No 3

Reduced to 20'  
Petition 298

STA. 100+00  
SEC. COR.

SEC. COR. ROAD No 137  
EAST 1/4 SEC. 16, T. 1 N., R. 10 E., S. 10 E.

SEC. COR. ROAD No 137  
EAST 1/4 SEC. 16, T. 1 N., R. 10 E., S. 10 E.

20 bridge built  
Road changed  
1928

SEC. COR. ROAD No 3  
EAST 1/4 SEC. 16, T. 1 N., R. 10 E., S. 10 E.

SEC. COR. ROAD No 10  
EAST 1/4 SEC. 16, T. 1 N., R. 10 E., S. 10 E.

SEC. COR. ROAD No 10  
EAST 1/4 SEC. 16, T. 1 N., R. 10 E., S. 10 E.

SEC. COR. ROAD No 10  
EAST 1/4 SEC. 16, T. 1 N., R. 10 E., S. 10 E.

SEC. COR. ROAD No 10  
EAST 1/4 SEC. 16, T. 1 N., R. 10 E., S. 10 E.

SEC. COR. ROAD No 10  
EAST 1/4 SEC. 16, T. 1 N., R. 10 E., S. 10 E.

SEC. COR. ROAD No 10  
EAST 1/4 SEC. 16, T. 1 N., R. 10 E., S. 10 E.

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SEC. COR. ROAD No 10  
EAST 1/4 SEC. 16, T. 1 N., R. 10 E., S. 10 E.

SEC. COR. ROAD No 10  
EAST 1/4 SEC. 16, T. 1 N., R. 10 E., S. 10 E.

RESOLUTION NO. 2017- 070

A RESOLUTION MADE TO ASSIGN THE VIEWING COMMITTEE AND  
PETITION NUMBER FOR A PETITION TO ABANDON A PORTION OF CACTUS  
ROAD NO. 197, IN GALLATIN COUNTY, MONTANA

Clerk & Recorder  
This Resolution was introduced by Charlotte Mills; moved by  
Commissioner White and seconded by Commissioner Seifert.  
This Resolution was adopted unanimously. Commissioner Skinner was  
excused.

WHEREAS, the Gallatin County Clerk and Recorder received a Petition on June 9, 2017, to abandon a portion of County Road No. 197 (hereinafter referred to as the "Road"), pursuant to Title 7, Chapter 14, Part 26 Montana Code Annotated;

WHEREAS, the Road is described as that part of Cactus Road No. 197 located on the north-south quarter-section line between a point 20 feet south of the North one-quarter corner and a point 33 feet north of the Center one-quarter corner of Section 19, Township 1 North, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder.

WHEREAS, on June 23, 2017, the Gallatin County Clerk and Recorder certified that the Petition contained sufficient signatures as required by Section 7-14-2601, MCA;

WHEREAS, according to Section 7-14-2603, MCA, 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. No more than one member of the board and the county surveyor shall make the investigation;

NOW THEREFORE BE IT RESOLVED:

The Board hereby accepts the petition for abandonment of that portion of that part of Cactus Road No. 197 located on the north-south quarter-section line between a point 20 feet south of the North one-quarter corner and a point 33 feet north of the Center one-quarter corner of Section 19, Township 1 North, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder.

Mills, Charlotte

---

**From:** Arnold, Erin  
**Sent:** Friday, August 25, 2017 3:45 PM  
**To:** Mills, Charlotte  
**Cc:** Skinner, Joe; Brownell, Bill  
**Subject:** RE: Cactus Road Abandonment

Charlotte,

I'm responding to your question below regarding Cactus Road and the Century Link phone line. I assume that Century Link has never obtained a utility easement from the landowners, but at some point the County allowed it to install the phone line in the right of way.

Absent a utility easement, Century Link has no right to keep its phone line in the real property after the right-of-way is abandoned. Road Petition 197 authorized the public to use the land within the right-of-way for public purposes. Once the right-of-way is abandoned, the public's right to use the land also ceases. Century Link will not have permission to keep its phone line where it is, absent an easement.

Recognizing Century Link's problem, the County can choose not to approve the abandonment until such time as the landowners provide a utility easement to Century Link. I suggest that you submit the reviewer's report to the Commission and request in the report and at the hearing that the Commission decide not to approve the petition until the landowners provide a utility easement to Century Link. A letter regarding the same should then be sent to the landowners.

Going forward, the best approach is to put petitioners on notice that this kind of situation can delay an abandonment. For example, Peter Dayton recommends the following language be included in road petitions:

Utility lines owned by \_\_\_\_\_ and \_\_\_\_\_ are located in the road right-of-way which this petition asks the board to abandon. Those utility companies do not have recorded easements for those utility lines. Because neither Mont. Code Ann. §7-14-2617 nor Mont. Code Ann. §76-3-305 applies to the abandonment requested by this petition, the petitioners agree that the board of county commissioners can require the petitioners to grant easements to those utility companies covering the entire length of the right-of-way which is to be abandoned before the board adopts a resolution which abandons the right-of-way.

Let me know if you have any additional questions; otherwise, I will close out this legal request.

All – Please keep in mind that this is an attorney-client communication and should not be forwarded or provided to any member of the public.

Thank you,  
Erin

Erin L. Arnold  
Senior Civil Deputy County Attorney  
Gallatin County Attorney's Office  
[erin.arnold@gallatin.mt.gov](mailto:erin.arnold@gallatin.mt.gov)  
(406) 582-3745

Notice: This message is confidential and may be privileged or protected as attorney work product. The confidence or privilege can be waived only by the governing body or officer. If you believe that this e-mail has been sent to you in error, please reply to the sender and delete this e-mail.

**From:** Mills, Charlotte  
**Sent:** Thursday, August 03, 2017 10:41 AM  
**To:** Arnold, Erin <Erin.Arnold@gallatin.mt.gov>  
**Cc:** Skinner, Joe <Joe.Skinner@gallatin.mt.gov>; Brownell, Bill <Bill.Brownell@gallatin.mt.gov>  
**Subject:** FW: Cactus Road Abandonment

Hi Erin,

Here is the email string between Bill, Joe, and I for Cactus road so that you can read thru our conversation. Bill found out that Century link has a major phone line in the right-of-way of Cactus Road. The abandonment law really has nothing about a utility easement except for 7-14-2617 which refers to streets. This is a county road not a street or alley.

The attached viewing committee report is what I had drafted up before I realized there was a utility line in the right of way. However, it will give you the legal description of the road in case you need to look it up.

So, our question is how do we abandon this road and keep the utility easement for Century Link.

Bill, did you ask Century Link what they need from us if we abandon the road?

Thanks,  
Charlotte

**From:** Mills, Charlotte  
**Sent:** Thursday, August 03, 2017 10:23 AM  
**To:** Skinner, Joe <Joe.Skinner@gallatin.mt.gov>; Brownell, Bill <Bill.Brownell@gallatin.mt.gov>  
**Subject:** RE: Cactus Road

Joe,  
If it is ok with you, I am going to forward this email string to Erin with the site of law, 7-14-2617 to see what we do with this road abandonment.  
Thanks,  
Charltote

**From:** Skinner, Joe  
**Sent:** Thursday, August 03, 2017 10:07 AM  
**To:** Mills, Charlotte <Charlotte.Mills@gallatin.mt.gov>; Brownell, Bill <Bill.Brownell@gallatin.mt.gov>  
**Subject:** RE: Cactus Road

Jim Mcmilan says that the phone line is a line that just goes to the Ashwill residence so I am not sure if it is a major line. We need to find out from Century Link what they need for an easement. Jim says he doesn't think it would be a problem getting a utility easement from Ashwill's.  
Joe

**From:** Mills, Charlotte  
**Sent:** Tuesday, August 01, 2017 1:27 PM  
**To:** Brownell, Bill <Bill.Brownell@gallatin.mt.gov>; Skinner, Joe <Joe.Skinner@gallatin.mt.gov>  
**Subject:** RE: Cactus Road

Thanks Bill. I will send this to Erin for an answer to what do we do now. I had this road abandonment scheduled for the 15<sup>th</sup> but I will pull it and put it on the following week.

Thanks,  
Charlotte

**From:** Brownell, Bill  
**Sent:** Tuesday, August 01, 2017 11:43 AM  
**To:** Mills, Charlotte <[Charlotte.Mills@gallatin.mt.gov](mailto:Charlotte.Mills@gallatin.mt.gov)>; Skinner, Joe <[Joe.Skinner@gallatin.mt.gov](mailto:Joe.Skinner@gallatin.mt.gov)>  
**Subject:** RE: Cactus Road

I just talked to century link and they do have a major phone line in the ROW of Cactus road on the east side of the road. They would have to have a utility easement from the land owners for their cable if the road is to be abandoned.

Not sure how you want to handle it, maybe have Joe talk to the land owners and see if that is possible.

Thanks

Bill

**From:** Mills, Charlotte  
**Sent:** Thursday, July 27, 2017 10:20 AM  
**To:** Brownell, Bill <[Bill.Brownell@gallatin.mt.gov](mailto:Bill.Brownell@gallatin.mt.gov)>  
**Subject:** RE: Cactus Road

Hi Bill,  
Joe says he will be in Manhattan and will meet us there. Will you still pick me up?

**From:** Brownell, Bill  
**Sent:** Wednesday, July 26, 2017 5:48 AM  
**To:** Mills, Charlotte <[Charlotte.Mills@gallatin.mt.gov](mailto:Charlotte.Mills@gallatin.mt.gov)>; Skinner, Joe <[Joe.Skinner@gallatin.mt.gov](mailto:Joe.Skinner@gallatin.mt.gov)>  
**Subject:** RE: Cactus Road

Morning,

I will meet you both tomorrow at 1:30 PM in the 15 minute parking area if that works

Let me know

Bill

**From:** Mills, Charlotte  
**Sent:** Monday, July 17, 2017 2:00 PM  
**To:** Skinner, Joe <[Joe.Skinner@gallatin.mt.gov](mailto:Joe.Skinner@gallatin.mt.gov)>; Brownell, Bill <[Bill.Brownell@gallatin.mt.gov](mailto:Bill.Brownell@gallatin.mt.gov)>  
**Cc:** Gracey, Sarah <[Sarah.Gracey@gallatin.mt.gov](mailto:Sarah.Gracey@gallatin.mt.gov)>; Kamerman, Stephene <[Steph.Kamerman@gallatin.mt.gov](mailto:Steph.Kamerman@gallatin.mt.gov)>  
**Subject:** RE: Cactus Road

Thank you. See you then.

**From:** Skinner, Joe  
**Sent:** Monday, July 17, 2017 1:59 PM  
**To:** Mills, Charlotte <[Charlotte.Mills@gallatin.mt.gov](mailto:Charlotte.Mills@gallatin.mt.gov)>; Brownell, Bill <[Bill.Brownell@gallatin.mt.gov](mailto:Bill.Brownell@gallatin.mt.gov)>  
**Cc:** Gracey, Sarah <[Sarah.Gracey@gallatin.mt.gov](mailto:Sarah.Gracey@gallatin.mt.gov)>; Kamerman, Stephene <[Steph.Kamerman@gallatin.mt.gov](mailto:Steph.Kamerman@gallatin.mt.gov)>  
**Subject:** RE: Cactus Road

Works for me  
Joe

**From:** Mills, Charlotte  
**Sent:** Monday, July 17, 2017 1:58 PM  
**To:** Brownell, Bill <[Bill.Brownell@gallatin.mt.gov](mailto:Bill.Brownell@gallatin.mt.gov)>; Skinner, Joe <[Joe.Skinner@gallatin.mt.gov](mailto:Joe.Skinner@gallatin.mt.gov)>  
**Cc:** Gracey, Sarah <[Sarah.Gracey@gallatin.mt.gov](mailto:Sarah.Gracey@gallatin.mt.gov)>; Kamerman, Stephene <[Steph.Kamerman@gallatin.mt.gov](mailto:Steph.Kamerman@gallatin.mt.gov)>  
**Subject:** RE: Cactus Road

Hi Bill and Joe,

I have scheduled the road viewing for Cactus Road at 1:30 Thursday, July 27<sup>th</sup>.

Please let me know if that won't work for you.  
Charlotte

**From:** Brownell, Bill  
**Sent:** Monday, July 17, 2017 12:45 PM  
**To:** Mills, Charlotte <[Charlotte.Mills@gallatin.mt.gov](mailto:Charlotte.Mills@gallatin.mt.gov)>  
**Subject:** RE: Cactus Road

Afternoons either of those days should be okay

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----  
**From:** "Mills, Charlotte" <[Charlotte.Mills@gallatin.mt.gov](mailto:Charlotte.Mills@gallatin.mt.gov)>  
**Date:** 07/17/2017 12:41 PM (GMT-07:00)  
**To:** "Brownell, Bill" <[Bill.Brownell@gallatin.mt.gov](mailto:Bill.Brownell@gallatin.mt.gov)>  
**Subject:** Cactus Road

Hi Bill,  
We have to do a road viewing to abandon Cactus Road. I'm trying to coordinate with Joe's schedule. Would you be available July 26 or 27<sup>th</sup> in afternoon? If so, then I'll see if I can fine tune the time with Joe.  
Thanks,  
Charlotte

2620366

Page 1 of 5 07/26/2018 10:24:40 AM Fee: \$45.00  
Charlotte Mills - Gallatin County, MT MISC

Return to CenturyLink  
Attn: Right of Way  
5025 Black Canyon Hwy  
Phoenix, AZ 85015

---

RECORDING INFORMATION ABOVE  
**EASEMENT AGREEMENT**

N.304748  
P.797698

The undersigned, **James H. McMillin and Vickie S. McMillin and the Ashwill Trust** (collectively "Grantor"), for and in consideration of \$10.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey unto **QWEST CORPORATION D/B/A CENTURYLINK QC**, a Colorado corporation ("Grantee"), whose address is 1801 California St., Suite 5200, Denver, CO 80202, Attn: Network Vice President, and its successors, assigns, affiliates, lessees, licensees, and agents, an easement to construct, reconstruct, modify, change, add to, operate, maintain, and remove such telecommunications facilities, electrical facilities, and other appurtenances, from time to time, as Grantee may require upon, over, under and across the following described property situated in the County of Gallatin, State of Montana, which Grantor owns ("Easement Area"):

**An easement to CenturyLink as described in its entirety on EXHIBIT "A", said Exhibit "A" being attached hereto and by this reference made a part hereof.**

Grantor further conveys to Grantee the right of ingress and egress over and across Grantor's lands to and from the Easement Area and the right to clear and keep cleared all trees and other obstructions as may be necessary for Grantee's use and enjoyment of the Easement Area.

Grantee shall indemnify Grantor for all damages caused to Grantor as a result of Grantee's negligent exercise of the rights and privileges herein granted. Grantee shall have no responsibility for pre-existing environmental contamination or liabilities or those not caused by Grantee.

Grantor reserves the right to occupy, use and cultivate the Easement Area for all purposes not inconsistent with the rights herein granted.

Grantor covenants that Grantor is the fee simple owner of the Easement Area and that Grantor will warrant and defend title to the Easement Area against all claims.

Grantor hereby covenants that no excavation, building, structure or obstruction will be constructed, erected, built or permitted on the Easement Area and no change will be made by grading or otherwise to the surface or subsurface of the Easement Area or to the ground immediately adjacent to the Easement Area.

Grantee shall be solely responsible for the installation, operation, maintenance and repair of all facilities.

The rights, conditions and provisions of this Easement Agreement will run with the land and will inure to the benefit of and be binding upon Grantor and Grantee and their respective successors and assigns.

R/W# \_\_\_\_\_

Initials  \_\_\_\_\_

GRANTOR:

JAMES H. MCMILIN

James H. McMillin

Printed Name: JAMES H. MCMILIN

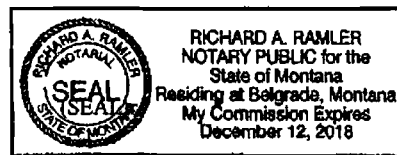
STATE OF Montana )  
COUNTY OF Gallatin )ss.

The foregoing instrument was acknowledged before me this 26 day of July,  
2018, by James H. McMillin.

My commission expires: 12/12/2018

WITNESS my hand and official seal.

Richard A. Ramler  
Notary Public  
Richard A. Ramler



GRANTOR:

VICKIE S. MCMILIN

VICKIE S. MCMILIN

Printed Name: VICKIE S. MCMILIN

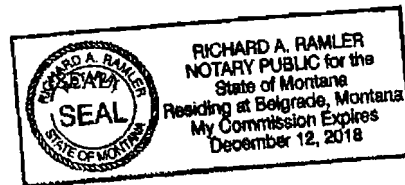
STATE OF Montana )  
 )ss.  
COUNTY OF Gallatin )

The foregoing instrument was acknowledged before me this 10th day of July,  
2018, by Vickie S. McMillin.

My commission expires: 12/12/2018

WITNESS my hand and official seal.

[Signature]  
Notary Public  
Richard A. Ramler



GRANTOR:

ASHWILL TRUST

By: Alice R. Ashwill, Trustee

By:

*Alice R. Ashwill, Trustee*

Printed Name: ALICE R. ASHWILL

Title: owner

STATE OF CALIFORNIA )  
 )ss.  
COUNTY OF ORANGE )

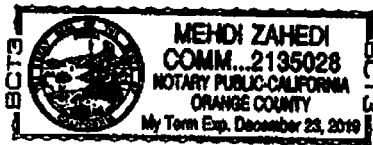
A NOTARY PUBLIC OR OTHER OFFICER COMPLETING  
THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE  
INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH  
THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTH-  
FULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

The foregoing instrument was acknowledged before me this 2nd day of JULY,  
2018, by Alice R. Ashwill, as Trustee of the Ashwill Trust.

My commission expires: DEC. 23, 2019

WITNESS my hand and official seal.

Mehdi Zahedi  
Notary Public



(SEAL)

**EXHIBIT "A"**

An Easement to Qwest Corporation d/b/a CenturyLink QC over, under, and across the East 20.00' of the Northwest Quarter (NW1/4), and the West 20.00' of the Northeast (NE1/4) of Section 19, Township 1North, Range 5 East, Montana Meridian, Gallatin County, Montana.



CenturyLink  
6700 Via Austi Parkway  
Las Vegas, NV 89119  
(702) 244 6987

8/29/2018

Gallatin County Commission  
311 West Main  
Room 306  
Bozeman, MT 59715

No Reservations

**SUBJECT: Vacate/Abandon public ROW, North/South portion of Cactus Rd between Hamilton Rd and Dry Creek Rd**

To Whom It May Concern:

CENTURYLINK has reviewed the request for the subject vacation and has determined that it has no objections with respect to the areas proposed for vacation.

It is the intent and understanding of CenturyLink that this Vacation shall not reduce our rights to any other existing easement or rights we have on this site or in the area.

Sincerely yours,

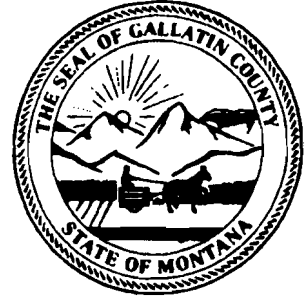
A handwritten signature in black ink that reads "Tommy Sassone". The signature is written in a cursive, flowing style.

**Tommy Sassone**  
Network Infrastructure Services  
**CenturyLink**  
Desk: 702.244.7958 | Cell: 702.900.7699  
Email: [thomas.sassone@centurylink.com](mailto:thomas.sassone@centurylink.com)

State of Montana

*County of Gallatin*

Bozeman



September 27, 2018

Board of County Commissioners  
Gallatin County Courthouse  
Bozeman, MT 59715

RE: Petition to abandon a portion of Cactus Road

**Legal Description:** The Road is described as that part of Cactus Road No. 197 located on the north-south quarter-section line between a point 20 feet south of the North one-quarter corner and a point 33 feet north of the Center one-quarter corner of Section 19, Township 1 North, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder.

Dear Board,

According to M.C.A. §7-14-2603 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.

The petition to abandon the described portion of Cactus Road was received on June 9, 2017, and was certified, by the Gallatin County Clerk and Recorder, on June 23, 2017. The petition states that the necessity for abandonment is for safety. Whenever the unimproved dirt road is muddy, the mud bogging on that portion of Cactus Road renders the road deeply rutted and torn up, and vehicles get stuck. The activity is extremely reckless and hazardous with the potential for a tragic accident.

The Board of Gallatin County Commissioners accepted the petition and assigned the viewing committee at a public meeting held on July 11, 2017. On Thursday, July 27, 2017, the undersigned met with Bill Brownell from the Gallatin County Road Department, to view the road petitioned for abandonment. The proposed portion of Cactus Road to be abandoned is located after the 90 degree corner, and is the straight portion of the road between the corner and the intersection with Hamilton Road. No houses are located on that section of road.

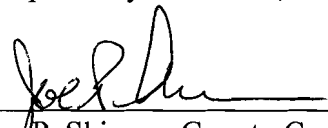
The Viewing Committee does find that this portion of Cactus Road does not provide existing legal access to public lands or waters. Also, two or more landowners do not use this portion of Cactus Road to access private property. However, there are utilities located along the road.

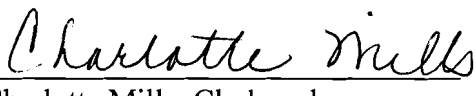
On July, 26, 2018, an easement agreement was recorded with the Gallatin County Clerk & Recorder, document number 2620366. With this easement, James H. McMilin and Vickie S. Mcilin and the Ashwill Trust grant to Qwest Corporation D/B/A CenturyLink QC and its successor the right to access the property that will be abandoned.

On August 29, 2018, Century Link sent a letter to the Gallatin County Commission stating they had no objections to the abandonment and that it would not reduce their right to any other existing easement or rights they have on this site.

Accordingly, we recommend abandoning the described portion of Cactus Road.

Respectfully submitted,

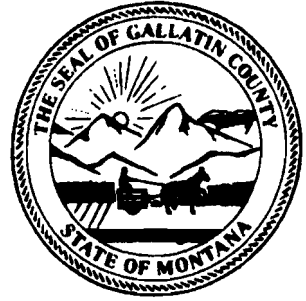
  
\_\_\_\_\_  
Joe P. Skinner, County Commissioner

  
\_\_\_\_\_  
Charlotte Mills, Clerk and  
Recorder/Surveyor

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 November 27, 2018, at 9:00 A.M., in the Community Room, 311 W. Main, Bozeman, Montana. Public opinion shall be heard regarding a road petition to abandon a portion of the road described as that part of Cactus Road No. 197 located on the north-south quarter-section line between a point 20 feet south of the North one-quarter corner and a point 33 feet north of the Center one-quarter corner of Section 19, Township 1 North, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder.

All interested parties are encouraged to attend. Further information may be obtained from Gallatin County Commissioners Don Seifert, Joe Skinner, or Steve White at 311 W. Main, Room 306, Bozeman, Montana 59715, telephone 582-3000.

Dated this 19th day of October, 2018.

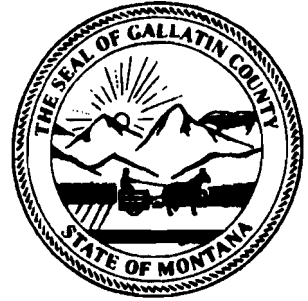
*Charlotte Mills*

Charlotte Mills  
Clerk and Recorder  
Gallatin County, Montana

State of Montana

*County of Gallatin*

Bozeman



**AFFIDAVIT OF MAILING**

STATE OF MONTANA            )  
  ) ss  
COUNTY OF GALLATIN        )

**CHARLOTTE MILLS, BEING FIRST DULY SWORN ON OATH, deposes and says:**

That she is the duly elected, qualified and acting County Clerk and Recorder of Gallatin County, Montana.

I hereby certify that a copy of the attached Notice of Public Hearing to abandon a portion of that part of Cactus Road, and the viewing Committee report regarding abandoning the same, according to Road Petition Number 845, was mailed to those listed below on October 26, 2018.

Name	Address			
James H. & Vickie S. McMilin	3950 Dry Creek Road	Belgrade	MT	59714
Ashwill Trust	17952 Sky Park Cir. Ste C	Irvine	CA	92614
Timothy R., Bethel S., & Orlynn J. Halladay	225 Cactus Road	Belgrade	MT	59714
Michael & Joy Kreikemeier	1520 Hamilton Road	Belgrade	MT	59714
Karen E. & Scott Jones	4794 Thompson Road	Clarence	NY	14031
Mary Kay & Tom O. Milesnick	5805 Dry Creek Road	Belgrade	MT	59714
John Milesnick	907 Paisley Drive	Belgrade	MT	59714
Sue & Carol VanDelinder	275 Hamilton Road	Belgrade	MT	59714
Buddy & Valorie Drake	1477 Hamilton Road	Belgrade	MT	59714
Keith Kraft	514 N. Broadway	Belgrade	MT	59714

*Charlotte Mills*  
CHARLOTTE MILLS  
Clerk and Recorder  
Gallatin County, Montana



**Gallatin County Clerk and Recorder**  
Recording Department  
311 West Main, Room 203  
Bozeman, Montana 59715-4574

John Milesnick  
907 Paisley Drive  
Belgrade, MT 59714

5 HMERNMP 59714  
59713>4574



US POSTAGE >> PITNEY BOWES

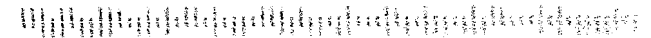


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0001391671 OCT 26 2018

*Rec'd 10-29-18*  
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FORWARD TIME EXP RTN TO SEND  
MILESNICK  
4877 DRY CREEK RD  
BELGRADE MT 59714-8317

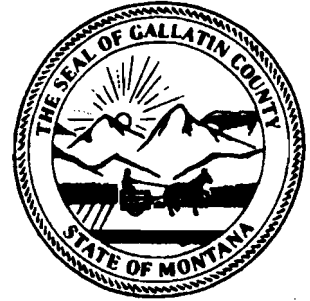
RETURN TO SENDER



State of Montana

*County of Gallatin*

Bozeman



**AFFIDAVIT OF POSTING**

STATE OF MONTANA     )  
  ) ss  
COUNTY OF GALLATIN )

**CHARLOTTE MILLS, BEING FIRST DULY SWORN ON OATH, deposes and says:**

That she is the duly elected, qualified and acting County Clerk and Recorder of Gallatin County, Montana.

I hereby certify that a copy of the **NOTICE OF PUBLIC HEARING** to abandon a portion of Cactus Road No. 197, Gallatin County, Montana, pursuant to Road Abandonment Petition No. 845, was posted by October 26, 2018 in the following four (4) public locations:

1. Intersection of Cactus Road with Dry Creek Road
2. Intersection of Cactus Road with Hamilton Road
3. Office of Gallatin County Clerk & Recorder
4. Gallatin County Courthouse Lobby

*Charlotte Mills*

---

CHARLOTTE MILLS  
Clerk and Recorder  
Gallatin County, Montana

365791 1830457

LEGAL#101779 G.C. CLERK AND RECORDER

311 W. MAIN, ROOM 203  
BOZEMAN MT 59715

AFFIDAVIT OF PUBLICATION  
STATE OF MONTANA )

County of Gallatin )

SS.

**NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Board of Gallatin County Commissioners will conduct a public hearing on November 27, 2018, at 9:00 A.M., in the Community Room, 311 W. Main, Bozeman, Montana. Public opinion shall be heard regarding a road petition to abandon a portion of the road described as that part of Cactus Road No. 197 located on the north-south quarter-section line between a point 20 feet south of the North one-quarter corner and a point 33 feet north of the Center one-quarter corner of Section 19, Township 1 North, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder. All interested parties are encouraged to attend. Further information may be obtained from Gallatin County Commissioners Don Seifert, Joe Skinner, or Steve White at 311 W. Main, Room 306, Bozeman, Montana 59715, telephone 582-3000.

Dated this 19th day of  
October, 2018.

Charlotte Mills  
Clerk and Recorder  
Gallatin County, Montana

Jill Hall

being duly sworn, deposes and says; that he/she is legal ad clerk of the Bozeman Daily Chronicle, a newspaper of general circulation, printed and published in Bozeman, Gallatin County, Montana; and that the notice here unto annexed  
NOTICE OF PUBLIC HEARING

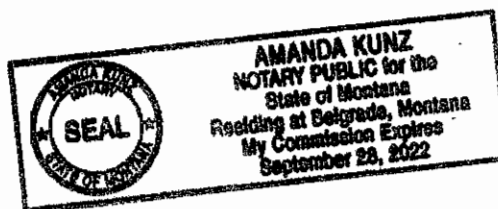
has been correctly published in the regular and entire issues of every number of said paper for 2 insertions.

Said notice was published on:  
11/04/2018 11/18/2018

Gilee Hall

Subscribed and sworn to before me this  
27th day of November, 2018

Amanda Kunz  
Notary Public for the State of Montana  
Residing at Bozeman, Montana



RESOLUTION NO. 2018- \_\_\_\_

A RESOLUTION MADE PURSUANT TO ROAD ABANDONMENT PETITION  
NO. 845 TO ABANDON A PORTION OF CACTUS ROAD NO. 197,  
GALLATIN COUNTY, MONTANA

This Resolution was introduced by \_\_\_\_\_; moved by  
Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_.  
This Resolution was adopted \_\_\_\_\_.

WHEREAS, the Gallatin County Clerk and Recorder received a Petition on June 9, 2017, to abandon a portion of Cactus Road No. 197 (hereinafter referred to as the "Road"), pursuant to Title 7, Chapter 14, Part 26 Montana Code Annotated;

WHEREAS, the Road is described as that part of Cactus Road No. 197 located on the north-south quarter-section line between a point 20 feet south of the North one-quarter corner and a point 33 feet north of the Center one-quarter corner of Section 19, Township 1 North, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder.

WHEREAS, upon acceptance of the Petition, the Clerk & Recorder assigned the Number 845 to the Petition;

WHEREAS, the Petition states the necessity for and advantage of the abandonment is: "The north-south section of Cactus Road is an unimproved dirt road. Whenever it is muddy it is barely passable to average road vehicles. The mud bogging that is being done on this road renders the road deeply rutted and torn up. This activity is extremely reckless and hazardous with great potential for a tragic accident. The vehicles often become stuck, which brings more vehicles and much noise ensues. This activity occurs at all hours of the day and night. Damage has been done to fences and much trash is left behind."

"When the road is impassable, passenger vehicles mistakenly try to drive on this road and they too become stuck."

"The road lends itself to other hazards in the area, as deer poachers and gopher hunters shoot high powered rifles across the flat open fields."

"Even when this north-south section of Cactus Road is passable, it serves few vehicles. Hamilton Road is conveniently in the immediate area and is effective in serving the needs of the area. We request that this portion of Cactus Road be permanently abandoned.";

WHEREAS, "abandon" "vacation" and "abandonment" as set forth herein mean the cessation of use of the right-of-way or activity thereon with no intention to reclaim or use again, except as may be granted to the public by further easement or petition;

WHEREAS, on June 23, 2017, the Gallatin County Clerk and Recorder certified that the Petition contained sufficient signatures as required by Section 7-14-2601, MCA;

WHEREAS, on July 11, 2017, the Board of County Commissioners passed Resolution 2017-070 which caused an investigation to be made of the feasibility, desirability, and cost of granting the prayer of the Petition and appointed a viewing committee consisting of County Commissioner Joe P. Skinner and the County Surveyor, Charlotte Mills;

WHEREAS, on July 27, 2017, the viewing committee met to view the road being petitioned for abandonment;

~~WHEREAS, in the viewers' report dated July 31, 2017, the viewing committee reported: "On Thursday, June 29, 2017, the undersigned met with Bill Brownell, Gallatin County Road Supervisor, to view the road petitioned for abandonment, and "The proposed portion of White Road to be abandoned has never been developed, and furthermore there is no physical road in the field";~~

WHEREAS, the viewing committee reported that "this portion of Cactus Road does not provide existing legal access to public lands or waters. Also, two or more landowners do not use this portion of Cactus Road to access private property. However, there are utilities located along the road";

WHEREAS, "On July, 26, 2018, an easement agreement was recorded with the Gallatin County Clerk & Recorder, document number 2620366. With this easement, James H. McMilin and Vickie S. Mcilin and the Ashwill Trust grant to Qwest Corporation D/B/A CenturyLink QC and its successor the right to access the property that will be abandoned";

WHEREAS, "On August 29, 2018, Century Link sent a letter to the Gallatin County Commission stating they had no objections to the abandonment and that it would not reduce their right to any other existing easement or rights they have on this site";

WHEREAS, the viewing committee recommends "to abandon the described portion of Cactus Road";

WHEREAS, on October 26, 2018 notices were posted in four (4) public places including a notice each at the intersection of Cactus Road with Dry Creek Road; at the intersection of Cactus Road with Hamilton Road; at the office of the Gallatin County Clerk & Recorder; and the Gallatin County Courthouse lobby. A Notice of Public Hearing to be held on November 27, 2018, was published in the Bozeman Daily Chronicle on November 4, 2018 and November 18, 2018; and mailed to petitioners and all landowners adjacent to the Road along with a viewers' report on October 26, 2018;

WHEREAS, the notice to the petitioners put them on notice of the change in the Road to be abandoned;

WHEREAS, on November 27, 2018, the Gallatin County Commissioners conducted a public hearing, after notice, on the Petition and the results of the investigation; and

WHEREAS, on November 27, 2018, the Gallatin County Commissioners found that granting the Petition to abandon the Road can be made without detriment to the public interest.

NOW THEREFORE BE IT RESOLVED:

1. The Road being that part of Cactus Road No. 197 located on the north-south quarter-section line between a point 20 feet south of the North one-quarter corner and a point 33 feet north of the Center one-quarter corner of Section 19, Township 1 North, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder is hereby abandoned.
2. The Commission hereby requests the Clerk and Recorder, within ten (10) days from the date of passage of this Resolution, to send a copy by certified mail to all owners of land abutting on the abandoned road. The owners shall be those listed on the last county assessment roll.
3. The Clerk and Recorder shall notify the county road supervisor by furnishing a certified copy of this Resolution to the supervisor.

DATED this 27<sup>th</sup> day of November 2018.

BOARD OF COUNTY COMMISSIONERS OF  
GALLATIN COUNTY

\_\_\_\_\_  
R. Stephen White  
Chairman

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_

Charlotte Mills  
Clerk and Recorder  
Gallatin County

RESOLUTION NO. 2018- 116A RESOLUTION MADE PURSUANT TO ROAD ABANDONMENT PETITION  
NO. 845 TO ABANDON A PORTION OF CACTUS ROAD NO. 197,  
GALLATIN COUNTY, MONTANA

This Resolution was introduced by CLERK & RECORDER  
CHARLOTTE MILLS; moved by  
Commissioner SEIFERT and seconded by Commissioner SKINNER.  
This Resolution was adopted UNANIMOUSLY.

WHEREAS, the Gallatin County Clerk and Recorder received a Petition on June 9, 2017, to abandon a portion of Cactus Road No. 197 (hereinafter referred to as the "Road"), pursuant to Title 7, Chapter 14, Part 26 Montana Code Annotated; and

WHEREAS, the Road is described as that part of Cactus Road No. 197 located on the north-south quarter-section line between a point 20 feet south of the North one-quarter corner and a point 33 feet north of the Center one-quarter corner of Section 19, Township 1 North, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder; and

WHEREAS, upon acceptance of the Petition, the Clerk & Recorder assigned the Number 845 to the Petition; and

WHEREAS, the Petition states the necessity for and advantage of the abandonment is:

"The north-south section of Cactus Road is an unimproved dirt road. Whenever it is muddy it is barely passable to average road vehicles. The mud bogging that is being done on this road renders the road deeply rutted and torn up. This activity is extremely reckless and hazardous with great potential for a tragic accident. The vehicles often become stuck, which brings more vehicles and much noise ensues. This activity occurs at all hours of the day and night. Damage has been done to fences and much trash is left behind.

When the road is impassable, passenger vehicles mistakenly try to drive on this road and they too become stuck."

The road lends itself to other hazards in the area, as deer poachers and gopher hunters shoot high powered rifles across the flat open fields."

Even when this north-south section of Cactus Road is passable, it serves few vehicles. Hamilton Road is conveniently in the immediate area and is effective in serving the needs of the area. We request that this portion of Cactus Road be permanently abandoned[;]"and

WHEREAS pursuant to MCA § 7-14-2601(3)(b) "abandonment" as set forth herein means the "cessation of use of the right-of-way (easement) or activity thereon with no

intention to reclaim or use again and is sometimes called "vacation" except as may be granted to the public by further easement or petition; and; and

WHEREAS, on June 23, 2017, the Gallatin County Clerk and Recorder certified that the Petition contained sufficient signatures as required by MCA §7-14-2601, ; and

WHEREAS, on July 11, 2017, the Board of County Commissioners passed Resolution 2017-070 which caused an investigation to be made of the feasibility, desirability, and cost of granting the prayer of the Petition and appointed a viewing committee consisting of County Commissioner Joe P. Skinner and the County Surveyor, Charlotte Mills; and

WHEREAS, on July 27, 2017, the viewing committee met to view the road being petitioned for abandonment; and

~~WHEREAS, in the viewers' report dated July 31, 2017, the viewing committee reported: "On Thursday, June 29, 2017, the undersigned met with Bill Brownell, Gallatin County Road Supervisor, to view the road petitioned for abandonment, and "The proposed portion of White Road to be abandoned has never been developed, and furthermore there is no physical road in the field[;]" and~~

WHEREAS, the viewing committee reported that "this portion of Cactus Road does not provide existing legal access to public lands or waters. Also, two or more landowners do not use this portion of Cactus Road to access private property. However, there are utilities located along the road[;]" and

WHEREAS, the viewing committee reported that "On July, 26, 2018, an easement agreement was recorded with the Gallatin County Clerk & Recorder, document number 2620366. With this easement, James H. McMilin and Vickie S. Mcililn and the Ashwill Trust grant to Qwest Corporation D/B/A CenturyLink QC and its successor the right to access the property that will be abandoned[;]" and

WHEREAS, the viewing committee reported that "On August 29, 2018, Century Link sent a letter to the Gallatin County Commission stating they had no objections to the abandonment and that it would not reduce their right to any other existing easement or rights they have on this site[;]" and

WHEREAS, the viewing committee recommends "to abandon the described portion of Cactus Road[;]" and

WHEREAS, on October 26, 2018 notices were posted in four (4) public places including a notice each at the intersection of Cactus Road with Dry Creek Road; at the intersection of Cactus Road with Hamilton Road; at the office of the Gallatin County Clerk & Recorder; and the Gallatin County Courthouse lobby. A Notice of Public Hearing to be held on November 27, 2018, was published in the Bozeman Daily

Chronicle on November 4, 2018 and November 18, 2018; and mailed to petitioners and all landowners adjacent to the Road along with a viewers' report on October 26, 2018; and

WHEREAS, the notice to the petitioners put them on notice of the change in the Road to be abandoned; and

WHEREAS, on November 27, 2018, the Gallatin County Commissioners conducted a public hearing, after notice, on the Petition and the results of the investigation; and

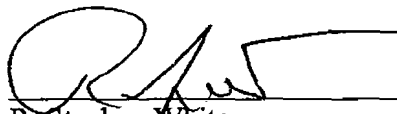
WHEREAS, on November 27, 2018, the Gallatin County Commissioners found that granting the Petition to abandon the Road can be made without detriment to the public interest.

NOW THEREFORE BE IT RESOLVED:

1. The Road being that part of Cactus Road No. 197 located on the north-south quarter-section line between a point 20 feet south of the North one-quarter corner and a point 33 feet north of the Center one-quarter corner of Section 19, Township 1 North, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder is hereby abandoned.
2. The Commission hereby requests the Clerk and Recorder, within ten (10) days from the date of passage of this Resolution, to send a copy by certified mail to all owners of land abutting on the abandoned road. The owners shall be those listed on the last county assessment roll.
3. The Clerk and Recorder shall notify the county road supervisor by furnishing a certified copy of this Resolution to the supervisor.

DATED this 27<sup>th</sup> day of November 2018.

BOARD OF COUNTY COMMISSIONERS OF  
GALLATIN COUNTY

  
R. Stephen White  
Chairman

11-27-18  
Date

ATTEST:

Charlotte Mills  
Charlotte Mills  
Clerk and Recorder  
Gallatin County

to be a full, true and correct copy of a  
document containing 4 pages. Dated at  
Bozeman, MT, 11/28 2018.  
Charlotte Mills Clerk & Recorder for Gallatin  
County, State of Montana. Any alteration of this  
copy voids the certification.

By

James Hill

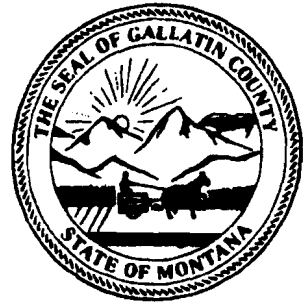
Deputy



State of Montana

# County of Gallatin

Bozeman



## AFFIDAVIT OF MAILING

STATE OF MONTANA           )  
  ) ss  
COUNTY OF GALLATIN       )

**CHARLOTTE MILLS, BEING FIRST DULY SWORN ON OATH, deposes and says:**

That she is the duly elected, qualified and acting County Clerk and Recorder of Gallatin County, Montana.

I hereby certify that a copy of Resolution #2018-116, a Resolution made pursuant to Road Abandonment Petition No. 845 to abandon a portion of Cactus Road No. 197, Gallatin County, Montana, was mailed to the following landowners on November 28, 2018.

James H. & Vickie S. McMilin  
Ashwill Trust

3950 Dry Creek Road           Belgrade  
17952 Sky Park Cir. Ste C   Irvine

MT       59714  
CA       92614

*Charlotte Mills*

CHARLOTTE MILLS  
Clerk and Recorder  
Gallatin County, Montana

By: *Jasmine Hall*

Jasmine Hall, Deputy



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- 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:**

JAMES H & VICKIE S MC MILLIN  
3950 DRY CREEK RD  
BELGRADE, MT 59714

**RD PETITION#845**



9590 9402 2895 7094 1490 20

**2. Article Number (Transfer from service label)**

7012 0470 0000 2799 3674

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

**A. Signature**

☐ Agent

**B. Received by (Printed Name)**

**C. Date of Delivery**

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

☐ Yes  
☒ No

- |  |   |
|--|---|
| <b>3. Service Type</b>   | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature                         | <input type="checkbox"/> Registered Mail™                           |
| <input type="checkbox"/> Adult Signature Restricted Delivery     | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input checked="" type="checkbox"/> Certified Mail®              | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Collect on Delivery                     | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail (over \$500)               | <input type="checkbox"/> Insured Mail Restricted Delivery           |

Domestic Return Receipt

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- 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:

ASHWILL TRUST  
17952 SKY PARK CIR STE C  
IRVINE, CA 92614

RD PETITION#845



9590 9402 2895 7094 1490 13

2. Article Number (Transfer from service label)

7012 0470 0000 2799 3667

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*Steve Bism*

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type

- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature                               | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery           | <input type="checkbox"/> Registered Mail™                           |
| <input checked="" type="checkbox"/> Certified Mail®                    | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery            | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Collect on Delivery                           | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery       | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail                                  |   |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) |   |

Domestic Return Receipt