

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 Nick Schutter PHONE 539-6125

- 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: 8/15/17
 - a) Prepare draft resolution appointing viewing committee and assigning Petition # 847
 - 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: ~~10/11/17~~ 9/25/17
- 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 10/17/17
- 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 area~~b) 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 Oct 1 and 13
- 13) Post notice in 5 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

JUL 26 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: A portion of Wytana Road (County Road No. 478)

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): See attached Wytana Road Abandonment Map and deed (Book 62 of Deeds, Pages 207-208).

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. Nicholas and Susan Schutter

3333 Kuipers Rd.

Manhattan, MT 59741

Legal Description of Property SW1/4 and N1/2 of Section 19, Township 1 North, Range 3 East, P.M.M., as described in Document No. 2175050.

2. Travis and Kari Ballenger

3032 Farmall St.

Bozeman, MT 59718

Legal Description of Property Tract 1 of Certificate of Survey 2921, located in the NW1/4 of Section 19, Township 1 North, Range 3 East, P.M.M.

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:
Not applicable.

6. The necessity for and advantage of the abandonment is as follows:
The right-of-way granted to the County in September 1920 is located in a different position than the physical location of Wytana Road as documented by COS No. 2921. In connection with this abandonment, the Schutters and Ballengers will be granting the County a right-of-way easement that accurately reflects the location of Wytana Road and that removes the inaccurate right-of-way from the Schutters' property.

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.

State Trust Land is located in Section 24, Township 1 North, Range 2 East, to the southeast of the portion of Wytana Road to be abandoned. The public will have substantially the same access to the public land upon the County's acceptance of the new right-of-way easement from the Schutters and Ballengers.

8. Does the road or portion of the road contain any utilities?
This portion of Wytana Road does not appear to contain any utilities.

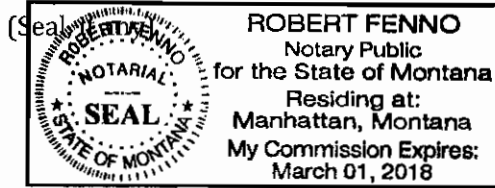
State of Montana
County of Gallatin

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

Nick Schutter
(Signature of petition gatherer.)

Signed and sworn to (or affirmed) before me on July 21, 2017
by Nick Schutter.

Robert Fenno
Signature of notarial officer



Name - typed, stamped, or printed

Title (and Rank)

Residing at

My commission expires: _____

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. *N Schutter*
Signature
✓ Nick Schutter
Printed Name
7-11-17
Date
Address 550 Lookabout Lane
Manhattan, MT 59741
City, State, Zip
Legal Description of Property Sect. 19 1N3E Gall.

2. *Susan Schutter*
Signature
✓ Susan Schutter
Printed Name
7-11-17
Date
Address 550 Lookabout Lane
Manhattan, MT 59741
City, State, Zip
Legal Description of Property Sect. 19 1N3E Gall.

3. *Cliff D. Schutter*
Signature
✓ Cliff D. Schutter
Printed Name
7-12-2017
Date
Address 3845 Kuipers Rd
Manhattan, MT 59741
City, State, Zip
Legal Description of Property Sect 29 1N 3E

4. *Laura Schutter*
Signature
✓ Laura Schutter
Printed Name
7-12-2017
Date
Address 3845 Kuipers Rd
Manhattan, MT 59741
City, State, Zip
Legal Description of Property Sect 29 1N 3E

5. *Kurtis Dikema*
Signature
✓ Kurtis Dikema
Printed Name
7-12-2017
Date
Address 7885 Stagecoach Trl Rd.
Manhattan MT 59741
City, State, Zip
Legal Description of Property S33, T01N, R03E COS 2689
Parcel Tract 1

6. _____

Signature *Thomas J Dykema* Address 4393 Woodenshoe Rd
Printed Name Thomas J Dykema City, State, Zip 59741
Date 7-12-17

Legal Description of Property Sec 33 1N 3E

7. ✓ *Thomas J Dykema member* 4455 Woodenshoe Road
Signature Thomas J Dykema TRB Dykema Address Manhattan MT 59741
Printed Name 7-12-17 City, State, Zip

Date
Legal Description of Property 532, T01 N, R03 E C0S 2840
Tract C

8. ✓ *Greg Braaksma* 411 Western Skies Drive
Signature Greg Braaksma V.P.B3 Inc Address Manhattan, MT 59741
Printed Name 7-15-17 City, State, Zip

Date
Legal Description of Property 535, T01 N, R02 E
Tract 1514

9. ✓ *Travis Ballenger* 3032 Farmall St.
Signature Travis Ballenger Address Bozeman, MT 59718
Printed Name 7-26-17 City, State, Zip

Date
Legal Description of Property Section 19, T01 N, R03 E, C.O.S. 2921,
Acres 9.02, Tract 1

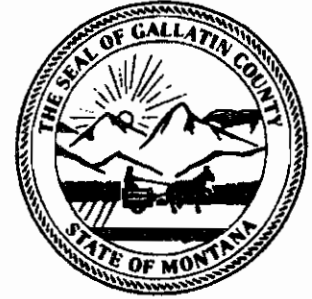
10. ✓ *Kari Ballenger* 3032 Farmall St.
Signature Kari Ballenger Address Bozeman, MT 59718
Printed Name 7-26-17 City, State, Zip

Date
Legal Description of Property Section 19, T01 N, R03 E, C.O.S. 2921
Acres 9.02, Tract 1

State of Montana

County of Gallatin

Bozeman



CERTIFICATE OF THE COUNTY CLERK AND RECORDER
RELATING TO
QUALIFICATIONS OF THE SIGNERS

Statement of Purpose: Petition to abandon a portion of Wytana Rd.

Legal Description: Beginning at a point on the west boundary of Section nineteen, Township One North, Range Three East and which point lies 40 feet south of the Southwest corner of the Northwest Quarter of the Northwest Quarter of said Section nineteen; thence east a distance of forty feet; thence north a distance of 272 feet; thence north 34° 01' east, a distance of 1317 feet to a point on the north boundary of said section nineteen; thence westerly along the north boundary of said section nineteen a distance of 48.3 feet; thence south 34° 01' west a distance of 1302 feet to a point on the west boundary of said section nineteen; thence southerly along the west boundary of said section nineteen a distance of 284 feet, more or less, to the point of beginning, containing in all 1.45 acres, more or less. [Deed Reference: Book 62 of Deeds, Pages 207-208]

STATE OF MONTANA)
)ss
COUNTY OF GALLATIN)

I, Charlotte Mills, do hereby certify that I am the qualified and acting County Clerk and Recorder for Gallatin County, State of Montana; that I have examined the petition to which this certificate is attached, and that pursuant to Section 7-14-2601 M.C.A. 2015, it contains the signatures of 10 qualified freeholders of the Gallatin County road district.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office at Bozeman, the County Seat of Gallatin County, State of Montana, this 27th day of July 2017, A.D.

Charlotte Mills

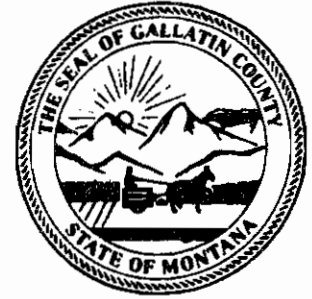
Charlotte Mills
Clerk and Recorder
Gallatin County, Montana



State of Montana

County of Gallatin

Bozeman



NOTICE OF PUBLIC HEARING

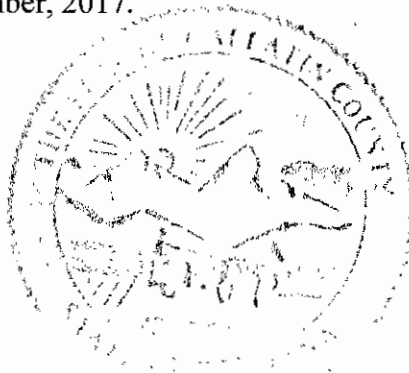
NOTICE IS HEREBY GIVEN that the Board of Gallatin County Commissioners will conduct a public hearing on October 17, 2017, at 9:00 A.M., in the Community Room, 311 W. Main, Bozeman, Montana. Public opinion shall be heard regarding a road petition to abandon that portion of Wytana Rd. described as Beginning at a point on the west boundary of Section nineteen, Township One North, Range Three East and which point lies 40 feet south of the Southwest corner of the Northwest Quarter of the Northwest Quarter of said Section nineteen; thence east a distance of forty feet; thence north a distance of 272 feet; thence north 34° 01' east, a distance of 1317 feet to a point on the north boundary of said section nineteen; thence westerly along the north boundary of said section nineteen a distance of 48.3 feet; thence south 34° 01' west a distance of 1302 feet to a point on the west boundary of said section nineteen; thence southerly along the west boundary of said section nineteen a distance of 284 feet, more or less, to the point of beginning, containing in all 1.45 acres, more or less. [Deed Reference: Book 62 of Deeds, Pages 207-208], Gallatin County, Montana;

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 27th day of September, 2017.

Charlotte Mills

Charlotte Mills
Clerk and Recorder
Gallatin County, Montana

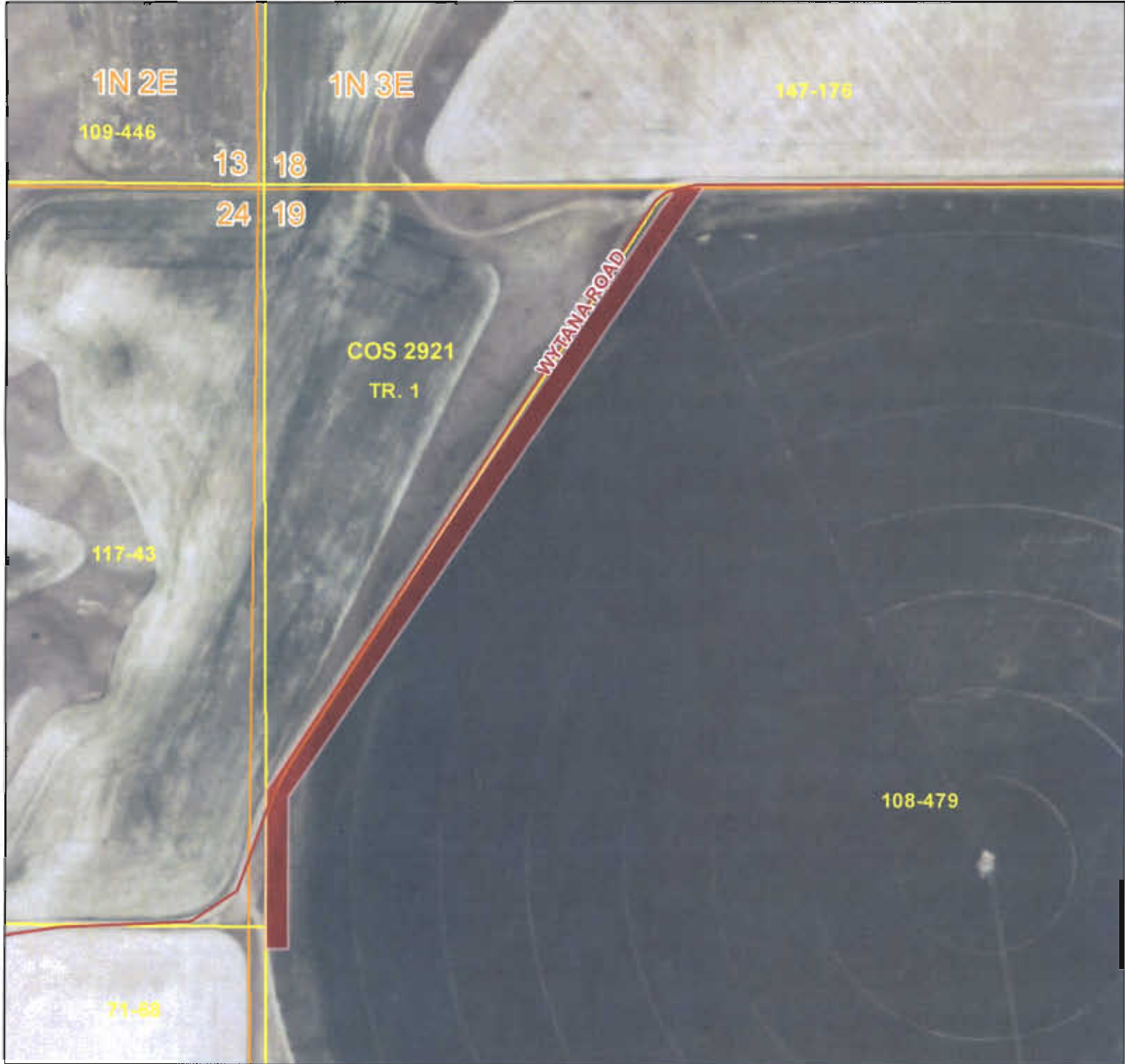




WYTANA ROAD ABANDONMENT MAP

LEGAL DESCRIPTION OF ROAD TO BE ABANDONED

Beginning at a point on the west boundary of Section nineteen, Township One North, Range Three East and which point lies 40 feet south of the Southwest corner of the Northwest Quarter of the Northwest Quarter of said Section nineteen; thence east a distance of forty feet; thence north a distance of 272 feet; thence north 34° 01' east, a distance of 1317 feet to a point on the north boundary of said section nineteen; thence westerly along the north boundary of said section nineteen a distance of 48.3 feet; thence south 34° 01' west a distance of 1302 feet to a point on the west boundary of said section nineteen; thence southerly along the west boundary of said section nineteen a distance of 284 feet, more or less, to the point of beginning, containing in all 1.45 acres, more or less. [Deed Reference: Book 62 of Deeds, Pages 207-208]



 ROAD TO BE ABANDONED



Gallatin County Clerk and Recorder's Office
02/08/2017

1 inch = 250 feet

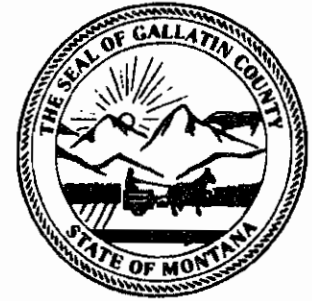




State of Montana

County of Gallatin

Bozeman



AFFIDAVIT OF MAILING

STATE OF MONTANA)
) ss
COUNTY OF GALLATIN)

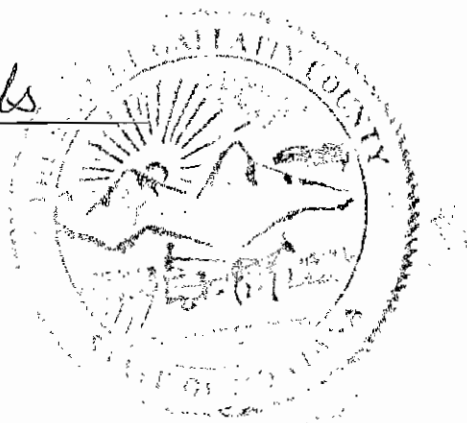
CHARLOTTE MILLS, BEING FIRST DULY SWORN ON OATH, deposes and says:

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 Wytana Road, and the viewing Committee report regarding abandoning the same, according to Road Petition Number 847, was mailed to those listed below on September 28, 2017.

Table with 5 columns: Name, Address, City, State, Zip. Lists names and addresses of recipients in Manhattan and Bozeman, MT.

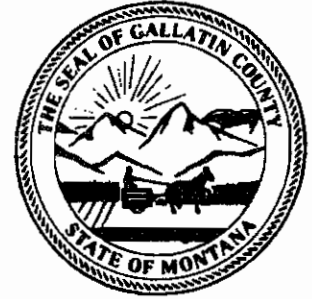
Charlotte Mills
CHARLOTTE MILLS
Clerk and Recorder
Gallatin County, Montana



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 road Beginning at a point on the west boundary of Section nineteen, Township One North, Range Three East and which point lies 40 feet south of the Southwest corner of the Northwest Quarter of the Northwest Quarter of said Section nineteen; thence east a distance of forty feet; thence north a distance of 272 feet; thence north 34° 01' east, a distance of 1317 feet to a point on the north boundary of said section nineteen; thence westerly along the north boundary of said section nineteen a distance of 48.3 feet; thence south 34° 01' west a distance of 1302 feet to a point on the west boundary of said section nineteen; thence southerly along the west boundary of said section nineteen a distance of 284 feet, more or less, to the point of beginning, containing in all 1.45 acres, more or less. [Deed Reference: Book 62 of Deeds, Pages 207-208] Gallatin County, Montana, pursuant to Road Abandonment Petition No. 847, was posted by September 28, 2017 in the following four (4) public locations:

1. Adjacent to the portion of Wytana Road to be abandon
2. Intersection of Wytana Road and Kuipers Road
3. Office of the Gallatin County Clerk & Recorder
4. Gallatin County Courthouse Lobby

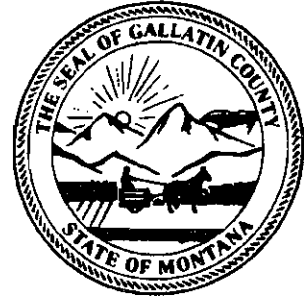
CHARLOTTE MILLS
Clerk and Recorder
Gallatin County, Montana



State of Montana

County of Gallatin

Bozeman



September 25, 2017

Board of County Commissioners
Gallatin County Courthouse
Bozeman, MT 59715

RE: The abandonment of a portion of Wytana Road located in the Section 19 of T1NR3E.

Legal Description: Beginning at a point on the west boundary of Section nineteen, Township One North, Range Three East and which point lies 40 feet south of the Southwest corner of the Northwest Quarter of the Northwest Quarter of said Section nineteen; thence east a distance of forty feet; thence north a distance of 272 feet; thence north $34^{\circ} 01'$ east, a distance of 1317 feet to a point on the north boundary of said section nineteen; thence westerly along the north boundary of said section nineteen a distance of 48.3 feet; thence south $34^{\circ} 01'$ west a distance of 1302 feet to a point on the west boundary of said section nineteen; thence southerly along the west boundary of said section nineteen a distance of 284 feet, more or less, to the point of beginning, containing in all 1.45 acres, more or less. [Reference: Book 62 of Deeds, Pages 207-208];

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 a petition to abandon a county road. The investigation shall be sufficient to properly determine the merits or demerits of the petition.

The petition to abandon the described portion of Wytana Road was received on July 26, 2017 and was certified, by the Gallatin County Clerk and Recorder, on July 27, 2017. The petition states that the right-of-way granted to the County in September 1920 is located in a different position than the physical location of Wytana Road as documented by COS No. 2921. The landowners will grant the County an easement for Wytana Road where it is actually located.

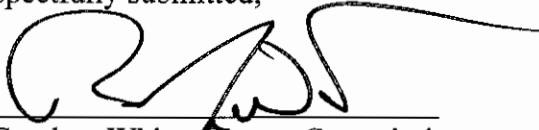
The Board of Gallatin County Commissioners accepted the petition and assigned the viewing committee at a public meeting held on August 15, 2017. On Thursday, August 31, 2017, the undersigned met with Bill Brownell, Gallatin County Road Supervisor, to view the road petitioned for abandonment. The portion of the proposed abandoned road does not exist because the physical road was not built in the platted right-of-way.

The only landowners affected are the petitioners, who each own the property on either side of this portion of Wytana Road.

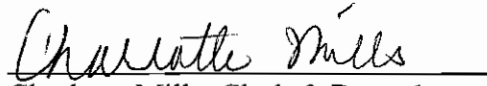
The simplest action is to abandon the described portion of the current platted road, and obtain an easement for the portion of Wytana Road as it is built.

The Viewing Committee does find that this portion of Wytana Road does not provide existing legal access to public lands or waters. The petition states that State Trust Land is located in Section 24 of T1NR2E. The public will have the same access to the public land upon the County's acceptance of the new right-of-way easement from the petitioners. Also, two or more landowners do not use this portion of Wytana Road to access private property. Therefore, the viewing committee believes that it is feasible and desirable to grant the petition to abandon this portion of Wytana Road.

Respectfully submitted,



R. Stephen White, County Commissioner



Charlotte Mills, Clerk & Recorder

RESOLUTION NO. 2017- 078

A RESOLUTION MADE TO ASSIGN THE VIEWING COMMITTEE AND
PETITION NUMBER FOR A PETITION TO ABANDON A PORTION OF
WYTANA ROAD NO. 478, GALLATIN COUNTY, MONTANA

This Resolution was introduced by ERIC SEMERAD; moved by
Commissioner WHITE and seconded by Commissioner SKINNER.
This Resolution was adopted
UNANIMOUSLY.

WHEREAS, the Gallatin County Clerk and Recorder received a Petition on July 26, 2017, to abandon a portion of Wytana Road (hereinafter referred to as the "Road"), pursuant to Title 7, Chapter 14, Part 26 Montana Code Annotated;

WHEREAS, the Road is described as Beginning at a point on the west boundary of Section nineteen, Township One North, Range Three East and which point lies 40 feet south of the Southwest corner of the Northwest Quarter of the Northwest Quarter of said Section nineteen; thence east a distance of forty feet; thence north a distance of 272 feet; thence north 34° 01' east, a distance of 1317 feet to a point on the north boundary of said section nineteen; thence westerly along the north boundary of said section nineteen a distance of 48.3 feet; thence south 34° 01' west a distance of 1302 feet to a point on the west boundary of said section nineteen; thence southerly along the west boundary of said section nineteen a distance of 284 feet, more or less, to the point of beginning, containing in all 1.45 acres, more or less. [Deed Reference: Book 62 of Deeds, Pages 207-208];

WHEREAS, on July 27th, 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:

1. The Board hereby accepts the petition for abandonment of that portion of Wytana Road beginning at a point on the west boundary of Section nineteen,

A RESOLUTION MADE TO ASSIGN THE VIEWING COMMITTEE AND PETITION NUMBER FOR A PETITION TO
ABANDON A PORTION OF WYTANA ROAD NO. 478, GALLATIN COUNTY, MONTANA

Township One North, Range Three East and which point lies 40 feet south of the Southwest corner of the Northwest Quarter of the Northwest Quarter of said Section nineteen; thence east a distance of forty feet; thence north a distance of 272 feet; thence north 34° 01' east, a distance of 1317 feet to a point on the north boundary of said section nineteen; thence westerly along the north boundary of said section nineteen a distance of 48.3 feet; thence south 34° 01' west a distance of 1302 feet to a point on the west boundary of said section nineteen; thence southerly along the west boundary of said section nineteen a distance of 284 feet, more or less, to the point of beginning, containing in all 1.45 acres, more or less. [Deed Reference: Book 62 of Deeds, Pages 207-208]

2. The petition is assigned Road Petition Number 847.
3. Commissioner Steve White and County Surveyor Charlotte Mills are assigned to investigate the feasibility, desirability, and cost of granting the prayer of the Petition, and to report their findings back to the Board.

DATED this 15th day of August 2017.

BOARD OF COUNTY COMMISSIONERS OF
GALLATIN COUNTY



Donald F. Seifert, Chairman

ATTEST:



Charlotte Mills
Clerk and Recorder
Gallatin County

RESOLUTION NO. 2017- 102

A RESOLUTION MADE PURSUANT TO ROAD ABANDONMENT PETITION
NO. 847 TO ABANDON A PORTION OF WYTANA
ROAD, GALLATIN COUNTY, MONTANA

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

WHEREAS, the Gallatin County Clerk and Recorder received a Petition on July 26, 2017, to abandon a portion of Wytana Road, pursuant to Title 7, Chapter 14, Part 26 Montana Code Annotated;

WHEREAS, the Road is described as Beginning at a point on the west boundary of Section nineteen, Township One North, Range Three East and which point lies 40 feet south of the Southwest corner of the Northwest Quarter of the Northwest Quarter of said Section nineteen; thence east a distance of forty feet; thence north a distance of 272 feet; thence north 34° 01' east, a distance of 1317 feet to a point on the north boundary of said section nineteen; thence westerly along the north boundary of said section nineteen a distance of 48.3 feet; thence south 34° 01' west a distance of 1302 feet to a point on the west boundary of said section nineteen; thence southerly along the west boundary of said section nineteen a distance of 284 feet, more or less, to the point of beginning, containing in all 1.45 acres, more or less. [Deed Reference: Book 62 of Deeds, Pages 207-208]; according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder. (hereinafter referred to as the "Road");

WHEREAS, the Petition states the necessity for and advantage of the abandonment is: "The right-of-way granted to the County in September 1920 is located in a different position than the physical location of Wytana Road as documented by COS No. 2921. In connection with this abandonment, the Schutters and Ballengers will be granting the County a right-of-way easement that accurately reflects the location of Wytana Road and that removes the inaccurate right of way from the Schutters' property";

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 July 27, 2017, the Gallatin County Clerk and Recorder certified that the Petition contained sufficient signatures as required by Section 7-14-2601, MCA;

WHEREAS, on August 15, 2017, the Board of County Commissioners passed Resolution 2017-078 which caused an investigation to be made of the feasibility, desirability, and cost of granting the prayer of the Petition, appointed a viewing

committee consisting of County Commissioner Steve White and the County Surveyor, Charlotte Mills, and assigned the Number 847 to the Petition;

WHEREAS, on August 31, 2017, the viewing committee met to view the road being petitioned for abandonment;

WHEREAS, in the viewers' report dated September 25, 2017, the viewing committee reported: "On Thursday, August 31, 2017, the undersigned met with Bill Brownell, Gallatin County Road Supervisor, to view the road petitioned for abandonment. The portion of the proposed abandoned road does not exist because the physical road was not built in the platted right-of-way"; and "The only landowners affected are the petitioners, who each own the property on either side of this portion of Wytana Road."; and "The simplest action is to abandon the described portion of the current platted road, and obtain an easement for the portion of Wytana Road as it is built."; and "The petition states that State Trust Land is located in Section 24 of T1NR2E. The public will have the same access to the public land upon the County's acceptance of the new right-of-way easement from the petitioners.";

WHEREAS, the viewing committee reported that the Road does not provide existing legal access to public lands or waters. In addition, two or more landowners do not use the Road to access private property;

WHEREAS, the viewing committee recommended "to abandon the described portion of the current platted road, and obtain an easement for the portion of Wytana Road as it is built";

WHEREAS, the petitioners, Nicholas and Susan Schutter and Travis and Kari Ballenger, have executed an easement to Gallatin County, 40 feet in width, for the portion of Wytana Road as built and shown in Certificate of Survey No.2921;

WHEREAS, on September 28, 2017 notices were posted in four (4) public places including a notice adjacent to the portion of Wytana Road to be abandoned; at the intersection of Wytana Road and Kuipers 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 ~~August 15~~ ^{September 15}, 2017, was published in the Bozeman Daily Chronicle on October 1, 2017 and October 13, 2017; and mailed to petitioners and all landowners adjacent to the Road along with a viewers' report on September 28, 2017;

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

WHEREAS, on October 17, 2017, the Gallatin County Commissioners conducted a public hearing, after notice, on the Petition and the results of the investigation; and


WHEREAS, on October 17, 2017, 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 described as beginning at a point on the west boundary of Section nineteen, Township One North, Range Three East and which point lies 40 feet south of the Southwest corner of the Northwest Quarter of the Northwest Quarter of said Section nineteen; thence east a distance of forty feet; thence north a distance of 272 feet; thence north 34° 01' east, a distance of 1317 feet to a point on the north boundary of said section nineteen; thence westerly along the north boundary of said section nineteen a distance of 48.3 feet; thence south 34° 01' west a distance of 1302 feet to a point on the west boundary of said section nineteen; thence southerly along the west boundary of said section nineteen a distance of 284 feet, more or less, to the point of beginning, containing in all 1.45 acres, more or less. [Deed Reference: Book 62 of Deeds, Pages 207-208]; 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 street. 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 17th day of ^{October} ~~August~~ 2017.

BOARD OF COUNTY COMMISSIONERS OF
GALLATIN COUNTY



Donald F. Seifert
Chairman

OCTOBER 17, 2017
Date

ATTEST:



Charlotte Mills
Clerk and Recorder
Gallatin County

RESOLUTION NO. 2017- 102

A RESOLUTION MADE PURSUANT TO ROAD ABANDONMENT PETITION
NO. 847 TO ABANDON A PORTION OF WYTANA
ROAD, GALLATIN COUNTY, MONTANA

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

WHEREAS, the Gallatin County Clerk and Recorder received a Petition on July
26, 2017, to abandon a portion of Wytana Road, pursuant to Title 7, Chapter 14, Part 26
Montana Code Annotated;

WHEREAS, the Road is described as Beginning at a point on the west boundary
of Section nineteen, Township One North, Range Three East and which point lies 40 feet
south of the Southwest corner of the Northwest Quarter of the Northwest Quarter of said
Section nineteen; thence east a distance of forty feet; thence north a distance of 272 feet;
thence north 34° 01' east, a distance of 1317 feet to a point on the north boundary of said
section nineteen; thence westerly along the north boundary of said section nineteen a
distance of 48.3 feet; thence south 34° 01' west a distance of 1302 feet to a point on the
west boundary of said section nineteen; thence southerly along the west boundary of said
section nineteen a distance of 284 feet, more or less, to the point of beginning, containing
in all 1.45 acres, more or less. [Deed Reference: Book 62 of Deeds, Pages 207-208];
according to the official plat thereof on file and of record in the office of the Gallatin
County Clerk and Recorder. (hereinafter referred to as the "Road");

WHEREAS, the Petition states the necessity for and advantage of the
abandonment is: "The right-of-way granted to the County in September 1920 is located in
a different position than the physical location of Wytana Road as documented by COS
No. 2921. In connection with this abandonment, the Schutters and Ballengers will be
granting the County a right-of-way easement that accurately reflects the location of
Wytana Road and that removes the inaccurate right of way from the Schutters' property";

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 July 27, 2017, the Gallatin County Clerk and Recorder certified
that the Petition contained sufficient signatures as required by Section 7-14-2601, MCA;

WHEREAS, on August 15, 2017, the Board of County Commissioners passed
Resolution 2017-078 which caused an investigation to be made of the feasibility,
desirability, and cost of granting the prayer of the Petition, appointed a viewing

A RESOLUTION MADE PURSUANT TO ROAD ABANDONMENT PETITION NO. 847 TO ABANDON A PORTION OF
WYTANA ROAD, GALLATIN COUNTY, MONTANA

Certified to be a full, true and correct copy of a
document containing 3 pages. Dated at
Bozeman, MT, October 17, 2017.
Charlotte Mills Clerk & Recorder for Gallatin
County, State of Montana. Any alteration of this
copy voids the certification.

By Maigha Mills Deputy

PLATED M ✓

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Charlotte Mills - Gallatin County, MT

committee consisting of County Commissioner Steve White and the County Surveyor, Charlotte Mills, and assigned the Number 847 to the Petition;

WHEREAS, on August 31, 2017, the viewing committee met to view the road being petitioned for abandonment;

WHEREAS, in the viewers' report dated September 25, 2017, the viewing committee reported: "On Thursday, August 31, 2017, the undersigned met with Bill Brownell, Gallatin County Road Supervisor, to view the road petitioned for abandonment. The portion of the proposed abandoned road does not exist because the physical road was not built in the platted right-of-way"; and "The only landowners affected are the petitioners, who each own the property on either side of this portion of Wytana Road."; and "The simplest action is to abandon the described portion of the current platted road, and obtain an easement for the portion of Wytana Road as it is built."; and "The petition states that State Trust Land is located in Section 24 of T1NR2E. The public will have the same access to the public land upon the County's acceptance of the new right-of-way easement from the petitioners.";

WHEREAS, the viewing committee reported that the Road does not provide existing legal access to public lands or waters. In addition, two or more landowners do not use the Road to access private property;

WHEREAS, the viewing committee recommended "to abandon the described portion of the current platted road, and obtain an easement for the portion of Wytana Road as it is built";

WHEREAS, the petitioners, Nicholas and Susan Schutter and Travis and Kari Ballenger, have executed an easement to Gallatin County, 40 feet in width, for the portion of Wytana Road as built and shown in Certificate of Survey No.2921;

WHEREAS, on September 28, 2017 notices were posted in four (4) public places including a notice adjacent to the portion of Wytana Road to be abandoned; at the intersection of Wytana Road and Kuipers 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 ~~August 15~~ ^{September 15}, 2017, was published in the Bozeman Daily Chronicle on October 1, 2017 and October 13, 2017; and mailed to petitioners and all landowners adjacent to the Road along with a viewers' report on September 28, 2017;

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

WHEREAS, on October 17, 2017, the Gallatin County Commissioners conducted a public hearing, after notice, on the Petition and the results of the investigation; and

WHEREAS, on October 17, 2017, 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 described as beginning at a point on the west boundary of Section nineteen, Township One North, Range Three East and which point lies 40 feet south of the Southwest corner of the Northwest Quarter of the Northwest Quarter of said Section nineteen; thence east a distance of forty feet; thence north a distance of 272 feet; thence north 34° 01' east, a distance of 1317 feet to a point on the north boundary of said section nineteen; thence westerly along the north boundary of said section nineteen a distance of 48.3 feet; thence south 34° 01' west a distance of 1302 feet to a point on the west boundary of said section nineteen; thence southerly along the west boundary of said section nineteen a distance of 284 feet, more or less, to the point of beginning, containing in all 1.45 acres, more or less. [Deed Reference: Book 62 of Deeds, Pages 207-208]; 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 street. 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 17th day of ^{October} ~~August~~ 2017.

BOARD OF COUNTY COMMISSIONERS OF
GALLATIN COUNTY



Donald F. Seifert
Chairman

OCTOBER 17, 2017
Date

ATTEST:


Charlotte Mills
Clerk and Recorder
Gallatin County

PUBLIC ROAD RIGHT OF WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, Nicholas & Susan Schutter and Travis & Kari Ballenger (collectively, the "Grantors"), the owners of the legal and equitable title to the following described real estate, for and in consideration of the sum of Ten Dollars, cash in hand, paid by GALLATIN COUNTY, MONTANA ("Grantee") and other good and valuable consideration, receipt of which are hereby acknowledged, do hereby bargain, sell, grant, release, and convey unto the said Grantee an easement through, over, under, and across the following described real property, situated in Gallatin County, Montana, for a forty-foot public road right-of-way for the purpose of travel of the public, to wit:

All that part of the northwest quarter of Section 19, Township 1 North, Range Three East described as a forty-foot wide strip of land being twenty feet on each side of the following described centerline:

Starting at the Northwest Corner of said Section 19; thence N 89°24'51" E, along the north line of said section, a distance of 759.46 feet to a point on the centerline of Wytana Road (County Rd 478) being the true point of beginning; thence southwesterly, along said centerline, along the arc of a curve to the left having a radius of 90.59 feet, a central angle of 56°52'15" and an arc length of 89.91 feet; thence S 32°32'36" W, along said centerline a distance of 1178.68 feet; thence along the arc of a curve to the left having a radius of 415.08 feet, a central angle of 15°59'35" and an arc length of 115.86 feet to a point on the west line of said Section 19 being the endpoint of the centerline; said point being S 00°05'59" E, along said section line, a distance of 1368.62 feet from Northwest Corner of Section 19;

Together with all necessary and convenient appurtenances thereto, but such grant is for only such rights as are necessary for the construction, repair, operation, and maintenance of a dedicated county road. Such easement is more particularly shown as set forth in Certificate of Survey No. 2921, recorded in the Office of the Gallatin County Clerk and Recorder as Document No. 2564612 on November 28, 2016.

The said right-of-way easement is hereby granted for the construction, repair, maintenance, and operation of a common, public highway or county road known as Wytana Road, without any reservation or exceptions whatsoever by the Grantor with respect to the construction, repair or maintenance, operation or control, or otherwise, of the full width of said right-of-way or of any road which may be constructed upon the right-of-way. By this grant to the Grantee, the Grantors do also hereby dedicate said right-of-way to the general public for all road and highway purposes provided for in the laws of the State of Montana, including the right of use for surface and subsurface utilities; provided, if at any time hereafter, the use of said right-of-way shall be abandoned by the properly constituted authorities in such matters for all purposes as a public road as provided by statute, then said easement covered by said right-of-way shall revert to the Grantor, its successors, or assigns, except for that right granted for utilities.

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Charlotte Mills - Gallatin County, MT
Fee: \$0.00 MISC

This grant of easement shall be perpetual, shall run with the land, and shall inure to the benefit of and bind the heirs, assigns, and successors of the parties hereto.

TO HAVE AND TO HOLD such easement and right-of-way unto Grantee, its successors, and assigns, forever.

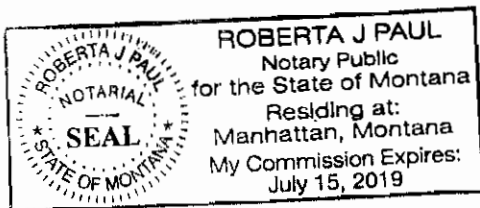
NICHOLAS SCHUTTER

Nicholas Schutter

STATE OF Montana)
: ss.
County of Gallatin)

On this 12 day of July, 2017, this instrument was acknowledged before me by Nicholas Schutter.

(stamp)



Roberta J Paul
Signature of Notary

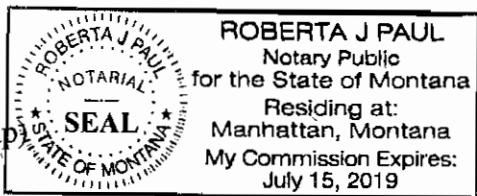
SUSAN SCHUTTER

Susan Schutter

STATE OF Montana)
: ss.
County of Gallatin)

On this 12 day of July, 2017, this instrument was acknowledged before me by Susan Schutter.

(stamp)



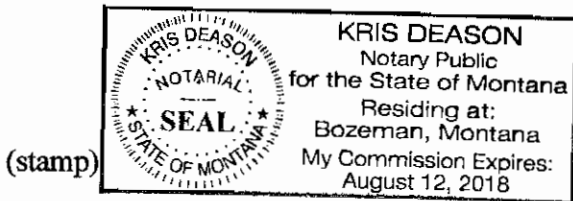
Roberta J Paul
Signature of Notary

TRAVIS BALLENGER

[Handwritten Signature]

STATE OF Montana)
: ss.
County of Gallatin)

On this 12th day of July, 2017, this instrument was acknowledged before me by Travis Ballenger.



[Handwritten Signature]
Signature of Notary

KARI BALLENGER

STATE OF _____)
: ss.
County of _____)

On this ___ day of _____, 20___, this instrument was acknowledged before me by Kari Ballenger.

(stamp)

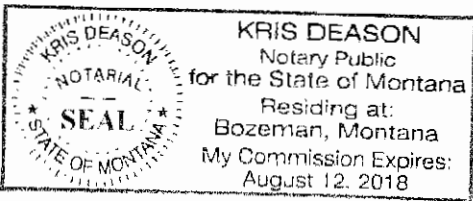
Signature of Notary

TRAVIS BALLENGER

[Handwritten signature of Travis Ballenger]

STATE OF Montana)
County of Gallatin) : ss.

On this 12th day of July, 2017, this instrument was acknowledged before me by Travis Ballenger.

(stamp) 

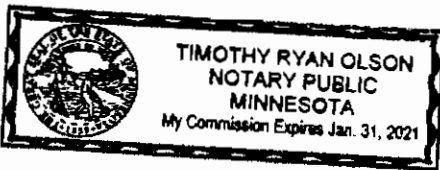
[Handwritten signature of Kris Deason]
Signature of Notary

KARI BALLENGER

[Handwritten signature of Kari Ballenger]

STATE OF Minnesota)
County of Swift) : ss.

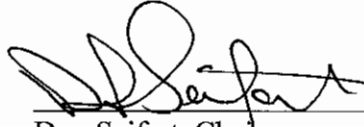
On this 13th day of July, 2017, this instrument was acknowledged before me by Kari Ballenger.

(stamp) 

[Handwritten signature of Timothy R. Olson]
Signature of Notary

Accepted by Resolution of Grantee:

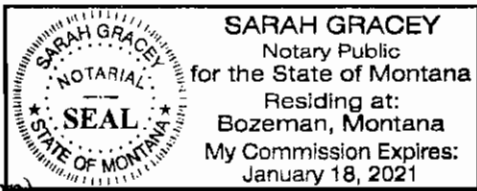
GALLATIN COUNTY, MONTANA



Don Seifert, Chair
Gallatin County Board of County Commissioners

STATE OF Montana)
County of Gallatin) : ss.

On this 17 day of October, 2017, this instrument was acknowledged before me by Don Seifert as the Chair of the Board of Gallatin County Commissioners.



(stamp)



Signature of Notary

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:

TRAVIS AND KARI BALLENGER
3032 FARMALL ST
BOZEMAN, MT 59718

Road Petition # 847

2. Article Number
(Transfer from service label)

7012 0470 0000 2799 3292

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *Kari Ballenger* Agent Addressee

B. Received by (Printed Name)
Kari Ballenger

C. Date of Delivery
10/20/17

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

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

4. Restricted Delivery? (Extra Fee) Yes

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:

NICHOLAS & SUSAN SCHUTTER
3333 KUIPERS RD
MANHATTAN, MT 59741

ROAD PETITION#847

2. Article Number
(Transfer from service label)

7012 0470 0000 2799 3285

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *P. Schutter* Agent Addressee

B. Received by (Printed Name)
P. Schutter

C. Date of Delivery
10/20/17

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

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

4. Restricted Delivery? (Extra Fee) Yes