

**PETITION FOR ABANDONMENT OF SURVEYED COUNTY ROAD**

\* \* \* \* \*

TO: The Board of County Commissioners, Park County, Montana:

The undersigned freeholders of the road district of Park County, Montana, petition this Board, pursuant to M.C.A. §7-14-2601, *et seq.*, to abandon a surveyed county road located in Park County, Montana, and represent as follows:

1. The surveyed county road for which abandonment is sought is particularly described as follows:

That portion of Upper Dry Creek Road lying within Sections 20, 28 and 29, Township 2 South, Range 10 East, P.M.M., Park County, Montana, as surveyed by M.K. Wilcomb, August 1, 1923, and shown on County Road Maps 157, 159 and 160 (copy of the survey is attached hereto as Exhibit "1") A diagram and aerial map of the surveyed County Road showing surrounding property owners from related reference information is attached as Exhibit "2".

2. The surveyed county road is commonly known as "Upper Dry Creek Road." Please note that this Petition only seeks abandonment of the portion of Upper Dry Creek Road lying within the confines of the MacKenzie property in Section 28, 29 and 20. Said portion of Upper Dry Creek Road for which abandonment is sought is highlighted in yellow on the diagram and in red on the aerial map attached as Exhibit "2".

3. On June 6, 2016, Judge Jon A. Oldenburg, Presiding Judge, Montana Sixth Judicial District Court, Cause No. DV-14-147, made a finding that the portion of Upper Dry Creek Road lying in Section 28, T2S, R10E, Park County, Montana, constituted a county road based on the Court's Findings of Fact, Conclusions of Law, and Judgment, a copy of which is attached hereto as Exhibit "3". Based on said Judgment, Petitioner believes that the portion of Upper Dry Creek Road for which abandonment is sought herein could be construed as a county road. In order to properly assert jurisdiction over this Petition, Petitioner requests that the Commission obtain a discretionary finding from the County Civil Attorney regarding the status of the portion of Upper Dry Creek Road for which abandonment is sought herein.

4. The advantage of the petitioned action will be to terminate any further legal controversy regarding the status of Upper Dry Creek Road lying within Sections 20, 28 and 29, T2S, R10E, and to terminate any maintenance obligations that Park County may have with respect to said portion of the Upper Dry Creek Road. The portion of the Upper Dry Creek Road for which abandonment is sought lies entirely within property owned by MacKenzie Ranch and provides no access to other private or public landholders, and therefore there is no public purpose for maintaining the portion of Upper Dry Creek Road for which abandonment is sought

5. Pursuant to M.C.A. §7-14-2615(3), the portion of Upper Dry Creek Road for which abandonment is sought does not provide access to any public land or water.

6. It appears that Park County's right-of-way for Upper Dry Creek Road is an easement, although this fact is somewhat unclear based upon the Wilcomb survey. The Petitioner requests that the County Commission state in its abandonment Resolution that upon abandonment of the portion of Upper Dry Creek Road requested herein, that ownership of the land crossed by the surveyed road will revert to the Petitioner, the underlying landowner.

7. To the best of Petitioner's knowledge, there are no public utility installations upon or beneath the portion of Upper Dry Creek Road for which abandonment is sought.

8. The Petitioner requests that the County Commissioners record a certified copy of the Resolution which abandons the portion of Upper Dry Creek Road for which abandonment is sought in the office of the Park County Clerk and Recorder, for the purpose of imparting public notice. Petitioner agrees to pay or reimburse any recording fees.

9. In accordance with Park County Commissioner's Resolution No. 942, a \$300.00 fee for abandoning a county road accompanies this Petition; Petitioner agrees to pay the cost of the County-hired surveyor to investigate the road.

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to grant this Petition:

Printed Name: Peter Gibb MacKenzie and Anne Lawrence MacKenzie Living Trust  
c/o Peter and Anne MacKenzie  
P.O. Box 1809  
Livingston, MT 59047

Property Tax Identification # 0005715000.

Signature: *Anne Lawrence MacKenzie, Trustee*  
ANNE LAWRENCE MacKENZIE, Trustee

Signature: *Peter G. MacKenzie*  
PETER GIBB MacKENZIE, Trustee

Date: 5/22/2019

SEP 25 2020

**AFFIDAVIT OF PERSON CIRCULATING PETITION**

I, **PETER MacKENZIE**, affirm, or being first sworn, depose and say that I circulated or assisted in circulating the petition to which this Affidavit is attached, and I believe the signatures thereon are genuine, are the signatures of the persons whose names they purport to be, are the signatures of landowners requesting this road petition, and the signer knew the contents of the petition and legal description of the proposed road abandonment before signing the same.

Signature:

  
PETER MacKENZIE, TRUSTEE

Property Tax ID #0005715000

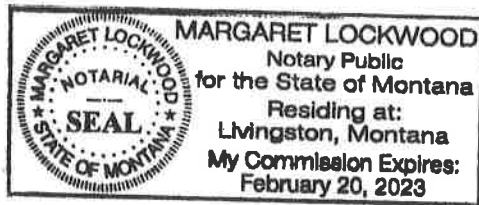
Address: P.O. Box 1809  
Livingston, MT 59047

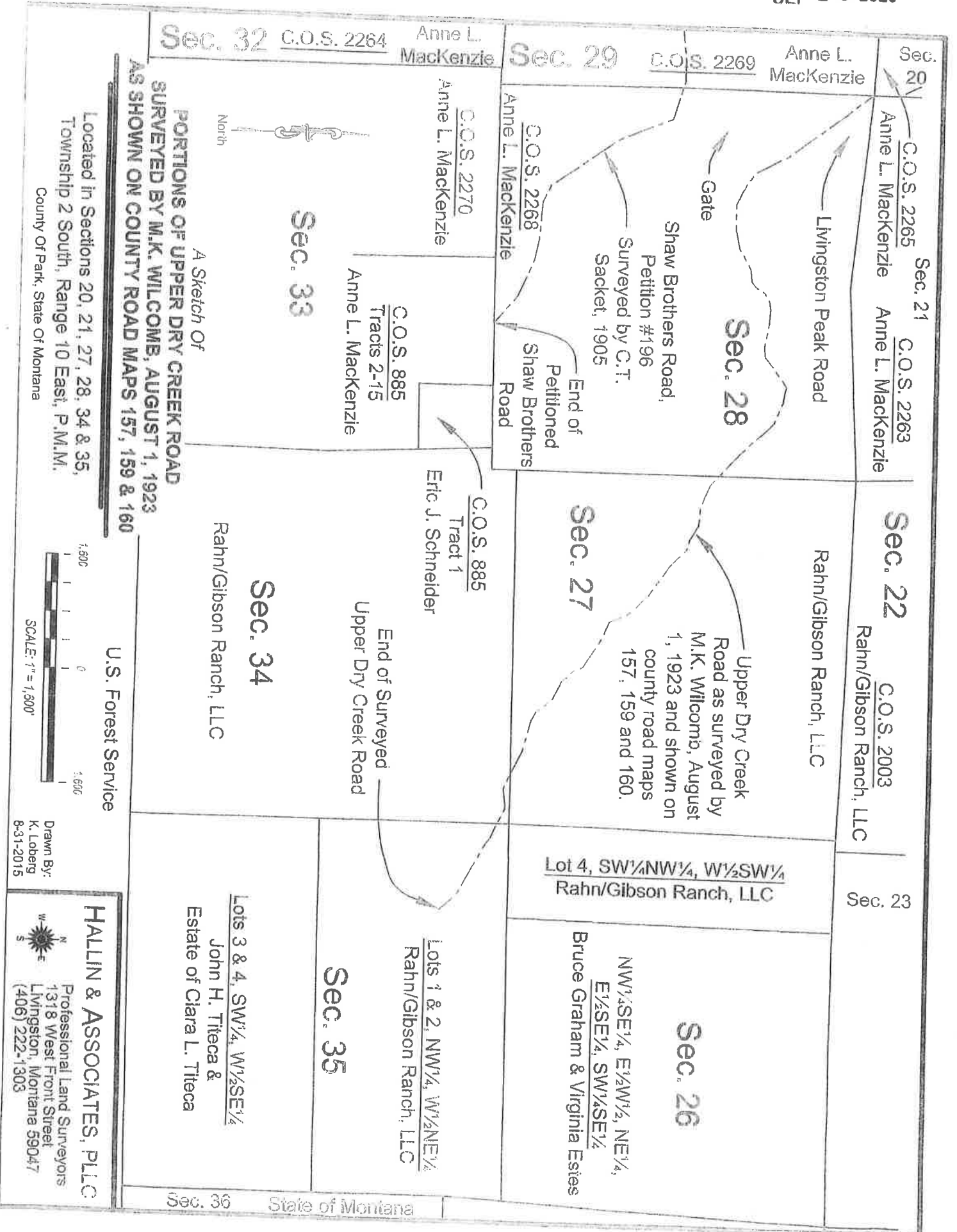
STATE OF MONTANA     )  
  : ss  
County of PARK         )

This record was acknowledged before me on May 22, 2019, by  
PETER MacKENZIE

OFFICIAL STAMP

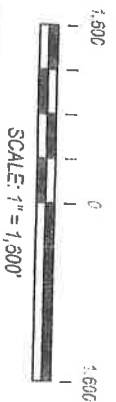






A Sketch Of  
**PORTIONS OF UPPER DRY CREEK ROAD**  
 SURVEYED BY M.K. WILCOMB, AUGUST 1, 1923  
 AS SHOWN ON COUNTY ROAD MAPS 157, 159 & 160

Located in Sections 20, 21, 27, 28, 34 & 35,  
 Township 2 South, Range 10 East, P.M.M.,  
 County Of Park, State Of Montana



Drawn By:  
 K. Loberg  
 8-31-2015

**HALLIN & ASSOCIATES, PLLC**  
 Professional Land Surveyors  
 1318 West Front Street  
 Livingston, Montana 59047  
 (406) 222-1303


SEP 25 2020

Printed Name: ROBERT A. DEGENHARDT and ELIZABETH S. SCHOLL  
P.O. Box 1275  
Livingston, MT 59047

Property Tax Identification # 0004432000

Signature:

  
ROBERT A. DEGENHARDT

  
ELIZABETH S. SCHOLL

SEP 25 2020



Shopping Cart: 0 Items [\$0.00]

- [New Search](#)
- [History](#)
- [Payoff](#)
- [PayTaxes](#)
- [Help](#)

**Property Tax ID:** 0004432000

**Status:** Current

**Receipt:** 21243

**2019 Owner(s):**  
DEGENHARDT ROBERT A  
SCHOLL ELIZABETH S

**Mailing Address:**

PO BOX 1275  
LIVINGSTON, MT 590471275

**Levy District:**  
1612, DISTRICT 4 OUT / RF 1

**2019 Value:**

**Market:** \$520,700  
**Taxable:** \$7,030

[Detail](#)

**2019 Taxes:**

<b>First Half:</b>	\$1,844.27	<b>Due:</b> 11/30/2019
<b>Second Half:</b>	\$1,844.25	<b>Due:</b> 5/31/2020
<b>Total:</b>	\$3,688.52	

[View Pie Charts](#)

[Show Current Tax Bill](#)

[Detail](#)

**2019 Payments:**

<b>First Half:</b>	\$1,844.27
<b>Second Half:</b>	\$1,844.25
<b>Total:</b>	\$3,688.52

(May Include penalty & Interest)

**2019 Legal Records:**

**Geo Code:** 49-0803-24-3-01-06-0000 **Instru#:** D360438 **Date:** 2010-04-08

**Property address:** 560 SWINGLEY RD, LIVINGSTON MT 59047

**TRS:** T02 S, R10 E, Sec. 24

**Legal:** S24, T02 S, R10 E, C.O.S. 696, PARCEL A, SE4SE4SE4

**Note:** Only one search criterion is required (e.g. Parcel # or Owner Name). Entering additional criteria will result in an incomplete search.

**ATTENTION:** For Owner Name Searches, you must search LastName FirstName.

The accuracy of this data is not guaranteed. Property Tax data was last updated 09/24/2020 04:00 PM.

**Send Payments To:**


**Send Payments to:**  
Park County Treasurer  
414 East Callender  
Livingston, MT 59047  
PH: (406)222-4121 or 4119

SEP 25 2020

Printed Name: Matt Jessen  
C/O Fisher Sand & Gravel  
91 Swingley Rd  
Livingston, MT 59047

Property Tax Identification: # 0041795

Signature:

  
Matt Jessen

Operation Manager

5-22-19

SEP 25 2020

Printed Name: LION CROSSING RANCH, LLC  
5155 Mercer Lane  
Missoula, MT 59808-8936

Property Tax Identification #5713100

Signature:

By

Its

*Joseph Conyngham*  
*Lion Crossing Ranch LLC*  
Authorized Agent



SEP 25 2020

Printed Name: Mission LLC  
c/o Jeff Cahill  
P.O. Box 979  
Livingston, MT 59047

Property Tax Identification # 0000039480

Signature:

By Jeff Cahill  
Its Managing Shareholder

SEP 25 2020

Printed Name: JERRY E. RAHN and MARY G. RAHN  
P.O. Box 1016  
Livingston, MT 59047

Property Tax Identification #0004433000

Signature:

  
\_\_\_\_\_  
JERRY E. RAHN

  
\_\_\_\_\_  
MARY G. RAHN

SEP 25 2020

Printed Name: PARKS REECE  
119 S. Main  
Livingston, MT 59047

Property Tax Identification #0005714000

Signature:

A handwritten signature in cursive script that reads "Parks Reece". The signature is written in dark ink and is positioned above a horizontal line.

PARKS REECE

SEP 25 2020

Printed Name: TED J. WATSON and GEORGANN WATSON  
P.O. Box 433  
Livingston, MT 59047

Property Tax Identification # 0000078900

Signature:

  
\_\_\_\_\_  
TED J. WATSON

  
\_\_\_\_\_  
GEORGANN WATSON

SEP 25 2020

Printed Name: BRUCE GRAHAM and VIRGINIA ESTES  
P.O. Box 217  
Livingston, MT 59047

Property Tax Identification # 0003274000

Signature:

  
\_\_\_\_\_  
BRUCE GRAHAM

  
\_\_\_\_\_  
VIRGINIA ESTES

SEP 25 2020

Printed Name: Daniel J Nelson and Susan C Nelson  
46 Chicken Creek Lane  
Livingston, MT 59047

Property Tax Identification: # 0000039789

Signature: Daniel J. Nelson  
Daniel J Nelson

Susan C Nelson  
Susan C Nelson

SEP 25 2020

Printed Name: ERIC J. SCHNEIDER and LUANNE E. ATCHISON  
P.O. Box 1299  
Livingston, MT 59047

Property Tax Identification # 0005715401

Signature:



ERIC J. SCHNEIDER



LUANNE E. ATCHISON

JAN 22 2020

SEP 25 2020

Printed Name: KMETZ-SHEEHY ANDREA REVOCABLE TRUST  
5805 Mait Lane  
Minneapolis, MN 55436-1333

Property Tax Identification #0004436000

Signature:

By  \_\_\_\_\_  
Its TRUSTEE \_\_\_\_\_





October 14, 2020

Park County Commission  
414 East Callender Street  
Livingston, MT 59047

RE: Petition # 160, Petition for Abandonment of Upper Dry Creek Road

Dear Commissioners,

Please see the attached signature report based on the submittal of the petition to abandon a portion of Upper Dry Creek Road. The petition was submitted on September 25, 2020 with a total of 17 signatures, 17 signatures were valid and can be accepted. MCA 7-14-2601 states that 10 signatures are required and the petition can be reviewed. A copy of the petition has been attached.

October 25<sup>th</sup>, 2020 will be 30 days from the submittal:

**7-14-2603. Investigation of request concerning road -- decision.** (1) At its next regular or special meeting or in any case at a date within 30 days after filing of any petition, the board 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.

(2) No more than one member of the board and the county surveyor shall make the investigation.

(3) After considering the petition and the results of the investigation, the board shall make an entry of its decision on the minutes.

Thank you,

Maritza H Reddington, Clerk & Recorder

cc: Shannan Piccolo, Civil Deputy Attorney

		<b>Upper Dry Creek Road</b>			
		<b>Signature Report</b>			
		<u>Submitted on September 25, 2020</u>			
	<u>Tax ID</u>	<u>Ownership</u>	<u>Signator</u>	<u>Counted</u>	<u>Notes</u>
1	0000035789	Nelson, Daniel J	Daniel J Nelson	Yes	
2		Nelson, Susan C	Susan C Nelson	Yes	
3	0003274000	Graham, Bruce	Bruce Graham	Yes	
4		Estes, Virginia	Virginia Estes	Yes	
5	0000078900	Watson, Ted J	Ted J Watson	Yes	
6		Watson, Georgann	Georgann, Watson	Yes	
7	0005714000	Reece, Charles Parks Jr	Parks Reece	Yes	
8	5713100	Lion Crossing Ranch LLC	Jock Comyngham	Yes	
9	0041795	Fisher Sand & Gravel Co	Matt Jessen	Yes	
10	0004432000	Degenhardt, Robert A	Robert A Degenhardt	Yes	
11		Scholl, Elizabeth S	Elizabeth S Scholl	Yes	
12	0000039480	Mission LLC	Jeff Cahill	Yes	
13	0005715401	Schneider, Eric J	Eric J Schneider	Yes	
14		Atchison, Luanne E	Luanne E Atchison	Yes	
15	0004433000	Rahn, Jerry E	Jerry E Rahn	Yes	
16		Rahn, Mary G	Mary G Rahn	Yes	
17	0004436000	Kmetz-Sheeny Andrea Revocable Trust	Robert Sheehy	Yes	
			<b><u>Total Signatures</u></b>	<b><u>17</u></b>	
			<b><u>Sumbitted:</u></b>		
			<b><u>Total Accepted:</u></b>	<b><u>17</u></b>	
			<b><u>Total Not Accepted:</u></b>	<b><u>0</u></b>	



## ROAD VIEWER'S REPORT

October 22nd, 2020

To the honorable Board of County Commissioners of Park County:

We the undersigned Road Viewers of that portion of Upper Dry Creek Road subject to Petition for Abandonment of Surveyed County Road, submitted as Petition # 160 on September 25<sup>th</sup>, 2020 in the office of the Clerk and Recorder of Park County, Montana, respectfully submit the following report:

The Upper Dry Creek Road was surveyed and mapped by Park County Surveyor Max Wilcomb in 1923, and the portion subject the said petition is that portion located within Sections 20, 28, and 29, Township 2 South, Range 10 East P.M., M. This is a 60-foot county road with the subject portion lying entirely within the ownership of the Peter Gibb and Anne Lawrence Mackenzie Living Trust. The purpose of the petition is to vacate said subject portion.

While the MacKenzies are the only landowners bordering that portion of Upper Dry Creek Road subject to this petition, the eastern terminus of said portion is at the section line common to Sections 27 and 28. From this point, a portion of the road which has previously been vacated continues through Section 27, the W1/2W/1/2 of Section 26, and the N1/2 of Section 35, all owned by Rahn/Gibson Ranch, LLC. John and Shawn Titeca are the owners of the S1/2 of Section 35 and the Rahn/Gibson Ranch, LLC has granted an easement to the Titecas across the Rahn/Gibson Ranch property along said previously vacated portion of Upper Dry Creek Road and a dirt two-track road. This easement was recorded on June 10, 2016, as Document No. 392682 in the office of the Clerk and Recorder of Park County.

This Petition No. 160 does not state how the Rahn/Gibson Ranch, LLC or the Titecas will continue to have access to their properties if the subject portions of the road are abandoned and neither of these affected parties have signed on to this petition.

The 1923 survey of Upper Dry Creek Road by County Surveyor Max Wilcomb depicts the road crossing Section 20 from a point on the north section line approximately 250' west of the north quarter corner of said section, thence southeasterly to the southeast corner of said section. The Petition for Road submitted 10 years later in 1933, describes the road as "...along the line between Sec. 20 & 21...". A road is plainly evident in aerial photos across the N1/2N1/2 of Section 20 occupying the position shown on the Wilcomb survey. Aerial visual evidence across the rest of Section 20 is lacking as agricultural operations have obliterated evidence of the road in this area. A fainter road, or two-track, is also discernable along the fenceline between Sections 20 and 21.

The N1/2N1/2 of Section 20 is owned by the United States Government and administered by the Bureau of Land Management. It is used by the public for camping, dog walking, target shooting, etc. If this petition is granted, the public will still have access to this area from the north, which is the way

nearly all users access the property now, but access from the south, which is not physically available at this time, would be lost.

The portion of Upper Dry Creek Road through the N1/2 of Section 28, does not provide access to any public lands. The roadway itself however, does provide opportunities to the public for hiking, dog walking, skiing, biking etc. The road also provides panoramic views of the Absaroka Mountains, and Upper Dry Creek itself, which is the location of the Myers-Hindeman Site, a Native American campsite occupied for at least 9000 years.


On October 21<sup>st</sup>, 2020, Road Viewers consisting of Park County Commissioner Steve Caldwell and Registered Land Surveyor George Bornemann, traveled along the subject portions of Upper Dry Creek Road which were accessible and found the physical conditions to be as stated above

Signed,


12/8/2020  


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Steven Caldwell, County Commissioner Date


10/22/2020  


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George Bornemann, Land Surveyor Date



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## County Commission Minutes

November 10, 2020

### Public Hearing

9:00AM Public Meeting and Comment Period for Gardiner Food Pantry Draft PAR and Environmental Assessment Presentation  
Public Meeting Legal for December GFP Meeting.docx

Kristen Galbraith provided background on the project  
Randy Visser, Visser Architects, provided additional comment on the PAR his company prepared.

No public comment

### Scheduled Public Comment

None

### Public Comment

None

### Action Items

Discussion/Decision on additional payment to Stafford for expenditures above the contract amount.

Kendra Lassiter, County Attorney, provided background.

Steve Leach, Stafford CEO, provided comment

No public comment

Commissioner Tinsley commented

Commissioner Caldwell commented

Shannan Piccolo, Deputy County Attorney, commented

Commissioner Caldwell commented

Kendra Lassiter commented

Commissioner Caldwell commented

### Motion:

Motion made by Commissioner Clint Tinsley to Postpone a decision on additional payment to Stafford for expenditures above the contract amount until Nov. 17; second by Chairman Steve Caldwell; all in favor.  
Motion passes.

[Discussion/Decision encroachment permit for 204-206 Granite Street  
204 Granite Street.pdf](#)

Mat Whitman provided background.  
No public comment

**Motion:**

Motion made by Commissioner Clint to Approve the encroachment permit for 204-206 Granite Street; second by Chairman Steve Caldwell; all in favor. Motion passes.

Discussion ensued.

[Discussion/decision to approve Resolution for the Abandonment of a portion of Upper Dry Creek Road](#)

Commissioner Caldwell provided comment  
Shannan Piccolo commented

**No action taken until after public advertisement**

[Discussion/Decision on Signing Contract for Logan Auction Services on December 5, 2020](#)

Kristen Galbraith, Grants Coordinator, provided background  
No public comment  
Commission discussed approval by the health department

**Motion:**

Motion made by Commissioner Clint Tinsley to Approve Signing a Contract for Logan Auction Services on December 5, 2020; second by Chairman Steve Caldwell; all in favor. Motion passes.

[Discussion/Decision on Supporting Operation Christmas Caring  
Park County Operation Christmas Caring.pdf  
OCC\\_appeal2020.pdf  
OCC\\_Flyer \(2\).pdf  
OCC\\_partners2020.pdf](#)

[Discussion decision on appointing the post-election audit committee for the 2020 General Election](#)

Commissioner Caldwell commented  
Maritza Reddington, Clerk/Recorder, commented

**Motion:**

Motion made by Commissioner Clint Tinsley to Approve appointing Lisa Harreld, Lisa Slaboda and Jan Buckner as the post-election audit committee for the 2020 General Election; second by Chairman Steve Caldwell; all in favor. Motion passes.

**Notice to be Published:**

**For: Park County Clerk & Recorder**

Contact: Maritza Reddington at (406) 222-4110

[clerkrecorder@parkcounty.org](mailto:clerkrecorder@parkcounty.org)

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**Notice of Public Hearing**

The Park County Commissioners will hold a virtual public hearing on December 8, 2020 at 9:00 a.m. (Call in number is: 1-571-748-4021 ID: 2896157) to act upon petition requesting the Board to abandon that portion of Upper Dry Creek Road in Park County, Montana and represent as follows:

At least 10 freeholders of the road district of Park County, Montana, petition this Board pursuant to Section 7-14-2616 MCA to abandon the portion of a road that is particularly described as follows:

That portion of Upper dry Creek Road lying within Sections 20, 28 and 29, Township 2 South, Range 10 East, P.M.M., Park County, Montana, as surveyed by M.K. Wilcomb, August 1, 1923, and shown on County Road Maps 157, 159, and 160.

The lands and owners immediately adjacent to the road are as follows: The Peter Gibb MacKenzie and Anne Lawrence MacKenzie Living Trust.

The necessity for and advantage of the petitioned action is: To terminate any further legal controversy regarding the status of Upper Dry Creek Road lying within Sections 20, 28, and 29, T2S, R10E, and to terminate any maintenance obligations that Park County may have with respect to said portion of Upper Dry Creek Road.

Petition & information submitted by: The Law Office of Karl Knuchel, P.C.

The complete petition may be viewed at the Clerk & Records office located in the City/County Complex, 414 East Callender St., Livingston, MT or on [parkcounty.org](http://parkcounty.org) – Clerk & Recorder – Current Petitions

All proponents and opponents of abandoning a portion of this road are welcome to address the Board of Commissioners at the December 8<sup>th</sup> public hearing. Additionally, any written comments must be received prior to the end of the December 8<sup>th</sup> public hearing and may be submitted to Park County Commission, 414 East Callender Street, Livingston, MT.

Maritza H. Reddington, Park County Clerk & Recorder

Publish dates: November 27<sup>th</sup> & December 4<sup>th</sup>, 2020.