

William H. Wyatt  
PO Box 844  
4050 MT Hwy 1  
Philipsburg, MT 59858  
(406) 859-4356  
Nov 20, 2015  
RECEIVED

Ravalli County Commissioners  
215 S 4th ST, Suite A  
Hamilton, MT 59840

NOV 30 2015

Ravalli County Commissioners  

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Dear Commissioners,

My family and I have 51 acres of ranch property located at 346 Stevi Airport Road in Stevensville, MT. Our property home, which I have owned since 1977 and where my daughter lives at present, has easement rights through the East side of your gravel yard on the Airport Road. We have been approached by the Ravalli County Road Dept. on several different occasions and recently with interest to relocate the driveway to our home.

This letter will express detailed reasons why this driveway/road after 70 plus years of use should not be disturbed or relocated. The following attached exhibits are submitted as chronological examples for clarity, as there is a long history for this easement property.

**Exhibit #1** - These documents show the current easement to James Mayes (seller to me) of August-1976 that states a 60 foot easement on the County's East boundary and also the previous easement of May-1972 that granted Mr. Mayes easement via the existing road in question. Although this road's path leaves and returns to the current easement description, why was it not included in the current document or was it overlooked or unmeasured and taken for granted? Also attached to this exhibit is a cadastral map of properties and COS #1345.

**Exhibit #2** - These photos show our current telephone line location (orange) from the Airport Road to the home. It was routed in the middle of the easement road by Mr. Mayes as an understanding of that easement. The line was located under Locator Service as Ticket #239818 in August-2003 and is in current use by the Wyatt's.

Exhibit #3 - This letter of April-2004 from Ravalli County Deputy Attorney, James McCubbin, was to parties involved in a civil suit to control flood damaging irrigation water being received on the County Gravel Yard and Wyatt properties. Ravalli County and Wyatt's were co-plaintiffs. As item 2 in Mr. McCubbin's letter and photos describe the restoration by the County of the natural drainage to County and Wyatt properties, it is obvious that this area should not be disturbed again.

Exhibit #4 - These photos of April-2008 show the unnecessary over aggressive scalping of topsoil on this easement for no apparent reason, as gravel operations have stayed in the pit area. This disturbance created grandiose weed problems on the subject area causing many hours of time and chemical expense to us and the Weed District as explained in the Exhibit #5 letter. It is fair to say that the road supervisor, David Ohnstad, would be responsible for this, and we understand that he has been discontinued from your employ at this time.

Exhibit #5 - This letter was sent to Commissioners from us in September-2011 as a plea for assistance in controlling noxious and obnoxious weeds that were continuously being created from the ground disturbance above and the past on this easement. We are not enclosing reference documents and photos that came with this letter because you should have these on file. We were very disappointed that we did not receive a response from this letter. As we continue to treat and maintain this area and road at our expense with some progress, it would be unreasonable and unprecedented to cause greater disturbance to this land.

In summary, we consider Ravalli County as one of our best neighbors, as we worked well in the past with the late Bill Meisner. Any rerouting of this drive will steepen this already steep grade to make it much more difficult and unsafe to maneuver. Because of the anxiety of this continued approach from the County about our driveway, our well being, and expense of both parties, the Wyatt family would ask at this point for Ravalli County to revise or correct the current easement of 1976 to include the original intended roadway that is our driveway of many years of use. We are available for discussion and appreciate your concern to this matter. Please return exhibit photos and documents attached, but feel free to make copies.

Sincerely,  
Bill Wyatt  
Sharlene B. Wyatt

State of Montana, County of Ravalli:

Recorded July 19 1976 at 1:07 P. M., Book 140 Page 880

Darlene E. Hughes Deputy  
Fee \$ 2.00 James E. Mayes

2049 3400  
Male Mt.

EXHIBIT

# 1

Easement

This indenture made and entered into this 16<sup>th</sup> day of August 19 76, by and between the County of Ravalli, State of Montana, First Party, and James E. and Marjorie H. Mayes, husband and wife, of Missoula, Montana, Second Party, hereinafter referred to as "Mayes".

WITNESSETH:

Mayes are owners of the S $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 13, T 9N, R 20W, PMM, Ravalli County, Montana.

Ravalli County is the owner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Sec. 13, T 9N, R 20W, PMM, Ravalli County, Montana.

First Party, for valuable consideration does hereby grant and deliver unto Second Party, his heirs and assigns, an easement for the right of ingress, egress and regress through and over the land hereinafter described, which land is situated in Ravalli County, State of Montana, and more particularly described as follows:

The East Sixty (60) feet of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Sec. 13, T 9N, R 20W, PMM, described in book 105 of Decds, page 338, records of Ravalli County, Montana.

1. Second Party agrees to confine, ingress and egress to said easement on demand of First Party.
2. Second Party does hereby release and discharge Ravalli County from any obligation with respect to maintaining or building the roadway being used by the Second Party under this Agreement, any maintenance being the sole and exclusive obligation of said Second Party.

TO HAVE AND TO HOLD said easement on a permanent basis which runs concurrent with the land.

IN WITNESS WHEREOF, the said First Party has hereunto set his hand and affixed the seal of said County the day and year first above mentioned.

Ravalli County

By Ed Spannuth Chairman  
Ed Spannuth

By Jim McKinley  
Jim McKinley

By Doug Galbraith  
Doug Galbraith

County Commissioners

ATTEST:

Darlene E. Hughes  
Darlene E. Hughes, County Clerk  
Ravalli County, Montana

EARLY  
EASEMENT  
2

Indexed

Book 130 Page 699

RIGHT OF WAY AGREEMENT

100018

THIS AGREEMENT, made and entered into this 5<sup>th</sup> day of May, 1972, by and between RAVALLI COUNTY, acting by and through its respective County Commissioners, hereinafter referred to as "Ravalli County", and JAMES E. MAYES and MARJORIE H. MAYES, husband and wife, of Missoula, Montana, hereinafter referred to as "Mayes",

WITNESSETH:

WHEREAS, Mayes are the owners of the  $S\frac{1}{2}S\frac{1}{2}SW\frac{1}{4}$  of Section 13, Township 9 North, Range 20 West, M. M. , Ravalli County, Montana, lying East of the East Side Highway, as it now exists, and

WHEREAS, Ravalli County is the owner of the  $NW\frac{1}{4}SW\frac{1}{4}$  of Section 13, Township 9 North, Range 20 West, M.M. , Ravalli County, Montana, lying East of the East Side Highway, as it now exists, and

WHEREAS, Mayes desires permission to cross the property of Ravalli County for ingress and egress to Mayes' property,

NOW, THEREFORE, the parties agree as follows:

1. In consideration of the payment by Mayes to Ravalli County of the sum of Ten and No/100 Dollars (\$10.00), receipt of which is hereby acknowledged, Ravalli County does hereby grant unto Mayes the right to use the existing roadway located on the easterly edge of the  $NW\frac{1}{4}SW\frac{1}{4}$  of Section 13, Township 9 North, Range 20 West, and such additional property as is necessary for ingress and egress from the County Road to the Mayes property.

2. This right of way use license is granted for a period of one (1) year from the date hereof, and the same shall be automatically

renewed each year unless Ravalli County files a notice of cancellation of this right of way license at least ninety (90) days prior to the anniversary of the date of this Agreement.

3. The parties mutually agree that this is a right of way license and does not grant the Mayes any permanent easement over the property of Ravalli County. This license is terminable and cancellable by Ravalli County upon giving a ninety (90) days written notice of cancellation.

4. Mayes do hereby release and discharge Ravalli County from any obligation with respect to maintaining the roadway being used by Mayes under this Agreement, any maintenance being the sole and exclusive obligation of Mayes.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement the day and year first hereinabove written.

RAVALLI COUNTY

By Harold White

By Howard Skinner

By Ed Spammuth

County Commissioners

James E. Mayes  
James E. Mayes

Marjorie H. Mayes  
Marjorie H. Mayes

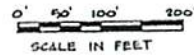


# CERTIFICATE OF SURVEY

TO CREATE A TRACT OF LAND FOR THE PURPOSES OF AN OCCASIONAL SALE (B) AND TO DENOTE REMAINDER OWNERSHIP OF A TRACT (A) BOTH BEING LOCATED IN THE NW 1/4 OF SECTION 13, T.9N., R. 20W., P.M.M., RAVALLI COUNTY, MONTANA.

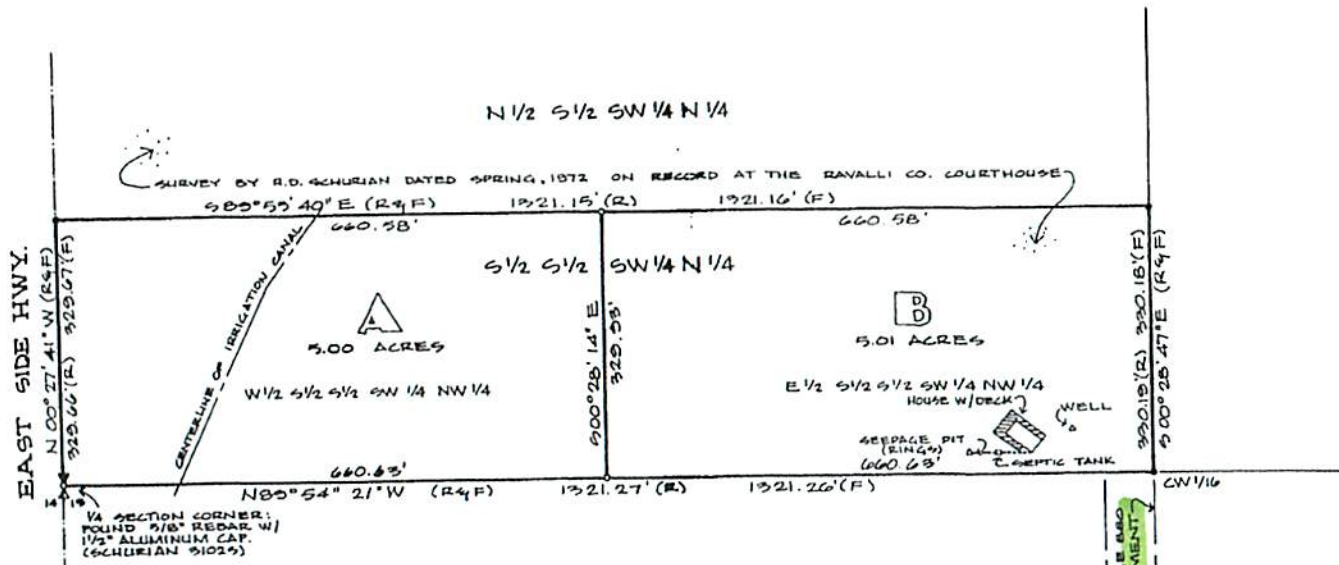


APRIL, MAY, 1977



### LEGEND

- FOUND 5/8" REBAR W/1/2" ALUMINUM CAP (SCHURIAN 31025)
- SET 5/8" X 24" REBAR W/ 1/2" ALUM. CAP (SCHURIAN 31025)
- (R) RECORD
- (F) FOUND



### OWNER(S):

JAMES E. &  
MARJORIE H. MAYES

**PARCEL B (OCCASIONAL SALE)**  
A tract of land in the northwest one-quarter (NW1/4) of Section 13, Township 9 North, Range 20 West, P.M.M., Ravalli County, Montana being described as follows:

Commencing at the one-quarter corner common to Sections 13 and 14, Township 9 North, Range 20 West, P.M.M.; thence, S.09°54'21"E., 660.63 feet along the east-west mid-section line in Section 13 to the point of beginning; thence, continuing, S.09°54'21"E., 660.63 feet to the center-west one-sixteenth corner in Section 13; thence, N.00°20'47"W., 330.18 feet along the west one-sixteenth line in Section 13; thence, N.09°05'40"W., 660.58 feet along the north line of the south one-half of the south one-half of the southwest one-quarter of the northwest one-quarter (S1/2 S1/2 SW1/4 NW1/4) of said Section 13; thence, S.09°20'14"E., 329.93 feet to the point of beginning. According to survey data, monuments and easements, of record or as shown on Certificate of Survey No. \_\_\_\_\_, and containing 5.01 acres more or less.

### CERTIFICATION

I hereby certify that the attached plat is a true representation of a survey made under my supervision during the months of April and May, 1977.

By R. David Schurian  
R. David Schurian  
Registered Land Surveyor  
Montana Registration No. 31025

### OWNER CERTIFICATION

We hereby certify that the purpose for this division of property in Parcel B is for the transfer of land as an "occasional sale" pursuant to Section 11-3862 (6) (d), R.C.M. 1947 and is therefore exempt from review as a subdivision, and that Parcel A is to denote the remainder of an existing ownership. We also certify that we have not had a transfer, as an occasional sale, from this ownership during the last 12 months.

James E. & Marjorie H. Mayes Date 7/20/77  
JAMES E. MAYES 1143-77

### LEGAL DESCRIPTIONS

**PARCEL A (REMAINDER)**  
A tract of land in the northwest one-quarter (NW1/4) of Section 13, Township 9 North, Range 20 West, P.M.M., Ravalli County, Montana being described as follows:

Beginning at the one-quarter corner common to Sections 13 and 14, Township 9 North, Range 20 West, P.M.M.; thence, N.00°27'41"W., 329.67 feet along the section line common to Sections 13 and 14; thence, S.09°55'40"E., 660.58 feet along the northerly boundary of the south one-half of the south one-half of the southwest one-quarter of the northwest one-quarter (S1/2 S1/2 SW1/4 NW1/4) of said Section 13; thence, S.09°20'14"E., 329.93 feet to the east-west mid-section line in Section 13; thence, N.89°54'21"W., 660.63 feet to the point of beginning. According to survey data, monuments, easements and rights-of-way, of record or as shown on Certificate of Survey No. \_\_\_\_\_, and containing 5.00 acres more or less.

BOOK 110, PAGE 400  
CO. ROAD EASEMENT

Subscribed and sworn to before me this 21 day of July, 1977.  
Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires Dec 31, 1978  
Darlene E. Hughes  
Betty T. Hand  
Sec 5.00

Subscribed and sworn to before me this 21 day of July, 1977.

Notary Public for the State of Montana  
Residing at Bozeman, Montana  
My commission expires Dec 31, 1978

FINAL APPROVAL OF THIS CERTIFICATE OF SURVEY HAS BEEN GRANTED BY:  
RAVALLI COUNTY SANITARIAN David J. Jones Date 7/20/77

1/4	Sec.	T.	R.
<input checked="" type="checkbox"/>	13	09N.	20W.
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			

1st Approval # 201  
224073

Sheet 1 of 1  
Certificate of Survey  
Number: 1345  
Ravalli County, Montana



PREPARED AT THE REQUEST OF:

EXHIBIT

# 3

## RAVALLI COUNTY ATTORNEY

*George H. Corn, County Attorney*

*T. Geoffrey Mahar, Chief Deputy*

*John Bell, Deputy*

*Karen Mahar, Deputy*

*\* D. James McCubbin, Deputy*

*William E. Fulbright, Deputy*

*Ravalli County Courthouse*

*205 Bedford Street, Suite C*

*Hamilton, MT 59840*

*Phone (406) 375-6222*

*Fax (406) 375-6328*

April 13, 2004

Jack R. Tuholske, Esq.  
Tuholske Law Office, PC  
234 East Pine Street  
P.O. Box 7458  
Missoula, MT 59807  
FAX: (406) 728-8445

Randall J. Colbert, Esq.  
Garlington, Lohn & Robinson PLLP  
199 West Pine Street  
P.O. Box 7909  
Missoula, MT 59807-7909  
FAX: (406) 523-2595

Nancy Fleischhauer  
783 Swan Lane  
Stevensville, MT 59870

Bill Wyatt  
P.O. Box 474  
Lolo, MT 59847

Re: Wyatt v. Moe, DV-03-472

Dear all,

I am writing in follow-up to our discussions and tentative agreement reached at our site visit to the Wyatt, Moe, and County property yesterday, April 12, 2004. My understanding is that we reached an agreement that was conditional upon approval by the County Commissioners and subject to review by Jack Tuholske for Bill Wyatt. The County Commissioners have now given full approval for our agreement. As the timeline for fulfilling this agreement is short due to the irrigation season anticipated to begin May 1, I anticipate that the parties will commence working on these terms as soon as today. Accordingly, if Jack has any comments or concerns, they will be appreciated immediately.

My understanding of the agreement reached by the parties is as follows (listed roughly in chronological order):


1. Installation of curtain drain along border of Moe/County property:
  - a. Moes and Fleischhauer will remove a section of fence located on the northwest corner of the Moe property, in between yellow flagging tape which we jointly placed on the fence yesterday. Moes and Fleischhauer will reconstruct the fence on a diagonal line between the points of flagging tape. This work will be completed by Wednesday, April 14, 2004.
  - b. Wyatt will extend the curtain drain which has been constructed (but not yet filled in) along the southern border of Wyatt's properties which lie to the north of the Moe property. The curtain drain extension will be installed on the eastern border of the county property, extending approximately 150-200 feet south from the Wyatt property. The property line for locating the curtain drain extension shall be estimated to the best of Wyatt's ability from the survey pins located on the ground. This work may commence as soon as Thursday, April 15, 2004, and will be completed prior to May 1, 2004.
  - c. The County consents to the installation and maintenance of the curtain drain extension on county property as described above.
  - d. Moes have agreed that a survey is not needed to locate the curtain drain extension, and that if it is later determined that the curtain drain may be located to some extent on the Moe property, consent is granted for that slight encroachment.
2. Restoration of natural drainage on County and Wyatt properties:
  - a. A historical natural drainage runs from the northeast corner of the county property north-northwest across the Wyatt property. This natural drainage will be restored by the County by removing and relocating the eastern end of the berm of topsoil which originated from the gravel pit. This work will be completed prior to May 1, 2004.
  - b. The culvert which runs under the Wyatt access road on the county property shall be lowered and extended by the County to the extent reasonably necessary to effectively restore the natural drainage. This work will be completed prior to May 1, 2004.
  - c. In order to control the natural drainage and avoid the potential flow of water from the natural drainage onto the Wyatt residential yard and septic drain field, the County will construct a ditch from the point where the drainage crosses the berm location to the north-northwest, extending to the existing line of trees on the Wyatt property. This work will be completed prior to May 1, 2004.
  - d. Wyatt consents to restoration of the natural drainage and entry of County personnel upon the Wyatt property for construction of the ditch described above.
3. Reconstruction, maintenance, and usage of water control devices on the Moe property:

- a. Fleischhauer will block/fill the small irrigation drainage ditch at the northwest corner of the Moe property, near the section of fence to be reconstructed.
  - b. Moes and Fleischhauer will reconstruct the system of irrigation ditches and head gates on the Moe property near the eastern border where water enters the Moe property. The water management infrastructure will be reconstructed as needed to enable Fleischhauer and any subsequent occupants to direct any excess amounts of water not needed for irrigation into the natural drainage on the eastern side of the Moe property. This work shall be completed prior to May 1, 2004.
  - c. Moes, Fleischhauer, and subsequent occupants of the Moe property will regularly and reasonably maintain the water management infrastructure on the Moe property in working condition capable of directing any excess amounts of water not needed for irrigation into the natural drainage on the eastern side of the Moe property.
  - d. During irrigation seasons, Moes, Fleischhauer, and subsequent occupants of the Moe property will regularly and reasonably monitor water flow on the Moe property and shall divert any excess amounts of water not needed for irrigation into the natural drainage on the eastern side of the Moe property. Moes, Fleischhauer, and subsequent occupants of the Moe property will provide Wyatt, the County, and subsequent occupants of the Wyatt properties with contact information for the current occupant of the Moe property, and shall reasonably cooperate with Wyatt, the County, and subsequent occupants of the Wyatt properties to avoid flooding of the Wyatt and County properties.
4. Binding Arbitration: Discussion was held regarding the possibility of including a binding arbitration clause in the parties' final settlement agreement. No conclusion was reached as to who the arbitrator(s) would be, and this term remains open for further negotiation.

If the foregoing summary of our agreement is incomplete or inconsistent with anyone else's understanding in any way, please let all parties know immediately. Otherwise, I anticipate that we will all be working in the immediate future to fulfill our parts of this agreement, and that Randy, Jack, and myself will work on a formal final settlement agreement.

Sincerely,

RAVALLI COUNTY ATTORNEY



By: D. James McCubbin, Deputy Attorney

cc: Reid Willey, Road Supervisor  
Ravalli County Commissioners

EXHIBIT  
# 5

William Wyatt  
PO Box 844  
Philipsburg, MT 59858  
(406) 859-4356  
Sep 23, 2011

Ravalli County Commissioners  
215 S 4th ST, Suite A  
Hamilton, MT 59840

Dear Commissioners,

First of all I would like to commend the Ravalli County Weed District and its members for their work and effort in the eradication and control of noxious as well as non-noxious weeds in our county. It may be fair to say that Ravalli County is one of the most problematic counties in respect to weed infestation in the state of Montana. No doubt these are important folks in our county!

I am a property owner and small rancher (51 acres) adjacent to the Ravalli County Gravel Pit located off of Stevi Airport Road. This County property is across the road, north from your Weed District building and to the south and west of my property boundaries. It has been infested with various weeds, noxious and non-noxious, for many years. I have resided at this 346 Stevi Airport Road address since 1977 and continue my hay crop each year.

I am enclosing copies of correspondence, pictures, and herbicide treatment invoices dealing with this problem in recent years.

**Item #1** - Letter of April 9, 2009 asking for assistance on the adjacent county property. E-mails to and from Kelliann Morris of the Weed board and myself on April 19, 2010 concerning noxious and non-noxious weeds.

**Item #2A** - 2009 Pics from Feb to July of my westerly fence and ditches and the east side of gravel pit. Notice blown mustard, kochia, and Russian thistle as well as knapweed and Canada thistle. Notice how these weeds, noxious or non-noxious clog up my irrigation ditches and fence line.

**Item #2B** - 2010 Pics from July and Aug of my corral area adjacent to your east side of gravel pit. We control cut approximately one acre of total Kochia in July

and then again after August. Where did this kochia come from? This seeding could have only come from your pit area as a fair conclusion. This corral area was treated with herbicide early summer-2011.

Item #2C - 2011 pics from May of the east side of your gravel pit with tumble weeds against my fences and ditches with a crop of last season's mullein. Where do you suppose all those mullein seeds went? Also in June pics you will notice a fresh crop of kochia on the north side of the pit next to my house. It would be fair to say spreading of this is contaminating my yard area as well as my hay fields.

Item #3 - Invoices enclosed are from June-2008 to June-2011 with costs of \$2953 for herbicide treatment. As denoted on 2009 - 2011 invoices approximately 1/4 time & chemical costs were for adjacent County property which is a 60 ft easement for my home driveway on the extreme east boundary of the gravel pit property. This easement and my fields suffer from the spreading weed infestation in the remaining County property to the west.

In closing, the Weed District has been treating some of the subject area but I feel and understand on a restricted basis, perhaps only looking at select noxious categories and with limited time. As mentioned before, I would commend this work, but would ask why not treat any area that is being treated with appropriate chemicals that control ALL problematic weeds, noxious or obnoxious. Such herbicides as Chaparral, Milestone, Escort, or Cimarron for example will eradicate many species on one application.

My wife and I are asking you folks for help on this issue as long time property owners in this county. Thank you Commissioners and Weed District employees.

cc: Ravalli County Weed District

Sincerely,

Bill Wyatt  
Shirley Wyatt