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Ravalli County Commissioners

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August 16, 2017

Darla J. Keck [Of Counsel]

Ronald B. MacDonald [1946-2002]

▲ Also admitted in Massachusetts

▶ Also admitted in North Dakota

◦ Also admitted in Washington

• Also admitted in Idaho

▲ ▲ Contract Counsel

**VIA CERTIFIED U.S. MAIL**

Ravalli County Commissioners

215 S. 4<sup>th</sup> Street, Suite A

Hamilton, Montana 59840

Re: Our Client: Sunnyside Orchards, LLC  
*Northview Road – Meeting on August 31, 2017*

Dear Commissioners:

This law firm represents Sunnyside Orchards, LLC. I understand that Sunnyside Orchards, LLC's representative, Mr. Lee Foss, has been asked to attend a meeting on August 31, 2017 for the purpose of discussing complaints regarding alleged improvements by Mr. Foss to Northview Road. The purpose of this correspondence is to notify the Commissioners in advance of the meeting of our collective position that the complaints are wholly without merit and, therefore, warrant no further consideration or action.

Simply stated, no permit was required for what Mr. Foss did. We carefully researched the historical use of the road. In the early 1900s, the land adjacent to the road was utilized for apple orchards. Sometime between approximately 1908 and 1913, the owner of the land began selling off 10-acre tracks. A true and correct copy of the original Plat of Sunny Side Orchards Eastland Benches and the Amended Plat of Sunny Side Orchards are enclosed herewith for your review and convenience. As you can plainly see, the Amended Plat states in relevant part: "All of the above described land to be known and designated as Sunny Side Orchards and the lands in all streets, alleys, parks and public squares as shown on the above plat are hereby granted and dedicated to the use of the public forever." (emphasis supplied). The road in question is clearly depicted on

**Datsopoulos, MacDonald & Lind, P.C.**

Ravalli County Commissioners

August 16, 2017

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the face of the Amended Plat. There is no evidence whatsoever and indeed no credible argument that the road is a County road. No petition has ever been filed by Ravalli County to establish the road as a County road nor has it ever been maintained as such. I am attaching herewith a list of County Maintained Roads that was obtained from the County's website, [ravalli.us/217/Road-Bridge](http://ravalli.us/217/Road-Bridge). Northview Drive is not on the list.

It is a well-settled principle that when lands are granted according to an official plat of the survey of such lands, the plat itself, with all its notes, lines, descriptions, and land-marks, becomes as much a part of the grant or deed by which they are conveyed, and controls, so far as limits are concerned, as if such descriptive features were written out upon the face of the deed or the grant itself. *Our Lady of the Rockies, Inc. v. Peterson*, ¶ 26, 342 Mont. 393, 181 P.3d 631 (2008) (citing *Cragin v. Powell*, 128 U.S. 691, 9 S. Ct. 203 (1888)). In the context of whether a public road is created, it is sufficient if the record taken as a whole shows that a public road is created. *Garrison v. Lincoln County*, ¶ 14, 317 Mont. 190, 77 P.3d 163 (2003).

In *Bailey v. Ravalli County*, 201 Mont. 138, 653 P.2d 139 (1982), the plat of Sunnyside Orchards No. 3 was filed and recorded on October 16, 1909. The plat stated in relevant part: "The land included in all streets, avenues, alleys, parks and public square shown on said plat are hereby granted and dedicated to the use of the public forever." *Id.*, 201 Mont. at 140. The *Bailey* Court held that this language complied with Montana Code "in the making of the dedication, and that such dedication must be considered as a deed to the public." *Id.*, 201 Mont. at 143. The Court further explained:

"We, therefore, conclude that by the dedication, the roadway or street here in question was classified by the 1907 codes as being a 'public highway.' In addition, we hold that in accordance with the statutes, the plat dedication to the public was the equivalent of a right-of-way deed under which the public acquired only the right-of-way and incidents necessary to enjoying and maintaining the public highway. We, therefore, hold that the dedication did create a public roadway or highway in 1909."

*Id.*

*Bailey* is on all fours and controlling in this situation. The Amended Plat of Sunny Side Orchards contains language which complies with Montana Code in the making of a dedication. The plat dedication is the equivalent of a right-of-way deed under which the public, including my clients, acquired the right-of-way and incidents necessary to enjoying and maintaining the public road. Because the dedication in 1913 clearly created a public road, the County is not authorized to require a permit for improvements thereto.

Datsopoulos, MacDonald & Lind, P.C.

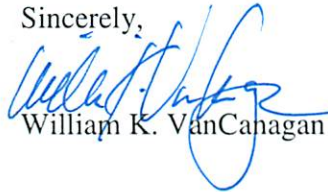
Ravalli County Commissioners

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Thank you for your consideration in this matter.

Sincerely,



William K. VanCanagan

Enc.

C: Sunnyside Orchards, LLC (via email)

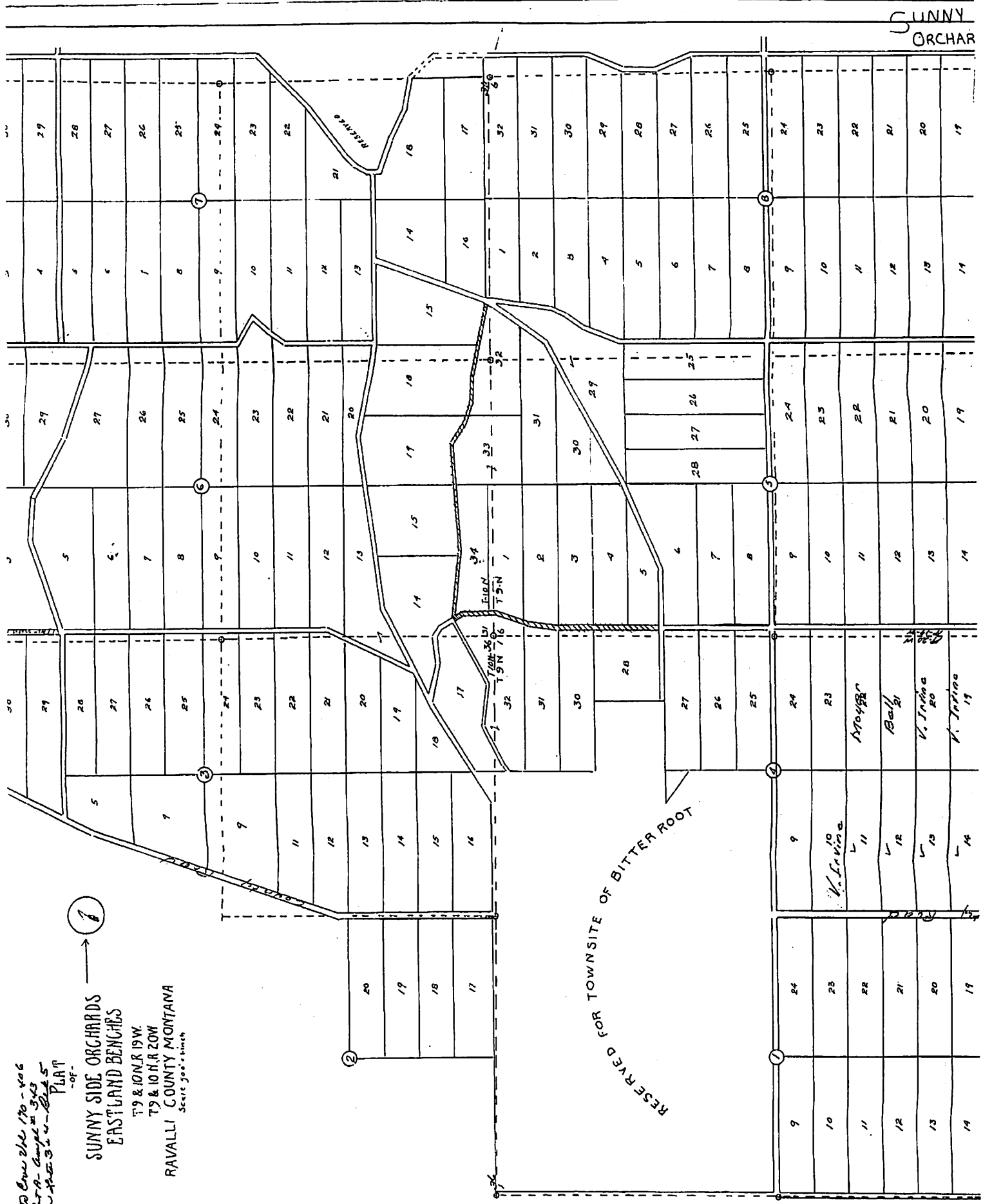
Mr. Lee Foss (via email)

Mr. Daniel Browder  
Deputy Ravalli County Attorney  
205 Bedford Street, Suite C  
Hamilton, Montana 59840

Add Cor. 214, 170-106  
 of A-Camp 2, 343  
 of 344-345-346-347-348-349-350  
 PLAT

SUNNY SIDE ORCHARDS  
 EASTLAND BENCHES

T9 & 10 N. R. 19 W.  
 T9 & 10 N. R. 20 W.  
 RAVALLI COUNTY MONTANA  
 Scale 300' = 1 inch



SUNNY  
 ORCHAR



## ROAD INVENTORY

**COUNTY MAINTAINED ROADS**

ROAD NAME	HARD SURFACE MILES	GRAVEL MILES	DIRT MILES	TOTAL MILES
A-STREET (VICTOR)	0.26			0.26
ALBERTA WAY		0.07		0.07
ALVISTA LOOP		1.74		1.74
AMBROSE CREEK RD	3.55	1.77		5.32
ANDY VOGT LANE		1.22		1.22
ANTIGONE DR	0.58			0.58
B-STREET (VICTOR)	0.21			0.21
BAILEY AVE (HAM)	0.08			0.08
BAILEY LANE	2.53			2.53
BALDWIN ROAD	1			1
BARRETT STREET	0.1			0.1
BASS CREEK ROAD	1.71			1.71
BASS LANE	2.93			2.93
BEAR CREEK ROAD	2.37			2.37
BEAR CREEK TRAIL		1.02	0.58	1.6
BEAR PAW COURT		0.05		0.05
BELL CROSSING (WEST)		0.53		0.53
BELLE FLEUR LANE	0.1			0.1
BELMONT AVE (city maintains)	0.1			0.1
BEN DRIVE	0.37			0.37
BIG CORRAL ROAD	0.77			0.77
BIRCH CREEK LOOP		2.06		2.06
BIRCH STREET	0.1			0.1
BLACK LANE	1.14			1.14
BLAIR LANE		0.77		0.77
BLAKE ST (VICTOR)	0.26			0.26
BLODGETT CAMP RD	1.85			1.85
BLODGETT VIEW DR	2.1			2.1
BLOOD LANE	0.5			0.5
BOURNE LANE	1.28			1.28
BOWMAN ROAD	5.92			5.92
BROADWAY ST (VICTOR)	0.35			0.35
BUGLI LANE		0.98		0.98
BUMPY LANE		0.2		0.2
BUNKHOUSE LANE	1.77	0.77		2.54
CAMAS CREEK LOOP	0.9	1.93		2.83

## ROAD INVENTORY

ROAD NAME	HARD SURFACE MILES	GRAVEL MILES	DIRT MILES	TOTAL MILES
CAMP CREEK ROAD			1.24	1.24
CAMP THREE LANE		1.8		1.8
CANYON CREEK ROAD	0.98			0.98
CARLTON DRIVE	0.14			0.14
CARTWRIGHT WAY	1.03			1.03
CASCADE STREET	0.09			0.09
CASH NICHOLS ROAD		0.8		0.8
CEDAR STREET	0.05			0.05
CENTER COURT		0.06		0.06
CENTER STREET		0.11		0.11
CHAFFIN LANE	0.1	3.1		3.2
CHAPMAN LANE		0.45		0.45
CHIEF VICTOR CAMP RD	0.84	0.18		1.02
CHERRY ORCHARD LP	1.9			1.9
CHIEF LOOKING GLASS RD (mlsa maint.)	0.91			0.91
CHRISTOFFERSON LN	0.36			0.36
CHURCH ST (CORVALLIS)	0.09			0.09
CIRCLE DRIVE		0.56		0.56
CLARK ST (VICTOR)				
CO R/W (GRANTS DALE)		0.12		0.12
CO R/W (GRANTS DALE)		0.12		0.12
COAL MINE ROAD		0.58		0.58
COAL PIT ROAD	0.33	0.81		1.14
CONNER CUTOFF	1.23			1.23
CONRAD STREET	0.05			0.05
COOPER LANE	1.4			1.4
COREY LANE	0.19			0.19
CORVALLIS CEMETARY RD	0.79			0.79
COUNTRY CLUB LANE	0.11			0.11
CURLEW ORCHARD RD		1.21		1.21
DALY AVENUE	0.75			0.75
DORAN LANE	0.51			0.51
DRY GULCH ROAD	2.24	1.19		3.43
DUTCH HILL ROAD	2.51			2.51
DUUS LANE	0.76			0.76
EAGLE FEATHER LANE		0.56		0.56
EAST FORK ROAD (state maint.)	14.44			14.44
EAST ST (CORVALLIS)	0.09			0.09

## ROAD INVENTORY

ROAD NAME	HARD SURFACE MILES	GRAVEL MILES	DIRT MILES	TOTAL MILES
EAST ST SO (CORVALLIS)	0.07			0.07
EDWARDS ROAD		2.64		2.64
EIGHT MILE CREEK ROAD	4.11			4.11
EL CAPITAN LOOP	2.74			2.74
ERIE AVENUE	0.08			0.08
FAIRGROUNDS ROAD				
FAIRWAY ROAD	0.07			0.07
FARREL STREET	0.07			0.07
FIFTH STREET (VICTOR)	1			1
FIRST AVE (STEV I)	0.14			0.14
FIRST ST (CORVALLIS)	0.43			0.43
FIRST ST (FLORENCE)	0.38			0.38
FISH HATCHERY ROAD	1.7	1.05		2.75
FLETCHER LANE		1.04		1.04
FLORENCE CARLTON LOOP	1.31			1.31
FLOWER STREET	0.15			0.15
FOLEY LANE	1.25			1.25
FORREST HILL ROAD	0.12	1.43		1.55
FOURTH ST (VICTOR)	0.47			0.47
FOXFARM ROAD		0.55		0.55
FRED BURR ROAD		0.95		0.95
FREEZE LANE (city maint.)	0.51			0.51
FRENCH BASIN ROAD		3.9		3.9
GENEVA AVENUE	0.16			0.16
GERER LANE	0.5			0.5
GLENROY AVENUE	0.15			0.15
GOLD CREEK LOOP	0.85	2.01		2.86
GOLF COURSE ROAD	5.78			5.78
GORUS LANE	0.42			0.42
GRANITE CREEK ROAD		2.31		2.31
GRANT LANE	0.5			0.5
GRANTS DALE CEMETARY ROAD		0.84		0.84
GRANTS DALE CUTOFF	0.66			0.66
GRANTS DALE ROAD	2.89			2.89
GRIZZLY WAY	0.52			0.52
GROFF LANE	1.97	1.2		3.17
GROUSE BUTTE LANE		0.98		0.98
GRUNDY LANE	0.23			0.23

## ROAD INVENTORY

ROAD NAME	HARD SURFACE MILES	GRAVEL MILES	DIRT MILES	TOTAL MILES
HAMBY LANE		0.35		0.35
HAMILTON AIRPORT ROAD	0.42			0.42
HAMILTON HEIGHTS ROAD	4.55	0.5		5.05
HANNAFORD AVE (FLORENCE)	0.25			0.25
HART BENCH ROAD		1.12		1.12
HARVEY LANE	0.5			0.5
HATTIE LANE	0.26			0.26
HAWKER LANE	1			1
HAYES CREEK ROAD		1.49		1.49
HEACOCK AVENUE	0.18			0.18
HEAVENLY TWIN WAY		0.23		0.23
HELEN COURT	0.05			0.05
HIDDEN VALLEY ROAD	0.78			0.78
HIGH ROAD	0.5			0.5
HILLCREST DRIVE	0.4			0.4
HILLTOP DRIVE	0.36			0.36
HOBLITT LANE		2.66		2.66
HOLLIBAUGH ROAD	0.3	0.95		1.25
HOLLORAN LANE		1.56		1.56
HOLLOWAY LANE	0.31			0.31
HOLLY LANE	0.44			0.44
HOME ACRES ROAD		1.04	2.29	3.33
HONEY LANE	0.14			0.14
HONEYHOUSE LANE	4.28			4.28
HOOVER LANE		2.13		2.13
HOSS DRIVE	0.4			0.4
HUB LANE	0.3			0.3
HUGHES CREEK ROAD			7.96	7.96
ILLINOIS BENCH RD	2.5	1.72		4.22
INDIAN PRARIE LOOP	1.9	1.66		3.56
IRON CAP DRIVE		1.25		1.25
IROQUOIS TRAIL	0.1	1.17		1.27
JONES ROAD	0.25			0.25
JOSHUA WAY	0.24			0.24
KLEMMENTS LANE	1.29			1.29
KOCH LANE		0.52		0.52
KOOTENAI CREEK ROAD	0.92	0.63		1.55
KRUEGER LANE	0.24			0.24

## ROAD INVENTORY

ROAD NAME	HARD SURFACE MILES	GRAVEL MILES	DIRT MILES	TOTAL MILES
KURTZ LANE	0.75			0.75
LA FONTAINE ROAD		1.85		1.85
LAKE COMO ROAD	3.67			3.67
LARRY CREEK ROAD	0.15	1.76		1.91
LEAVENS RD (HART BENCH LP)		1.23		1.23
LEESE LANE		1.77		1.77
LEWIS LANE	0.48			0.48
LICK CREEK ROAD		0.35		0.35
LINCOLN LANE	0.38			0.38
LINDER AVE (FLORENCE)	0.07			0.07
LITTLE BRITCHES DRIVE	0.06			0.06
LITTLE COREY PLACE	0.1			0.1
LITTLE JOE LANE	0.45			0.45
LITTLE SLEEPING CHILD ROAD		0.26		0.26
LOGAN LANE	1.86			1.86
LOMA LANE	0.08			0.08
LONE ROCK SCHOOL ROAD		1.58		1.58
LONG AVENUE	0.23			0.23
LONGLEY LANE		0.53		0.53
LOST HORSE ROAD	2.34			2.34
LOWER MILL CREEK ROAD	1.33			1.33
LOWER WOODCHUCK ROAD	0.5	1.51		2.01
LUBY LANE	1.5			1.5
MACK SMITH LANE		0.82		0.82
MAIN ST (CORVALLIS)	0.18			0.18
MANHATTAN LANE	0.08			0.08
MARIN LANE		0.52		0.52
MARION PARKWAY	0.13			0.13
MARKET STREET	0.18		0.13	0.31
MARTIN LANE		1.22	2003	1.22
MARTIN ST (VICTOR)	0.26			0.26
MCCARTHY LOOP		1.48		1.48
MCINTOSH LANE	0.7			0.7
MCINTYRE ROAD			4.19	4.19
MCKILLOP LANE		1.77		1.77
MCVEY ROAD		0.51		0.51
MCWILLIAMS DRIVE	0.21			0.21
MEADOW LANE		0.3		0.3

## ROAD INVENTORY

ROAD NAME	HARD SURFACE MILES	GRAVEL MILES	DIRT MILES	TOTAL MILES
MEADOW VISTA DRIVE	0.49			0.49
MEADOWLARK LANE	0.31			0.31
MEDICINE SPRINGS ROAD	1.26			1.26
MERIDIAN ROAD	1.02	8.54		9.56
MEYER LANE		0.61		0.61
MIDDLE BEAR CREEK RD		2.51		2.51
MIDDLE BURNT FORK ROAD	6.35	4.69		11.04
MIHARA LANE		0.25		0.25
MILL CREEK ROAD		2.06		2.06
MILL CREEK TRAIL		0.75		0.75
MILL STREET	0.44			0.44
MILLER HILL ROAD		0.87		0.87
MITTOWER ROAD		1.41		1.41
MOIESE LANE		1.02		1.02
MOLES LANE		0.4		0.4
MONTANA AVENUE	0.14			0.14
MOUNTAIN VIEW DRIVE		0.62		0.62
MOUNTAIN VIEW ORCHARD DR	0.1	2.3		2.4
NEZ PERCE ROAD	3.8			3.8
NICOL LANE	0.42			0.42
NIGHTHAWK LANE	0.73			0.73
NOLAND DRIVE	0.6			0.6
NORDHEIM LANE		0.6		0.6
NORTH 10TH (HAMILTON)	0.21			0.21
NORTH BARBARA DRIVE	0.11			0.11
NORTH BIRCH CREEK RD	1	1.95		2.95
NORTH BURNT FORK RD	1.32	2.26		3.58
NORTH KOOTENAI CREEK RD		1.08		1.08
NORTH SAPPHIRE STREET	0.19			0.19
NORTH SHOSHONE LOOP	0.92	0.92		0.92
NORTH SUNSET BENCH RD		2.23		2.23
OERTLI LANE		1.53		1.53
OILWELL ROAD	1.75			1.75
OLD CORVALLIS ROAD	4.81			4.81
OLD DARBY ROAD	4.8	5.4		10.2
OLD EASTSIDE HIGHWAY		0.4		0.4
OLD HWY 93 (FLORENCE)	1.84			1.84
OLIVER ROAD		0.51		0.51

## ROAD INVENTORY

ROAD NAME	HARD SURFACE MILES	GRAVEL MILES	DIRT MILES	TOTAL MILES
ONE HORSE CREEK ROAD	0.62	0.59		1.21
ORCHARD DRIVE	2.47	2.47		2.47
ORR LOOP (HART LOOP)		1.12		1.12
OVERTURF ROAD		0.87		0.87
OWINGS CREEK ROAD	0.81			0.81
PARK AVENUE	0.25			0.25
PINE HOLLOW ROAD	4.45			4.45
PLEASANT VIEW DRIVE	4.62			4.62
PONDEROSA DRIVE	0.9			0.9
PONY PALACE WAY		0.4		0.4
POPHAM LANE	2.84			2.84
POPPY LANE		0.37		0.37
PORTER HILL ROAD		2.87		2.87
QUAST LANE	2.53	0.29		2.82
QUEENS COURT		0.11		0.11
RANGER LANE		0.13		0.13
RATHBUN LANE		1		1
RAVALLI STREET	0.19			0.19
RED CROW ROAD	4.98	0.76		5.74
RED RANCH ROAD		0.15		0.15
REDJOU LANE		1.15		1.15
RICKETTS ROAD	2.55			2.55
RIDGE ROAD	1.5	1		2.5
RIVERSIDE CUTOFF	0.15			0.15
ROARING LION ROAD (USFS)	2	0.6		2.6
ROOSEVELT LANE	0.23			0.23
ROSE LANE	0.5			0.5
ROSEMONT LOOP			3.95	3.95
RUMMEL LANE		0.51		0.51
RUMMEL STREET (HAMILTON)	0.06			0.06
RYE CREEK ROAD		5.74		5.74
SAINT JOSEPH LANE		0.52		0.52
SAINT MARY'S DRIVE	0.22	0.72		0.94
SAINT MARY'S ROAD	0.77	1.84		2.61
SALISH TRAIL		2		2
SAPPHIRE LANE		0.36		0.36
SAWMILL LANE (11-03-90)		0.34		0.34
SECOND AVENUE (STEVENSVILLE)		0.12		0.12

## ROAD INVENTORY

ROAD NAME	HARD SURFACE MILES	GRAVEL MILES	DIRT MILES	TOTAL MILES
SECOND ST (CORVALLIS)	0.4			0.4
SECOND ST (FLORENCE)	0.15			0.15
SECOND ST (STEVENSVILLE)		0.3		0.3
SHADY LANE	0.15			0.15
SHARROT HILL LOOP	1	0.64		1.64
SHEAFMAN CREEK ROAD	4.1			4.1
SHEARBROOK LANE		0.92		0.92
SILVERBOW COURT		0.05		0.05
SILVERBOW DRIVE		1.02		1.02
SIMPSON ROAD		0.58		0.58
SIXTH ST (VICTOR)	0.49			0.49
SKY PILOT LANE		0.29		0.29
SLEEPING CHILD ROAD	11.61			11.61
SMITH CREEK LANE		0.33		0.33
SOFT ROCK ROAD		0.57		0.57
SOUTH 2ND (HAMITLON)	0.12			0.12
SOUTH 5TH (HAMILTON)	0.14			0.14
SOUTH 6TH (HAMILTON)	0.07			0.07
SOUTH BURNT FORK RD		6.33		6.33
SOUTH CREST AVENUE	0.3			0.3
SOUTH KOOTENAI CREEK RD	0.9			0.9
SOUTH SAPPHIRE DRIVE	0.17			0.17
SOUTH SHOSHONE LOOP		1.28		1.28
SOUTH SUNSET BENCH RD	2.32	2.99		4.81
SPOONER CREEK LANE		0.72		0.72
SQUIRE ROAD	0.14			0.14
SQUIRES LANE		1.01		1.01
STEVI AIRPORT ROAD	2.39			2.39
STEVI RIVER ROAD		1.68		1.68
STORE LANE	2.29			2.29
SUMMERDALE ROAD	2.32			2.32
SUNNYSIDE CEMETARY RD	1.52	0.5		2.02
SUNSET DR (HAMILTON)	0.01			0.01
SURPRISE ST (CORVALLIS)	0.09			0.09
SUTHERLAND LANE		1.75		1.75
SWEATHOUSE CREEK RD	1.34	2.09		3.43
SWEENEY CREEK LOOP	1.08	1.48		2.56
TAMMANY HILL	0.35			0.35

## ROAD INVENTORY

ROAD NAME	HARD SURFACE MILES	GRAVEL MILES	DIRT MILES	TOTAL MILES
TAMMANY LANE	2.8	3.9		6.7
TAULMAN AVE	0.12			0.12
TEEPEE DRIVE	0.12			0.12
THIRD AVE (VICTOR)		0.47		0.47
THORNING LOOP		0.71		0.71
THOUSAND ACRE ROAD		1.01		1.01
THREE MILE CREEK ROAD	3.53	3.37		6.9
TIE CHUTE LANE	1.28			1.28
TIN CUP ROAD	1.5			1.5
TOTEM VIEW LANE		0.62		0.62
TRIPP LANE		1.25		1.25
TUDOR ST (VICTOR)	0.26	0.05		0.31
TUSHAPAW ROAD		1.52		1.52
UPPER BURNT FORK SCH RD	0.85			0.85
UPPER WOODCHUCK				
VAN BLARICOM LANE	0.09			0.09
VICTOR CROSSING	2.37			2.37
VICTOR MAIN EAST		0.09		0.09
VICTOR MAIN WEST	0.49			0.49
WADDELL LANE		0.32		0.32
WAGNER LANE	0.5			0.5
WAKANTANKA WAY		0.51		0.51
WARBLER LANE	0.5			0.5
WATER ST (DARBY)	0.72			0.72
WATER ST (CORVALLIS)	0.18			0.18
WATT LANE		0.5		0.5
WEBER DRIVE	0.46			0.46
WERTH LANE	0.17			0.17
WEST BRIDGE ROAD	1.14			1.14
WEST FORK ROAD	26.62	2.25		28.87
WEST HILLS WAY	0.56			0.56
WEST RIVER ROAD	1.2	0.52		1.72
WEST VIEW DRIVE		0.33		0.33
WESTSIDE ROAD	4.49			4.49
WESTWOOD DRIVE	0.3			0.3
WHEELBARROW CREEK RD		2.02		2.02
WHITE'S LANE		1.12		1.12
WICKIUP DRIVE	0.12			0.12

ROAD INVENTORY

ROAD NAME	HARD SURFACE MILES	GRAVEL MILES	DIRT MILES	TOTAL MILES
WILCOX LANE	2	0.5		2.5
WILDFOWL LANE	1.76	2.81		4.57
WILLOUGHBY LANE	1.38	2.11		3.49
WILLOW CREEK CROSS RD	1.51			1.51
WILLOW CREEK ROAD	6.23	1.3		7.53
WINKLER LANE	0.2			0.2
WINTERS LANE		0.71		0.71
WOOD LANE		0.47		0.47
WYANT LANE	1.23			1.23
YERIAN LANE		0.25		0.25
ZIMMERMAN LANE	0.28			0.28