

FILED
Court of Appeals
Division III
State of Washington
6/30/2020 3:10 PM
COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

Cause No. 372979

GAMBLE LAND & TIMBER, LTD., a Washington limited partnership;
and CASCADE HOLDINGS GROUP, LP, a Nevada limited partnership,

Appellant,

vs.

OKANOGAN COUNTY, WASHINGTON, a Washington Municipal
Corporation, and all other persons or parties unknown claiming any right,
title, estate, lien or interest in the real estate described in the Complaint
herein,

Respondent,

and

OKANOGAN OPEN ROADS COALITION, and individual taxpayer
members thereof LORAH SUPER, CRAIG OLSON, and KEVIN
CREAGER; and STATE OF WASHINGTON ex Relatione LORAH
SUPER, CRAIG OLSON, and KEVIN CREAGER

Respondents and Cross-Appellants.

BRIEF OF RESPONDENTS AND CROSS-APPELLANTS
OKANOGAN OPEN ROADS COALITION, and individual taxpayer
members thereof,

NATALIE N. KUEHLER, WSBA No. 50322
RYAN & KUEHLER PLLC
PO Box 3059
Winthrop, WA 98862
Email: nk@ryankuehler.com
Phone: (509) 996-2832
Attorney for Respondents

TABLE OF CONTENTS

TABLE OF AUTHORITIES	iii
I. INTRODUCTION	1
II. ASSIGNMENT OF ERROR	2
III. STATEMENT OF THE CASE	3
A. Factual Background	3
B. Procedural Background	11
IV. ANALYSIS	13
A. Standard of Review	13
B. The Court Lacks Subject Matter Jurisdiction over Gamble’s Quiet Title Claims Because They were Previously Submitted to – and Decided by – the BOCC.	15
C. Summary Judgment was Properly Entered in OORC’s Favor.	22
1. E. Richard Hart is a Qualified Expert Historian and the Trial Court Properly Considered his Report.	22
2. Gamble Failed to Rebut Mr. Hart’s Conclusion that the Methow Valley Road was Established by Prescription.	27
3. The Methow Valley Road was Created by Petition in 1889 and Gamble Cannot Show any Procedural Irregularities that Invalidated the Road’s Establishment. ...	30
i. Gamble’s Arguments of Procedural Irregularities and the Non-User Statute are Barred by the Doctrine of Laches.	30
ii. Gamble’s Arguments of Procedural Irregularities and the Non-User Statute are Barred by the Statute of Limitations.	31
iii. The Requirements of the 1879 Code Were Followed in Establishing the Methow Valley Road as Field Notes are the Minutes of Survey.	36

iv.	Gamble’s Argument that no Plat was Filed is Unsupported by the Evidence.	39
v.	Gamble’s Arguments of Procedural Irregularities are Foreclosed by the 1879 Territorial Code.	40
vi.	The Evidence Demonstrates that the Methow Valley Road was Opened Immediately and Gamble has not Carried its Burden to Prove Prove.	42
vii.	Roads Created by Prescription or Petition Cannot be Abandoned Outside the Vacation Process and Neither Okanogan County nor the Public Abandoned the Disputed Section French Creek Road.	45
viii.	The County’s Right-Of-Way for French Creek Road is 60 Feet Wide.	48
V.	GAMBLE’S APPEAL IS FROLOUS AND OORC SHOULD BE AWARDED ITS ATTORNEY’S FEES.	49
VI.	CONCLUSION.....	50

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<u>Cases</u>	
<i>Brokaw v. Town of Stanwood</i> 79 Wash. 322, 140 P. 358 (1914)	44
<i>Bugli v. Ravalli County</i> , 396 Mont. 271, 444 P.3d 399 (MT 2019)	17, 21
<i>Bugli v. Ravalli Cty.</i> , 392 Mont. 131, 422 P.3d 131 (MT 2018)	15, 16, 17
<i>Burton v. Am. Cyanamid</i> , 2018 WL 3954858 (E.D. Wis. Aug. 16, 2018)	26, 27
<i>Cadeau v. Elliott</i> , 7 Wash. 205, 34 P. 916 (1893)	38, 39
<i>City of Fed. Way v. King Cty.</i> , 62 Wash. App. 530, 815 P.2d 790 (1991)	19, 20
<i>Coal. of Chiliwist v. Okanogan Cty.</i> , 198 Wash. App. 1016 (2017)	18
<i>Cole v. Harveyland, LLC</i> , 163 Wash. App. 199, 258 P.3d 70 (2011)	14
<i>Davidson v. State</i> , 116 Wash. 2d 13, 802 P.2d 1374 (1991)	20
<i>Dougherty v. Dep't of Labor & Indus. for State of Washington</i> , 150 Wash. 2d 310, 76 P.3d 1183 (2003)	13
<i>Foster v. Bullock</i> , 184 Wash. 254, 50 P.2d 892 (1935)	46, 47
<i>Johnston v. Medina Imp. Club</i> , 10 Wash. 2d 44, 116 P.2d 272 (1941)	45, 46, 47
<i>Kelly v. Tonda</i> , 198 Wash. App. 303, 393 P.3d 824 (2017)	47
<i>Langbord v. United States Dep't of Treasury</i> , 832 F.3d 170 (3d Cir. 2016)	26
<i>Leonard v. Pierce Cty.</i> , 116 Wash. App. 60, 65 P.3d 28 (2003)	33

<i>Marvel Characters, Inc. v. Kirby</i> , 726 F.3d 119 (2d Cir. 2013).....	26
<i>Meyer v. Univ. of Washington</i> , 105 Wash. 2d 847, 719 P.2d 98 (1986).....	14, 28, 44
<i>Miller v. King Cty.</i> , 59 Wash. 2d 601, 369 P.2d 304 (1962).....	33
<i>Millers Cas. Ins. Co., of Texas v. Briggs</i> , 100 Wash. 2d 9, 665 P.2d 887 (1983).....	49, 50
<i>Nelson v. Pacific County</i> 63 Wash. App. 17, 671 P.2d 785 (1983).....	<i>passim</i>
<i>Neel v. King Cty.</i> , 53 Wash. 490, 102 P. 396 (1909).....	40
<i>Okanogan Cty. v. Johnson</i> 156 Wash. 515, 287 P. 15 (1930).....	29
<i>Primark Inc. v. Burien Gardens Assocs.</i> 63 Wash. App. 900, 823 P.2d 116 (1992)	49
<i>Ranger Ins. Co. v. Pierce Cty.</i> , 164 Wash. 2d 545, 192 P.3d 886 (2008).....	14
<i>Real Progress, Inc. v. City of Seattle</i> , 91 Wash. App. 833, 963 P.2d 890 (1998).....	31, 33
<i>Ruvalcaba v. Kwang Ho Baek</i> , 175 Wash. 2d 1, 282 P.3d 1083 (2012).....	14
<i>Seattle v. Hinckley</i> , 67 Wash. 273, 121 P. 444 (1912).....	48
<i>SentinelC3, Inc. v. Hunt</i> , 181 Wash. 2d 127, 331 P.3d 40 (2014).....	14, 28
<i>Skagit Surveyors & Engineers, LLC v. Friends of Skagit Cty.</i> , 135 Wash. 2d 542, 958 P.2d 962 (1998).....	13, 14
<i>Slaght v. N. Pac. Ry. Co.</i> , 39 Wash. 576, 81 P. 1062 (1905).....	34
<i>Smith v. Mitchell</i> , 21 Wash. App. 536, 58 P. 667(1899)	35, 36

<i>Smith v. Monson</i> , 157 Wash. App. 443, 236 P.3d 991 (2010).....	15
<i>Snohomish Cty. v. Rugg</i> , 115 Wash. App. 218, 61 P.3d 1184 (2002).....	<i>passim</i>
<i>Sorenson v. Pyeatt</i> , 158 Wash. 2d 523, 146 P.3d 1172 (2006).....	15, 17, 18
<i>Stofferan v. Okanogan Cty.</i> , 76 Wash. 265, 136 P. 484 (1913).....	<i>passim</i>
<i>Wells v. Miller</i> , 42 Wash. App. 94, 708 P.2d 1223 (1985).....	33, 35
<i>Walden v. City of Chicago</i> , 755 F. Supp. 2d 942 (N.D. Ill. 2010).....	26
<i>Yorkston v. Whatcom Cty.</i> , 461 P.3d 392 (Wash. Ct. App. 2020).....	<i>passim</i>

Statutes

Laws of Washington Territory 1879	<i>passim</i>
Laws of Washington Territory 1881	36
RCW 36.32.330	20, 32
RCW 36.68.010	19, 46
RCW 36.75.300	41
RCW 36.87.010	16, 18
RCW 7.48.140	22

I. INTRODUCTION

Since the very first days of Okanogan County, the upper reaches of the Methow Valley and its residents were connected to the Columbia River Valley through the Methow Valley County Road (the “Methow Valley Road”). This Road was petitioned for, surveyed, and declared to be opened by Okanogan County in 1889, when Washington was still a Territory. It has been used continuously by the public ever since. In recent decades, appellants Gamble Land & Timber Ltd. and Cascade Holdings Group, LP (together “Gamble”) and their predecessor filed three petitions to vacate the section of the Methow Valley Road at issue in this case with the Okanogan County Board of Commissioners (“BOCC”). All three petitions were denied. None of these denials were appealed.

Instead, Gamble maintained locked gates to block the public’s access to the disputed section of the Road, commonly known as the “French Creek Road.” Using false information and the threat of a costly lawsuit, Gamble pressured the BOCC into issuing a resolution that - with no public notice, hearing, or comment – claimed that the status of the 130-year old French Creek Road as a county road was uncertain. When the public nonetheless continued to use the French Creek Road, Gamble filed this quiet title action to extinguish the public’s access rights and convert the road into a “private driveway.”

The trial court properly concluded that Gamble's quiet title claims are meritless, as the French Creek Road is and has been a county road for well over a century. The court, however, erred in exercising jurisdiction over Gamble's claims, and should have exercised jurisdiction only over the crossclaims filed by the Okanogan Open Roads Coalition and individual taxpayers thereof ("OORC") seeking the removal of Gamble's unpermitted gates. Exercising jurisdiction over Gamble's claims would not only infringe upon the BOCC's jurisdiction, it would also allow Gamble to make an end-run around the BOCC's unfavorable decisions by invoking this court's jurisdiction in a later quiet title action.

That outcome is procedurally improper and risks setting a bad precedent, as Gamble previously (i) voluntarily subjected itself to the jurisdiction of the BOCC by filing a petition to vacate, (ii) admitted that the French Creek Road is a public road, and (iii) opted not to appeal the BOCC's denial of its petition. Because Gamble's appeal is meritless, this Court should dismiss Gamble's claims for lack of subject matter jurisdiction, affirm the trial court's entry of summary judgment for OORC on its crossclaims, and award OORC its attorney's fees on appeal.

II. ASSIGNMENT OF ERROR

1. The trial court erred in exercising subject matter jurisdiction over Gamble's quiet title action when Gamble and its predecessors in interest

had already submitted this dispute to the BOCC by filing three petitions to vacate the section of the French Creek Road at issue in this lawsuit and did not appeal the BOCC's unfavorable decisions.

III. STATEMENT OF THE CASE

A. Factual Background

On March 27, 1889, just over one year after Okanogan County was founded, notice was posted that the citizens of Okanogan County would present a petition (the "Petition") to the BOCC requesting the establishment of what came to be known as the Methow Valley Road. (CP 211). The Petition, which was signed by 35 individuals, including Mr. N.H. Gamble, was recorded in the Auditor's Office that same day. (CP 212).

Ten days earlier, on March 6, 1889, a remonstrance opposing the proposed route was submitted to the BOCC. (CP 216). The remonstrance, later supplemented by a written statement dated April 7, 1889, admitted that "the people of the upper Methow now numbering more than one hundred are so to speak virtually shut out from all communication with the outside world." (CP 214-15). While agreeing that a road connecting the Methow with the Columbia Valley was of utmost importance, the opponents noted that "various routes had been proposed ... all of which roads have been finally abandoned as wholly impracticable." *Id.* They suggested that the Methow Valley Road, too, was impracticable, would result in a "heavy and

useless expense,” and should be abandoned in favor of a different route along the valley floor. (CP 215).

Nonetheless, on May 6, 1889, the proponents of the Methow Valley Road recorded an Affidavit of Qualification of Petitioners, confirming their residency in the vicinity of the proposed route and the proper posting of the notices, and posted a bond in the sum of \$200.00. (CP 222, 209). The BOCC heard the Petition that same day, tabled the remonstrance until a report of the viewers was received, and the following day appointed a surveyor and two viewers to begin reviewing the proposed route. (CP 106-07).

The viewers’ report, dated June 1, 1889, noted that several assistants had been hired, including Mr. Gamble, and that they then “viewed, surveyed and laid out said road.” (CP 218). The viewers referred the BOCC to “the field notes, survey and plat of said road, presented herewith by the surveyor” for a “full and complete description” of their work. *Id.* They concluded that “[o]ur opinions are in favor of the establishment of the said road, for the following reasons: that it is the only road that can be constructed with the resources at hand.” *Id.*

Also on June 1, 1889, the surveyor recorded a Surveyor Return and Certificate, attesting that “the following is a true and correct return of the survey of said road as made by me under the direction of the viewers, to-wit: See field notes. And that herewith is a correct plat of said road,

according to said survey.” (CP 220).

At their next regular meeting, on August 8, 1889, the BOCC read the “[r]eport of viewers and surveyor on Methow Valley Road and also the remonstrance against acceptance of the Road.” (CP 200). The same documents were read a second time on August 9, 1889. (CP 204). The Commissioners then “[m]oved that Road be declared opened as a County Road and be named the Methow Valley road”. *Id.* Several bills were allowed in connection with the opening of the Road, including bills submitted by the surveyor, viewers, chainmen, team owner, axeman, and Mr. Gamble’s bill as marker. *Id.* The Road was promptly constructed, and by May 25, 1890, another county road was established and surveyed to terminate “at the intersection with the Methow Valley County Road.” (CP 233). The Methow Valley Road was built in virtually the exact location laid out by the surveyor, and the section of the French Creek Road at issue in this lawsuit remains in its original location even today. (CP 293). The Road was thereafter “immediately, consistently, and frequently used by the public.” (CP 1334).

The Methow Valley Road originally traversed federal lands that had just recently been restored to the public domain when the Moses Columbia Reservation was dramatically reduced in size. (CP 1743). The first federal surveys of the area, conducted by the U.S. Geological Services (“USGS”)

and the Government Land Office (“GLO”) from 1897-1903, noted the existence of the Road. (CP 291-92). All resulting survey maps, including both the cadastral map that would form the basis for private land patents and the quad maps prepared by USGS, depicted the Road. *Id.*

Federal policy at the time strongly encouraged the construction of public roads in furtherance of the settlement of the western United States. (CP 1716). Indeed, in 1868 Congress had passed Revised Statute 2477 (“R.S. 2477”), by which “the right-of-way for the construction of highways across public lands not otherwise reserved for public purposes” was granted. *Id.* In 1903, two years before the first private patents were granted in the area at issue in this lawsuit, the State of Washington formally recognized the federal government’s grant of rights-of-way by “empowering Boards of County Commissioners to accept” R.S. 2477 rights-of-way across federal lands. (CP 1720).

The statute provided that, upon ratification and confirmation of R.S. 2477 rights-of-way by a BOCC, the relevant roads “shall be deemed duly laid out county roads.” *Id.* Okanogan County promptly accepted R.S. 2477 rights-of-way by resolution dated August 11, 1903, “to the extent of 30 feet on each side of the center line of all wagon roads which now exist or have heretofore existed upon or across or over lands that are now public lands of the United States, not reserved for public uses in said Okanogan County,

Washington.” *Id.*; *Stofferan v. Okanogan Cty.*, 76 Wash. 265, 136 P. 484 (1913), 268069 136 P. 484 (1913).

Over time, other roads were constructed to provide access to the upper Methow Valley, but the French Creek Road remained of public interest and in public use throughout the years. (CP 1334, 1833-37). It provided access to a school, was the only passable road to the Columbia Valley following the flooding of 1948, has provided access to public lands for generations of hunters, and today also serves as a critical fire escape route for local residents. (CP 1735-36, 135-63, 1724).

Gamble and its predecessors in interest, however, have long tried to privatize the road. (CP 1734-35, 1738). The first petition to vacate the disputed section of French Creek Road was submitted to the BOCC in 1955 by Charley Judd, and denied on September 12, 1955, “after due consideration ... on the grounds that it would not be in the best interest of the public to vacate any portion of the road at this time.” (CP 1836).

The second petition for “vacation and abandonment” was submitted in 1965 by several residents including, among others, Charley Judd and Roderick O’Toole, and referred to the road as “County Road No. 51”. (CP 1849-50). Public opposition to the petition was swift and extensive. (CP 1847-97). The State of Washington Department of Natural Resources summarized the grounds for opposing the petition succinctly: “1. Access is

needed for the management of all resources including the hauling of valuable materials. 2. To provide access for fire control purposes. 3. To provide access for recreationalists, hunters, campers, fishermen, etc. to the public lands open for these purposes,” including approximately 6,000 acres owned by the State of Washington. (CP 1847).

The County’s Road Engineer in his report noted that the Road, though of generally low standard, is “easily travelled by passenger car. Three gates are presently in place illegally across the road. Access to several tracts of state land is provided by this road. It carries little traffic at most times, but is extensively used during hunting season.” (CP 135). The BOCC visited the Road on June 15, 1965, and thereafter unanimously decided to deny the petition to vacate in the public interest. *Id.*

In 1969, the BOCC instructed the County Prosecutor to require the removal of an illegal gate maintained across the French Creek Road by Mr. O’Toole, and directed a county grader to conduct maintenance within the week. (CP 1901). Nearly a decade later, in 1976, the BOCC noted that it had “already spent as much or more on the French Creek Road as any other road in the Methow or county” and would “continue to do more maintenance. At the present time there is a water trailer and grader working on the road.” (CP 1903).

In 1993 and 1994, Gamble purchased property traversed by the

French Creek Road. (CP 400). In 2008, the County informed Gamble's owner Cass Gebbers that a gate maintained by Gamble across the French Creek Road "cross[ed] a public road" and was "therefore probably an illegal obstruction." (CP1910). In response, Gamble and Mr. Gebbers on October 1, 2009, filed a third petition that "the following described County Road be vacated: the French Creek Road...." (CP 1944). This petition, too, was met with overwhelming public opposition. (CP 1956-58, 1960-62). Notably, the County's Department of Emergency Management opposed vacating French Creek Road because "the road is a fire escape route". (CP 1962).

A BOCC hearing was held on November 16, 2009, following the conclusion of the public comment period. (CP 1959-62). During that hearing, Commissioner Don Hover summarized that "the road appears to be very important to the citizens" and was of continued "use to the public." (CP 1962). He then "moved to deny the vacation of a portion of French Creek Road and ordered all obstructions on the road be removed within the week. [The] Motion was seconded and carried." *Id.* Commissioner Peterson thanked all for attending the hearing and the meeting was adjourned. *Id.*

The very next day, counsel for Gamble reached out to the Deputy County Prosecutor falsely claiming that: (i) the French Creek Road "has been locked and gated for at least 40 years;" (ii) the County "never followed the proper statutory procedures" for establishing the road because no notice

was provided or hearing was held; (iii) the French Creek Road “was built by the owners of the land upon which the roadway is located;” (iv) the landowners never took “any action that would evidence an intent to dedicate French Creek Road to the County”; and (v) and “the County never made any improvements to French Creek Road nor maintained or repaired it.” (CP 375-76). Counsel also threatened to file a quiet title action against the County and seek a temporary restraining order. *Id.*

On November 24, 2009, the Deputy Prosecutor recommended to the BOCC to approve a resolution “to affirm the denial [of the petition to vacate] indicating we don’t have a claim to the portion [of the French Creek Road sought to be vacated].” (CP 377). He speculated that there was “little chance of finding evidence of county use or public use of the road before the gate was closed and locked,” and expressed concern that if Gamble filed a lawsuit “and matters go to trial it could cost the county much money.” *Id.*

The Commissioners initially expressed hesitation regarding this approach, but by December 1, 2009, directed the Deputy Prosecutor to prepare the proposed resolution. (CP 378). On December 8, 2009, the BOCC passed this new resolution claiming:

The records and documents held by the County do not support that portion of the road [at issue in this case] is a county road or public right of way and, therefore, does not claim any interest or jurisdiction over that portion of the Road. Therefore, there was no interest to vacate, or not

vacate, and that portion of the decision is rendered null and void.”

(CP 379080). No public notice was posted. *See id.* No public comments were taken, aside from private communications with Gamble’s counsel. *See id.* And no public hearing was ever held. *See id.*

B. Procedural Background

Despite the BOCC’s December 8, 2009 resolution, the public has continued to use the French Creek Road. (CP 1631-1648). It was “as a result of [these] repeated trespasses” that Gamble filed its quiet title action on March 3, 2017. Appellant’s Brief p. 4, (CP 1361-62). Okanogan County initially defended against the action, but soon decided it would no longer take any position. (CP 617). To avoid the entry of a default judgment against the County that would deprive the public of one of the oldest county roads, OORC intervened in the action. (CP 17). OORC also filed a cross-complaint seeking a declaration that Gamble’s continued obstruction of the French Creek Road was unlawful. (CP 17, 19). In June 2017, Gamble filed a motion for summary judgment, and OORC cross-moved for partial summary judgment. (CP 423). On May 7, 2018, the trial court denied in part and granted in part Gamble’s motion, and denied OORC’s cross-motion. *Id.*

OORC then conducted additional discovery, including by serving document requests and interrogatories on Okanogan County. (CP 322-29).

In response, Okanogan County produced the original 1889 petition for the Methow Valley Road and related documents, as well as information disclosing the 1965 petition to vacate proceedings. (CP 131-33). In light of this additional evidence, OORC filed a renewed motion for summary judgment on July 1, 2019, supported by two expert reports: a historical report by E. Richard Hart, and a technical report by licensed land surveyor William Tackman. (CP 444-45). OORC's motion also requested that Gamble's claims be dismissed for lack of subject matter jurisdiction. *Id.*

Gamble hired its own land surveyor and requested multiple extensions of its deadline for responding to accommodate the preparation of its expert report. (CP 366-70). On October 25, 2019, Gamble filed its opposition but, despite being granted extra time to prepare an expert report, filed none. (CP1303-25). That same day, Okanogan County filed a brief in support of OORC's motion for summary judgment, along with an expert report that confirmed the findings by OORC's land surveyor. (CP 616-60).

The trial court held a hearing on December 10, 2019, and thereafter entered a stipulation and order admitting additional evidence into the record, including the Supplement Statement of E. Richard Hart. (CP 1663-38). On December 18, 2019, the trial court issued its order denying OORC's motion to dismiss and granting OORC's motion for summary judgment. (CP 35-37). Gamble appealed the trial court's order on December 30, 2019,

and OORC filed a cross-appeal on January 17, 2020. (CP 446-51).

IV. ANALYSIS

Gamble's quiet title action should be dismissed for lack of subject matter jurisdiction because Gamble and its predecessors in 1955, 1965 and 2009 unsuccessfully submitted this dispute to the BOCC vacation process, and is now bound by the BOCC's determination. As argued below, summary judgment on OORC's crossclaims, however, should be affirmed and Gamble should be ordered to remove all barriers across French Creek Road. The admissible, undisputed evidence shows that the disputed section of French Creek Road was established by petition in 1989 and, alternatively, by public use across federal lands in 1900. The federal grant of rights-of-way under R.S. 2477 was accepted by Okanogan County in 1903. The French Creek Road has been used consistently throughout history; it has never been vacated; and Gamble's unpermitted barriers across the Road are thus unlawful and should be ordered removed.

A. Standard of Review

Whether a court has subject matter jurisdiction is a question of law reviewed *de novo*. *Dougherty v. Dep't of Labor & Indus. for State of Washington*, 150 Wash. 2d 310, 314, 76 P.3d 1183 (2003). Courts lacking subject matter jurisdiction are powerless to decide the merits of the case. *Skagit Surveyors & Engineers, LLC v. Friends of Skagit Cty.*, 135 Wash. 2d

542, 556, 958 P.2d 962 (1998). A judgment entered by a court lacking subject matter jurisdiction is void and can be challenged at any time. *Cole v. Harveyland, LLC*, 163 Wash. App. 199, 205, 258 P.3d 70 (2011).

An order granting summary judgment is also reviewed *de novo*. *Ruvalcaba v. Kwang Ho Baek*, 175 Wash. 2d 1, 6, 282 P.3d 1083 (2012). Summary judgment is subject to a “burden-shifting scheme”. *Ranger Ins. Co. v. Pierce Cty.*, 164 Wash. 2d 545, 552, 192 P.3d 886 (2008). The moving party is entitled to summary judgment if it “submits affidavits establishing it is entitled to judgment as a matter of law.” *Id.* The nonmoving party then can avoid summary judgment only by “set[ing] forth specific facts which sufficiently rebut the moving party’s contentions and disclose the existences of a genuine issue of material fact.” *Meyer v. Univ. of Washington*, 105 Wash. 2d 847, 852, 719 P.2d 98 (1986). The nonmoving party may not rely on legal conclusions, speculation, conclusory statements of fact or argumentative assertions that unresolved factual issues remain. *Snohomish Cty. v. Rugg*, 115 Wash. App. 218, 224, 61 P.3d 1184 (2002). In addition, affidavits opposing summary judgment must “(1) be made on the affiant’s personal knowledge, (2) be supported by facts admissible in evidence, and (3) show that the affiant is competent to testify to the matters therein.” *SentinelC3, Inc. v. Hunt*, 181 Wash. 2d 127, 140, 331 P.3d 40 (2014).

B. The Court Lacks Subject-Matter Jurisdiction over Gamble’s Quiet Title Claims Because They were Previously Submitted to - and Decided by - the BOCC.

Gamble and its predecessors in interest submitted the ownership of the disputed section of the French Creek Road to the jurisdiction of the BOCC by the filing of three separate petitions to vacate: in 1955, 1965, and most recently, in 2009. The BOCC denied all three petitions. None of these denials were appealed, even though in Washington writs of certiorari are available to challenge BOCC decisions on road vacations. That is the remedy Gamble should have sought but failed to pursue. Because Gamble had an adequate remedy at law, it is not now entitled to pursue equitable relief in the form of a quiet title action that would evade the BOCC’s multiple previous denials of petitions to vacate the disputed section of French Creek Road. *Smith v. Monson*, 157 Wash. App. 443, 448–49, 236 P.3d 991 (2010) (suit to quiet title is “an action in equity”); *Sorenson v. Pyeatt*, 158 Wash. 2d 523, 531, 146 P.3d 1172 (2006) (equitable relief is “extraordinary” and granted only if “the remedy at law is inadequate”).

A virtually identical situation was recently addressed by the Supreme Court of Montana in *Bugli v. Ravalli Cty.*, 392 Mont. 131, 422 P.3d 131.¹ In that case, like here, appellants initially filed a petition to vacate

¹ Montana’s statutory framework for road vacation procedures is virtually identical to the relevant RCWs in Washington. *See* MCA 7-14-2601 *et seq.*; RCW 36.87.010 *et seq.*

and abandon a section of a county road. *Id.* at 133. In 2016, the Montana BOCC denied their petition and directed the removal of a gate that barred public access across the road. *Id.* Rather than filing a writ of review of the Montana BOCC's decision, appellants then filed a quiet title action seeking a declaration that a portion of the road was privately owned. *Id.*

The Montana Supreme Court dismissed appellants' quiet title action for lack of subject matter jurisdiction, because "[a] declaratory judgment by the [trial court] regarding the length of the Road could conflict with the BOCC's denial of the 2016 petition and undermine its statutory authority over the Road." *Id.* at 137. The court explained that "[u]nder these facts, the proper process to invoke the jurisdiction of the courts is through a properly filed petition for writ of review of the BOCC decision." *Id.* The same considerations apply here.

Like the plaintiffs in *Bugli*, having failed to prevail on its petitions to vacate, Gamble in this lawsuit seeks vacation and abandonment of a section of the French Creek Road "by implication outside of the abandonment process." *Id.* at 138. In Montana, like in Washington, the existence of a county road can ordinarily be litigated by quiet title action. The *Bugli* court, however, held that this option is foreclosed when a landowner "voluntarily chose, accepted, and submitted to the BOCC's jurisdiction and committed their road dispute to the statutory abandonment

process, including the necessary fact-finding. Landowners are now bound to that process, and cannot relitigate these issues in a separate forum.” *Id.* at 137.

As the Montana Supreme Court later explained, “Landowners petitioned the Board to abandon [a portion of a county road] extending beyond Landowners’ gate.... By filing this petition to abandon, Landowners necessarily agreed that the gate encroached on a county road.” *Bugli v. Ravalli County (“Bugli II”)*, 396 Mont. 271, 279, 444 P.3d 399 (MT 2019). Here, in its 2009 petition to vacate, Gamble specifically affirmed that Gamble was petitioning “that the following described County Road be vacated: French Creek Road.” (CP 1944) (emphasis added). Gamble’s remedy, then, like for the landowners in *Bugli*, was to seek review of the BOCC’s action on the grounds that the denial of its petition to vacate created an “unlawful extension” of the county road. *See Bugli* at 280.

Allowing Gamble’s quiet title action to go forward under these circumstances would not only impinge upon the BOCC’s statutory authority over county roads under RCW 36.87.010 *et seq.*, it would also permit Gamble to “run around the denial of their petition to vacate” by seeking different outcome from a new tribunal. *Bugli* at 127. This end-run around unfavorable decisions is precisely the situation that Washington’s doctrine barring declaratory judgment actions where adequate remedies at law exist

seeks to avoid. *See Sorenson*, 158 Wash. 2d at 531.

In Washington, unlike in Montana, permitting Gamble's quiet title action to move forward would also provide Gamble with a more favorable legal standard: unlike for quiet title actions, the standard of review on a writ of certiorari from a petition to vacate requires petitioners to prove "fraud, collusion, or interference with a vested right" by the BOCC. *Coal. of Chiliwist v. Okanogan Cty.*, 198 Wash. App. 1016, 4 (2017) (Div. 3, 2017 (unpublished)).

Gamble argues that their failure to seek a writ of certiorari from the BOCC's 2009 decision should be excused because the BOCC later issued a new resolution disclaiming any interest in the disputed section of the French Creek Road. This argument fails for three reasons:

First, the later resolution was procedurally improper and, as such, could not alter or revoke the BOCC's prior decision denying Gamble's petition to vacate. Proceedings on the 2009 petition to vacate were completed when, following the statutorily required public notice, comment period, and hearing, the BOCC on November 16, 2009, passed a motion to "deny the vacation of a portion of the French Creek Road and order all obstructions on the road to be removed," and the public meeting was adjourned. (CP 1962). Gamble's private maneuvering thereafter did not – and could not - invalidate the BOCC's November 16, 2009, decision.

This precise issue was addressed by the court in *Nelson v. Pacific County*, where plaintiffs sought to quiet title in a public road in themselves and contended that the county had abandoned the road at issue by entering into a settlement agreement disavowing any interest in it. 63 Wash. App. 17, 671 P.2d 785 (1983) (cert denied 1984). The court concluded that a county “may not abandon” a public road in this manner. *Id.* at 23. The court reasoned:

Property once acquired and devoted to public use is held in trust for the public express or implied. The Legislature has expressly provided for the disposition of lands held by the county in its governmental capacity.... Under RCE 36.34, county property cannot be sold or disposed of without notice and a public hearing... More specific provisions apply to parks and county roads. RCW 36.68.010. ... The provisions are comprehensive and demonstrate a strong legislative intent that property held for the public use and benefit not be summarily disposed of without giving the public affected a significant opportunity to participate.

Id. at 23-24. The BOCC’s December 8, 2009 resolution, therefore, despite claiming to render the BOCC’s denial of Gamble’s petition to vacate “null and void”, was procedurally improper and is wholly unenforceable.

Second, the later resolution was not filed until after Gamble’s time to appeal the denial of its petition to vacate had already expired. Because the writ of certiorari statute itself contains no filing deadlines, courts instead look to comparable statutes to determine whether an action was timely commenced. *City of Fed. Way v. King Cty.*, 62 Wash. App. 530, 537–38,

815 P.2d 790 (1991). Here, as in *City of Federal Way*, the most analogous limitations period is the general “20-day statutory period for appealing a decision of the board of county commissioners.” 62 Wash. App. at 538; RCW 36.32.330; *see also Yorkston v. Whatcom Cty.*, 461 P.3d 392 (Wash. Ct. App. 2020) (declaratory judgment actions challenging “the acts of a county legislative authority” are subject to “the 20-day limitation period set forth in RCW 36.32.330”). Alternatively, Washington’s Land Use Petition Act (LUPA), RCW 36.70C, provides a strict 21-day limitations period for land use decisions. The December 8, 2009, resolution was not issued until 22 days after the BOCC’s denial of Gamble’s petition to vacate. By then, that denial had become final and unappealable.

And third, Gamble should have known, and did know, that the only proper means of vacating a recognized county road is through the statutory vacation process. Washington law has long held that all persons are “charged with knowledge of the provisions of statutes and must take notice thereof” – indeed, it is a “duty of property owners to take notice of public laws affecting the control or disposition of their property”. *Davidson v. State*, 116 Wash. 2d 13, 26, 802 P.2d 1374, 1474 (1991) (*en banc*). In Washington, county roads can only be vacated through the statutory vacation process. *Nelson*, 36 Wash. App. at 23. In the words of Gamble’s own corporate representative, Jon Wyss:

It is clear ... that the only way to legally remove a road [i]s by the vacation process. A county employee and or engineer just can't say this road is no longer a county road and remove it off the system as they are bound by the statu[t]es for the State of Washington just like everybody else.

(CP 383). The same is true for County Commissioners.

Here, Gamble and its predecessors no less than three times affirmed the status of the relevant section of French Creek Road as a county road by filing petitions to vacate and abandon it. Each petition was denied as contrary to the public interest. In 2009, and without any public notice, Gamble then presented false information to the BOCC and threatened costly litigation unless the County disclaimed any interest in the disputed section of the French Creek Road.

The resulting resolution claiming insufficient information to consider the Road a county road is unenforceable. It therefore does not excuse Gamble's failure to comply with the strict 21-day statute of limitations for filing a writ of certiorari of the BOCC's denial of its petition to vacate – in which Gamble could have argued that the BOCC's denial of its petition to vacate resulted in the unlawful creation of a county road. See Bugli II, at 405 (on petition to vacate, BOCC examination of whether road is in fact a county road rather than private road “is legally required” and subject to appeal). Because Gamble had an adequate remedy at law, the court lacks subject matter jurisdiction over Gamble's quiet title action and

should dismiss Gamble's claims in their entirety.

C. Summary Judgment was Properly Entered in OORC's Favor.

Although the Court lacks subject matter jurisdiction over Gamble's quiet title claims, the court does have subject matter jurisdiction over OORC's counterclaim that the gates maintained by Gamble across French Creek Road are unlawful obstructions of a public road under RCW 7.48.140(4), because OORC has no adequate remedy at law. The trial court therefore properly entered summary judgment against Gamble and for OORC because the undisputed evidence shows that French Creek Road was established by petition or, alternatively, by public use for well over one hundred years, and was thereafter never vacated or abandoned. Gamble, in opposing OORC's motion, failed to produce any relevant, admissible evidence whatsoever, and did not even submit rebuttal reports to the expert historical report of E. Richard Hart and the expert surveying reports of William Tackman and Gary Erickson.

1. E. Richard Hart is a Qualified Expert Historian and the Trial Court Properly Considered his Report.

E. Richard Hart is eminently qualified as an expert historian. The trial court properly rejected Gamble's argument that the Methow Valley Road's establishment by petition in 1889 and by prescription are "beyond his area of expertise." Mr. Hart has qualified as an expert and testified in no

less than fifteen other court cases involving land rights and has authored a book on historical expert testimony that was, in part, published by *Western Legal History*, the *Journal of the Ninth Judicial Circuit Historical Society*. (CP 1334-35). He has specific expertise in the geographic area and time period at issue in this case: Among his many other qualifications, he served as a historic expert for the Confederated Tribes of the Colville, as the Executive Director of the Institute of the NorthAmerican West, as Director of the Institute of the American West, as Research Assistant at the American West Center, on the Editorial Board of the *Western Historical Quarterly*, as Trustee of the Okanogan County Historical Society, and as Chair of the Board and President of the Shafer Historical Museum in the Methow Valley. (CP 1989-2008).

Mr. Hart's writings have been published extensively, and he has received awards for five of his ten books. (CP 1332). His papers form a Special Collection at the Institute of the American West and the Institute of the NorthAmerican West, maintained at the University of Utah's Marriott Library. *Id.*

Mr. Hart has specific historical expertise on R.S. 2477 rights-of-way: From 1997 through 2002, he was hired by the Office of the Attorney General of Utah "to study grants of rights-of-way R.S. 2477 and the history of roads legislation in the nation and the West." (CP 1332). His work

resulted in a confidential report that was completed in 2002, one year before the State of Utah and U.S. Department of Interior entered into what the federal government called a “Landmark Agreement on RS 2477 Rights of Way.”² *Id.* Mr. Hart also previously served as an expert witness in federal court in a case regarding the establishment of prescriptive easement for a historic trail. *Id.* In fact, in every single case in which Mr. Hart provided testimony, he has qualified as an expert witness. (CP 1334).

In light of Mr. Hart’s life-long study of the American West, his previous experience as an expert witness, and his specific subject matter expertise in land rights, Gamble’s claims that Mr. Hart is not qualified as an expert witness ring hollow.

The trial court also properly rejected Gamble’s arguments that Mr. Hart’s report should have been stuck because it is based on “nothing more than assumptions and speculation, unsupported by any evidence” and a summary of “all manner of inadmissible evidence.” Mr. Hart’s expert report is meticulously researched, and supported by over 104 citations and 37 exhibits, many of which contain more than one reference document. (CP 1699-2033). The report provides a comprehensive overview of the political backdrop that encouraged the development of public roads to further the

² The U.S. Department of Interior’s press release regarding this agreement is available at doi.gov/sites/doi.gov/files/archive/news/arhie/03_New_Releases/030409a.htm.

settlement of the American West at the time. *See id.* The report presents a detailed overview of the historic evidence available that relates to Washington State, Okanogan County and the specific history of the Methow Valley Road. *See id.*

This is precisely the type of information directly relevant to any determination of the existence of a historic county road. *See Yorkston v. Whatcom Cty.*, 461 P.3d 392 (Wash. Ct. App. 2020) (petition for review denied June 3, 2020) (discussing both general historic information and the specific history of the road in upholding 60-foot wide right of way for county road created in the 1880s). Indeed, it is virtually the only information by which a historic prescriptive easement can be proven, as eyewitnesses themselves have long since passed.

Gamble has provided no evidence that casts doubt on the accuracy of Mr. Hart's conclusions or the documents and information he relied on in preparing his report, and has submitted no rebuttal expert report of its own. Instead, Gamble simply argues that the historic evidence is hearsay and inadmissible on its own, and that Mr. Hart's expert report is therefore also inadmissible. In support of this argument, Gamble cites not a single case relevant to historic expert reports. This is not surprising, as RE 703 expressly permits an expert's opinion to rest on hearsay and other inadmissible evidence so long as it is "of a type reasonably relied upon by

experts in the particular field.” RE 703.

Historical experts like Mr. Hart typically rely on a “full array of available sources, evaluat[e] the reliability of the sources, and thus provid[e] a basis for a reliable narrative about the past.” *Burton v. Am. Cyanamid*, No. 07-CV-0303, 2018 WL 3954858, at *5 (E.D. Wis. Aug. 16, 2018). Expert historians thus have specialized knowledge, including “where to search for sources, formulating searches based on understanding the history of the period in question, and evaluating the reliability of the sources.” *Walden v. City of Chicago*, 755 F. Supp. 2d 942, 951 (N.D. Ill. 2010). This expertise is important for “synthesiz[ing] dense or voluminous historical texts” and offering “context that illuminates or places in perspective past events.” *Marvel Characters, Inc. v. Kirby*, 726 F.3d 119, 135–36 (2d Cir. 2013).

Accordingly, even where a historical expert merely “read[s] portions of his source material verbatim to the [factfinder], the excerpts he [chooses] from voluminous historical materials provide[] context and explain[] past events.” *Langbord v. United States Dep't of Treasury*, 832 F.3d 170, 193 (3d Cir. 2016). Moreover, “[e]ven when the words on the face of an historical document are comprehensible to the lay juror, a trained historian can contribute tremendously to the accuracy and completeness of the [factfinder’s] understanding by situating the document in its historical context – a context with social, economic, technological, [and] linguistic ...

dimensions to name a few.” *Burton* at *4. This is precisely what Mr. Hart’s expert report does.

2. Gamble Failed to Rebut Mr. Hart’s Conclusion that the Methow Valley Road was Established by Prescription.

OORC, through Mr. Hart’s expert report, conclusively established that the Methow Valley Road generally - and the disputed section of the French Creek Road in particular - was from 1889 on used “immediately, consistently, and frequently by the public well into the 20th century.” (CP 1334). Mr. Hart based his conclusions on a review of the full array of available information, including BOCC records and resolutions, newspaper articles, federal surveys dating back to the late 1800s and early 1900s, books that compiled historic accounts, family stories passed down through the generations, and the earliest available aerial photographs depicting the Road in the same location it remains in today. (CP 1699-2033). OORC also established conclusively that the disputed section of French Creek Road was constructed, and still today remains, in the same place as it had been surveyed for in 1889. (CP 1329).

Gamble offers no admissible evidence to the contrary, relying instead entirely on their request to strike the Hart Report, as well as conclusory and speculative statements by counsel, and inadmissible legal argument and hearsay made by lay witnesses. A nonmoving party, however,

cannot avoid summary judgment unless it produces admissible evidence “sett[ing] forth specific facts which sufficiently rebut the moving party’s contentions and disclose the existences of a genuine issue of material fact.” *Meyer*, 105 Wash. 2d at 852; *SentinelC3, Inc.*, 181 Wash. 2d at 140 (affidavits opposing summary judgment must be made on personal knowledge supported by admissible evidence). Here, Gamble adduced no admissible contrary facts at all, much less facts that would create a genuine issue of material fact.

As OORC argued below, the declarations provided by Gamble are each inadmissible and therefore cannot be considered on summary judgment. The Supplemental Declaration of Cass Gebbers contains statements irrelevant to OORC’s summary judgment motion, lay opinions, and speculation that are neither based on personal knowledge nor supported by admissible evidence. *See SentinelC3, Inc.* at 140. The Declaration of Verlene Hughes, similarly, is based on hearsay, contains unsupported conclusory statements and lay opinions, and is inadmissible in its entirety. Similarly, the Declaration of Jon Wyss must be disregarded because it is replete with historical opinions, legal argument, ultimate conclusions of law and fact, and lay interpretations of inadmissible, unauthenticated documents.

In Washington, public roads may be established “simply by

continued use by the public for a period co-extensive with the period of limitation for quieting title to land, which is, in this state, ten years.” *Stofferan*, 76 Wash. at 273–74. Upon the State of Washington and Okanogan County’s acceptance of R.S. 2477 rights-of-ways, roads established in this manner across federal lands became county roads. This principle was endorsed by court in *Okanogan County v. Johnson*, a case in which the trial court’s order requiring removal of a barrier across a county road was upheld:

It appearing that a prescriptive right in the public had accrued while the land affected was all a part of the public domain, and that the county, by a proper and sufficient resolution adopted by its board of county commissioners in 1903 ... had accepted the federal grant of all such prescriptive highways on public domain within the county, it is apparent that every phase of the law which might be deemed applicable has been thoroughly settled by our former decisions, and we therefore consider it unnecessary to enter into any discussion of them here.

156 Wash. 515, 516–17, 287 P.15 (1930). Here, too, a prescriptive right in the public accrued across federal lands prior to 1905, when the first private land patents were issued, by the continued, frequent and uninterrupted use of the road for a period of over 15 years. (CP 1334). Gamble has presented no admissible evidence to the contrary and has failed to meet its burden of establishing a genuine issue of material fact. The trial court, therefore, properly entered summary judgment for OORC because the Methow Valley

Road in 1903 became a public road by prescriptive use and Okanogan County's acceptance of the federal grant of R.S. 2477 rights of way.

3. The Methow Valley Road was Created by Petition in 1889 and Gamble Cannot Show any Procedural Irregularities that Invalidated the Road's Establishment.

Even if OORC had not conclusively demonstrated that the Methow Valley Road was established by public use, the trial court's entry of summary judgment for OORC was also proper because the Road was validly created by petition in 1889.

Gamble's claims that, in creating the Methow Valley Road, Okanogan County failed to fully comply with the Territorial Laws of 1879 (the "1879 Code") and that the Non-User Statute invalidates the public's right-of-way are not only barred by the doctrine of laches and the statute of limitations, they are also substantively meritless.

i. Gamble's Arguments of Procedural Irregularities and the Non-User Statute are Barred by the Doctrine of Laches.

The doctrine of laches provides a complete bar to Gamble's claims that procedural irregularities and the non-user statute apply to invalidate the Methow Valley Road. In *John Robinett Pension Plan & Trust v. City of Snohomish*, 2 Wash.App.3d 107 (Wash. App. 2d 2018) (unpublished) the plaintiff sought to quiet title in a 1903 public right-of-way across plaintiff's property. The plaintiff, in part, relied on the absence of

evidence that the road at issue was properly established and opened at the time in support of its quiet title claim. *Id.*

The court, however, barred plaintiff's action under the doctrine of laches. *Id.* at *4-5., The court held that plaintiff had had ample opportunity to discover its cause of action, had unreasonably delayed filing suit for more than 110 years, and had thereby materially prejudiced defendants because of the "unavoidable loss of defense evidence." *Id.*; see also *Real Progress, Inc. v. City of Seattle*, 91 Wash. App. 833, 844, 963 P.2d 890 (1998) ("waiting over 100 years" to file an action under the nonuse statute is unreasonable delay for purposes of the doctrine of laches). The doctrine of laches applies equally here to bar Gamble's identical claims, brought nearly 130 years after the accrual of their cause of action. The trial court, therefore, properly entered summary judgment in OORC's favor.

ii. Gamble's Arguments of Procedural Irregularities and the Non-User Statute are Barred by the Statute of Limitations.

Gamble's arguments that procedural irregularities in the creation of the road invalidate the Methow Valley Road are also time-barred. As the court in *Yorkston* explained earlier this year, declaratory judgment actions challenging the authority of a county legislative authority are subject to the 20-day limitation period under RCW 36.32.330. 461 P.3d at 398. "The same limitation period now obtains that obtained in the 1880s." *Id.* Here, even

though a remonstrance was filed in 1889, as in *Yorkston*, the record shows that no appeal was made within 20 days of the BOCC's decision. *Id.* This precludes any further challenges to the BOCC's 1889 establishment of the Methow Valley Road by petition and order. *See id.* (no appeal having been taken at the time, "the validity of the 1884 Commission decision is beyond challenge.").

In *Yorkston*, the court reversed the trial court and validated the creation of a county road in 1879 even though in that case the record did not even disclose the existence of a petition. *Id.* at 399-400. The court explained that the trial court had erred in finding that the evident lack of a petition invalidated the resulting road:

The trial court misapprehended a procedural rule as creating a substantive bar to the Commission's authority to create roads. ... It did not consider that any challenge to the Commission's action – based on the absence of a petition request – was required to be brought in court within 20 days of the Commission action (not 130 years later). And it did not consider that, in the absence of a challenge, the Commission's establishment of a road was valid. The trial record contains no indication of an 1884 challenge to the County's action. Whatever the County did, it was valid.

Id. at 399-400. The same principles apply in this case to render the BOCC's 1889 decision establishing the Methow Valley Road "beyond challenge".

Id. at 398.

The Non-User Statute similarly would have given rise to a cause of

action immediately upon the Road's actual construction but any legal challenge had to be brought within 20 days of that date. Indeed, all cases cited by Gamble in support of application of the Non-User Statute concern historic roads that were never opened, or streets dedicated by plat to which the Non-User statute does not apply. *See Real Progress, Inc.*, 91 Wash. App. at 844 (plaintiff "presented evidence ... that the road was never opened"); *Miller v. King Cty.*, 59 Wash. 2d 601, 602, 369 P.2d 304 (1962) (applying Non-User Statute where "none of the dedicated streets ... was ever opened for public use"); *Leonard v. Pierce Cty.*, 116 Wash. App. 60, 65, 65 P.3d 28 (2003) (Non-User Statute did not apply to street dedicated on plat in 1908).

The only other case cited by Gamble, *Wells v. Miller*, concluded that landowners' rights vest immediately upon the expiration of the 5-year non-use period, rather than upon formal vacation. 42 Wash. App. 94, 708 P.2d 1223 (1985) (where road dedicated by plat in 1902 remained unopened by 1907 the neighbors' ability to raise adverse possession claims against each other vested immediately rather than when road was formally vacated in 1982). This case, therefore, establishes that Gamble's alleged claims under the Non-User Statute would have accrued historically and would have had to be pursued within 20 days of the County's allegedly improper construction of the Methow Valley Road. *See Yorkston* at 399-400. Because

Gamble and their predecessor failed to do so, their claims under the Non-User Statute are now time-barred. “Whatever the County did, it was valid.” *Yorkston* at 400.

Gamble claim that it should be exempt from the 20-day statute of limitations because there was at the time no party who could have objected is factually and legally incorrect for several reasons. First, settlers on federal lands were historically recognized to have vested interests in the land they occupied, even before those lands were federally surveyed and homestead entries could be made. *Slaght v. N. Pac. Ry. Co.*, 39 Wash. 576, 581, 81 P. 1062 (1905) (it is “no doubt true” that settler prior to issuance of land patent “by virtue of his settlement rights” could have filed suit enjoining railroad “from entering upon the land, or from interfering with his possession, or might have recovered damages for injury to his possession in an action at law” when railroad constructed road across property).

Second, such settlers existed here along the Methow Valley Road, as evidenced by the description of the road as passing through the “Ranch of Alex Watson, from thereon to the Ranch of Silas Cheval ... and from there to the Ranch of Mr. Sumpter.” (CP 214, 218, 220, 222).

Third, some of those settlers filed a remonstrance opposing the Methow Valley Road that was duly noted and overruled. *Id.* No appeals were taken. Similarly, if the Road had not been built by 1894, i.e. within

five years of the non-user statute, those same settlers could have filed suit against the County when it did construct and maintain the road with no legal basis. They did not do so.

Fourth, the United States, as owner of the lands at issue, could have objected or precluded the Road's creation. The federal government, however, as demonstrated by Mr. Hart's report, strongly favored and encouraged the creation of public roads across federal lands. (CP 1334, 1703).

And fifth, even if the causes of action had not arisen until the first private land patents were issued, those claims would still have accrued within 20 days of receipt of the patents from 1905 through 1907, Gamble's claims brought 112 years after the first patents are patently time-barred under *Yorkston* and *Wells*.

The Washington State Supreme Court in *Smith v. Mitchell* addressed a nearly identical situation and held that the public's adverse use while the property was owned by the federal government was sufficient to establish a county road by prescription. 21 Wash. 536, 540, 58 P. 667 (1899) ("In the main, these highways had their beginning at a time when all, or nearly all, of the adjacent land belonged to the general government. ... [W]hen generally traveled by the public without interruption or hindrance for a period of 10 years, they must be regarded as firmly established in law....").

The trial court, therefore, properly entered summary judgment on behalf of OORC because Gamble's claims under the 1879 Code and the Non-User Statute arose over a century ago, and Gamble's claims were filed outside the applicable statute of limitations period.

iii. The Requirements of the 1879 Code were Followed in Establishing the Methow Valley Road as Field Notes are the Minutes of Survey.

Even if Gamble's claims could be substantively reviewed at this time, the record establishes that Methow Valley Road was properly created and opened under the 1879 Code.³ The Road was petitioned for by "twelve householders of the county, residing in the vicinity where said road is to be laid out." 1879 Code Sec. 2. Notice of the petition was posted "thirty days previous to the presentation of said petition" to the BOCC. 1879 Code Sec. 3. The BOCC then "appointed three disinterested householders of the county as viewers of said road, and a surveyor, to survey the same." *Id.* Sec. 4. The viewers and surveyor met, took an oath, hired chain bearers and markers, and "proceed[ed] to view, survey and lay out" the Methow Valley Road. *Id.* Sec. 5.

³ Gamble cites to the Territorial Laws of 1881, which contain a new section relating to situations "where by reason of the loss or destruction of the field notes of the original survey [the road's] location cannot be accurately defined by the papers on file in the proper county auditor's office, or where, through omission or defect, doubts may exist as to the establishment of any county road" and the BOCC "deem it necessary" that the road be "resurveyed". 1881 Code Sec. 1. Here, the original field notes exist, and the location of the disputed section of the French Creek Road is not in doubt and remains in the originally surveyed location, rendering a re-survey unnecessary and the 1881 Code inapplicable.

The surveyor certified that he made out a “certified return of the survey of the said road, and a plat of the same,” and the viewers then submitted a report to the BOCC “stating their opinion in favor of ... such road” and stated their reasons. *Id.* The surveyor and viewers also certified that these documents were “delivered to the county auditor” and “publicly read twice” by the BOCC at the same meeting.” *Id.* A remonstrance against the Methow Valley Road was received and acknowledged. *Id.* However, the commissioners disregarded the remonstrance, and caused the “report, survey and plat to be recorded.” *Id.* The BOCC then issued an order declaring the Road “opened”. *Id.*

Gamble argues that procedural irregularities exist because no “minutes of survey” or “survey” were ever recorded. Gamble properly defines “minutes of survey” to mean the official record of survey. That official record are the field notes. *See* 1947 U.S. Department of the Interior Bureau of Land Management (“BLM”) Manual of Surveying Instructions, Section 541 (“The field notes are the written record of the survey. ... The early laws on public-land surveys comprehended the importance of the field notes....”); 1973 BLM Manual of Surveying Instructions, Section 8-1 (“The field notes are the written record of survey. ... The laws governing surveys of public lands have required the return of field notes from the beginning.”).

Indeed, in 1881, the Department of the Interior’s General Land

Office, the predecessor of the BLM, issued instructions that had to be “strictly complied with” to all public and private land surveyors “for the execution of surveys in the field.” 1881 Instructions, attached as Appendix A, at 1 (the “1881 Instructions”). These Instructions contained a lengthy section describing field notes, and required each surveyor in those notes, to “make a faithful, distinct, and minute record of everything officially done and observed.” *Id.* at 42. Field notes, in fact, are formally defined as “[t]he official written record of the survey, certified by the field surveyor and approved by proper authority. Originally, Field Notes were prepared by hand, but they are now typewritten.” 1988 and 2003 *Glossary of BLM Surveying and Mapping Terms*, U.S. Department of the Interior, Bureau of Land Management, (the “BLM Glossary”) (attached as Appendices B and C), at 23 (emphasis added). A “survey”, in turn, is defined in as “1) the plat and field-note record of the observations, measurements, and monuments descriptive of the work performed. ... 2) The process of recording observations, making measurements, and marking the boundaries of tracts of land.” 2003 BLM Glossary at 65.

Field notes, in other words, are the official minutes of proceedings that record the survey itself. They have, as such, long been afforded a high degree of deference in Washington courts. *See Cadeau v. Elliott*, 7 Wash. 205, 205–06, 34 P. 916 (1893) (“the presumption must attach that the

corners have been established at the places indicated by such field notes; so that the burden is upon him who disputes their correctness”). Even BLM has in the past referred to field notes and minutes of survey interchangeably. *See* 1833 *General Instructions to His Deputies; By the Surveyor General of the U.S.*, attached as Appendix D (“you are to enter into your Field Book, in a need and distinct manner, notes or minutes of the following objects...”); 1846 *general Instructions; Office of the Surveyor General of Wisconsin and Iowa*, attached as Appendix E (“you are to complete the notes ... adding or erasing the notes of any topography or other minutes...”)⁴. Here, Gamble does not dispute that the field notes were recorded. These field notes are the official record of survey and constitute the “minutes” required under the 1879 Territorial Code.

iv. Gamble’s Argument that no Plat was Filed is Unsupported by the Evidence.

Similarly, the only evidence of record establishes that a plat was prepared and recorded together with the field notes in 1889. The Report of Road Viewers refers to “the field notes, survey and plat of said road, presented herewith by the surveyor.” (CP 165, 218) (emphasis added). The Surveyor Return and Certificate certifies that “the following is a true and correct return of the survey of said road as made by me under the direction

⁴ The full BLM document containing these instructions, *A History of the Rectangular Survey System*, is available at blm.gov/sites/blm.gov/files/histrect.pdf.

of the viewers, to wit: See field notes and that herewith is a correct plat of said road, according to said survey.” (CP 165-66, 220) (emphasis added). In the Field Notes the surveyor again certified “the foregoing to be a true and correct copy of the field-work of the survey of the Methow County Road, as shown by Plat.” (CP 183) (emphasis added).

The official record, therefore, includes sworn statements confirming that a plat had been prepared and recorded. Gamble, on the other hand, can point to nothing but speculation and the County’s inability, 130 years later, to find the historic book of plats in support of its argument of procedural irregularities.⁵ The absence of evidence, however, is insufficient to overcome Gamble’s burden of proof in opposing OORC’s summary judgment motion. *Rugg*, 115 Wash. App. at 224 (nonmoving party cannot rely on “argumentative assertions that unresolved factual issues remain” to overcome summary judgment).

v. Gamble’s Arguments of Procedural Irregularities are Foreclosed by the 1879 Territorial Code

Even had there been procedural irregularities in the Road’s creation in 1889, Gamble still could not demonstrate that the Methow Valley Road

⁵ Gamble also seems to argue that the Methow Valley Road could not have been opened because, 130 years later, there is no evidence of regular, historic maintenance payments or settler labor compelled by in the County’s records. It is well-established, however, that a County need not expend public resources to maintain county roads, and roads are not thereby deprived of their public character. RCW 36.75.300(3). Instead, failure to adequately maintain a county road simply exposes the county to negligence claims. *See Neel v. King Cty.*, 53 Wash. 490, 497–98, 102 P. 396 (1909).

was improperly established. The 1879 Territorial Code contains a statutory exemption specifically addressing procedural irregularities like those alleged by Gamble:

That in any cause wherein the legality of any county road or public highway shall be contested, the introduction of the record or a certified copy thereof, showing that the minutes of survey of any such road have been recorded [in the office of the auditor of the county in which such survey was made], the same shall be sufficient proof of location, survey and legality of such road or roads.

1879 Code Sec. 36. Here, the field notes and certified copy thereof were introduced into the trial court's record and, as the official minutes of survey, constitute "proof" of the "legality" of the Methow Valley Road. Gamble attempts to read ambiguity into this provision of the 1879 Code, though the relevant section is entirely unambiguous: in any lawsuit contesting the legality of a county road, the introduction of recorded field notes, or minutes of survey, "shall be sufficient proof of ... legality of such road." *Id.*

Gamble next claims that the Code is internally inconsistent, because Section 35 specifically excuses any procedural irregularities in the posting of notices, appointment of viewers, or "returns or reports of such view, survey and location: Provided, [t]hat the minutes of any such survey and location have been recorded as herein specified." *Id.* Sec. 35 (emphasis added). As noted above, a survey is defined as "the plat and field-note record" of the "process of recording observations, making measurements,

and marking the boundaries of tracts of land.” BLM Glossary at 25 (emphasis added). Section 35 of the Territorial code, therefore, like Section 36 expressly excuses any failure to file a plat so long as the field notes of survey have been recorded.

Sections 35 and 36, moreover, each serve distinct purposes: Section 35 establishes that the BOCC can despite procedural irregularities, lawfully exercise its authority in connection with any county road in the regular course of business. That business included the creation of road districts, levying of taxes, ordering of personal labor for maintenance of the road and other similar actions. Section 36, by contrast, applies to the specific situation at issue here: lawsuits and petitions to vacate contesting the legality of the road. Both sections underline the strong public policy encouraging the creation of county roads and protecting those roads once constructed. The sections amply support the trial court’s entry of summary judgment on behalf of OORC in this case.

vi. The Evidence Demonstrates that the Methow Valley Road was Opened Immediately and Gamble has not Carried its Burden to Prove Otherwise.

Just as Gamble has not established any issue of fact regarding the procedural propriety of the Methow Valley Road’s creation in 1889, it has also failed to raise any inference that the Road was not in fact built and used within five years of having been declared “opened.” As discussed above,

the expert report by E. Richard Hard concluded, based on a review of all available information, that the Methow Valley Road was constructed and used “immediately, frequently and consistently” following its creation by petition in 1889. (CP 1334).

Specifically, Mr. Hart concluded that “during the very first year of Washington Statehood and just three years after the opening of the valley to non-Indian settlement, the Methow Valley Road (also called Bald Knob Road at the time) was the primary route into the Methow Valley.” (CP 1719). This conclusion is supported by newspaper articles, memoirs, and BOCC records cited in Mr. Hart’s report. *Id.* Fn. 52. It is also confirmed by the Surveyor Return and Certificate for the Loop Loop Road, dated May 25, 1890, not even a year after the Methow Valley Road was declared to have been opened. In the Loop Loop Road certificate, the surveyor affirmed that this new road led “to the intersection with the Methow Valley County Road the point of termination.” (CP 233).

Gamble claims that a lack of additional evidence that the Methow Valley Road was opened at the time gives rise to an inference that the Non-User Statute invalidated the Road’s creation. This argument, however, ignores the fact that Gamble cannot simply point to the alleged absence of evidence to survive summary judgment. Gamble, as the party seeking to invoke the Non-User Statute, bears the burden of proving that the Road was

not in fact opened. In *Brokaw v. Town of Stanwood*, the Washington Supreme Court in a case in 1914 barred application of the Non-User Statute even though the record contained no affirmative evidence that the public road at issue had ever been opened. 79 Wash. 322, 325–26, 140 P. 358 (1914). The *Brokaw* court explained as follows:

In the case before us, we have no evidence whatever that Rainier street was unopened for public use during any portion of the period from the time of its dedication in 1891 to the taking possession of this portion thereof by respondents in 1902. For aught that appears in this record, and we are to remember that all of the evidence presented to the trial court is before us, Rainier street, along in front of respondents' lots, may have, during this entire period, been actually physically open for public use, unobstructed, uninclosed, and by nature well suited for ordinary travel by such means as are in common use upon public highways. Shall we presume to the contrary, in the total absence of proof upon that question? We are of the opinion that we should not do so, and that the burden of showing that such a street has remained unopened for public use for the period named in the statute should be upon those who rest their claims upon such a fact.

Id.

The burden of proof also remains on Gamble under the normal summary judgment standard. OORC on summary judgment adduced evidence that the Methow Valley Road was promptly constructed. Gamble must now provide admissible affirmative evidence to the contrary to survive summary judgment. *Meyer*, 105 Wash. 2d 847 (nonmoving party can only avoid summary judgment by “set[ing] forth specific facts which sufficiently

rebut the moving party’s contentions”). Gamble has produced no such evidence. Accordingly, the trial court properly entered summary judgment on behalf of OORC and declined to find that Gamble had met its burden of proof under the Non-User Statute.

vii. Roads Created by Prescription or Petition cannot be Abandoned Outside the Vacation Process and Neither Okanogan County nor the Public Abandoned the Disputed Section of French Creek Road.

Once established as a county road, the dispute section of the French Creek Road could not be abandoned outside the statutory “vacation and abandonment” process. Gamble argues that the County here abandoned its interest in the Road by the BOCC’s December 8, 2009 resolution claiming insufficient evidence to determine whether the section of French Creek Road at issue was, in fact, a county road. County roads established by prescription or petition, however, as noted in more detail above, cannot be abandoned outside the statutory process laid out in RCW 36.68.010. *Nelson*, 36 Wash. App. at 23–24 (county could not abandon road by settlement agreement because the provisions in RCW 36.68.010 *et seq.* “demonstrate a strong legislative intent that property held for the public use and benefit not be summarily disposed of without giving the public affected a significant opportunity to participate”).

The cases Gamble points to in support of its argument that county roads can be abandoned are all inapposite. *Johnston v. Medina Imp.*

Club, 10 Wash. 2d 44, 116 P.2d 272 (1941), involved property deeded to the county for use as a private club, with the interest reverting to the original property owner if such use was discontinued. *Id.* at 55–56. The court concluded that, when the county disclaimed all future interest in property, the county in effect “either (1) abandoned the property or (2) refused to execute the express specific purpose of the dedication.” *Id.* at 56. Because the county had only acquired a “right of user” the deed had retained a reversionary interest in the grantors, and the court concluded the purpose of the grant had been abandoned and the county’s ownership extinguished. *Id.* at 57.

Gamble’s reliance on *Foster v. Bullock* is equally inapposite. In that case, the court presumed – and the parties did not dispute – that a section of road had been “abandoned” by the county when a new road elsewhere was built. 184 Wash. 254, 50 P.2d 892 (1935). The court upheld the road at issue as a county road, and determined that “[t]he fact that by the abandonment of the greater portion of the old road, the stretch here involved forms a cul de sac, does not deprive it of its character of a public highway.” *Id.* at 259. *Foster*, therefore, no more than *Johnston* supports Gamble’s argument on abandonment. As the court in *Nelson* explained in holding that *Johnston* allowed a county to abandon non-reversionary interest in a public road: “The issue of abandonment [in *Johnston*] was minor and secondary to the principal issues presented which

involved standing. The propriety of the abandonment was not questioned.” *Nelson*, 36 Wash. App. at 24. The same is true of the *Foster* decision.

Similarly, the court in *Kelly v. Tonda* merely held that where a county acquires a “conditional interest” in land, that interest “might terminate by operation of law upon failure of a required condition.” 198 Wash. App. 303, 322, 393 P.3d 824 (2017). The court took pains to explain that this did not conflict with its holding in *Nelson* that county roads under ordinary circumstances can only be vacated and abandoned by following the statutory process. *Id.* (noting that *Nelson* was “inapt” because the right-of-way in that case, like here, had been “unconditionally dedicated”).

Even if abandonment of a county road acquired by prescription or under R.S. 2477 were possible, the continued public use of the disputed section of French Creek Road precludes abandonment here. As the court in *Foster* noted in discussing abandonment under the Non-User Statute, “[i]t is not a question of how much or how little the public used said road after it was once established by prescription. If it is used at all, then there is no abandonment.” 184 Wash. at 258. Here, the undisputed evidence demonstrates that the public has continuously used the French Creek Road. (CP 1631-1648). In fact, Gamble admitted in its opening brief on appeal that it is this ongoing public use that caused it to file this quiet title lawsuit in 2017. Appellant’s Brief p. 4, (CP 1361-62).

The County also could not abandon the French Creek Road by statements made by county employees. *See Seattle v. Hinckley*, 67 Wash. 273, 277, 121 P. 444 (1912) (declining to find abandonment where county employees had treated road as privately owned because “[t]he right of the public to use the land as a street ... cannot be admitted away by the taxing officers.”). Nor was the Road abandoned by the BOCC’s December 2009 resolution claiming insufficient evidence to determine the ownership status of the Road. As discussed *supra* at 19, that resolution did not evince the necessary intent to abandon an ownership interest; at best it merely showed confusion at the time as to the County’s ownership of the road in the first place. *See Nelson*, 63 Wash. App. 22 (denying abandonment where county in settlement agreement disclaimed interest in road because county thereby “did not manifest a clear intent to relinquish its interest in the property. Its actions were equivocal at best.”)

Gamble, therefore, cannot establish any circumstances under which the section of French Creek Road at issue in this case was abandoned, and the trial court properly held that the Road has not been abandoned entering summary judgment for OORC.

viii. The County’s Right-Of-Way for the French Creek Road is 60 Feet Wide.

Lastly, Gamble argues that the public right of way established for the French Creek Road should be less than the statutory width of sixty feet.

This argument, too, has been addressed and disposed of under Washington law. The 1879 Territorial Code provided that “All county roads shall be sixty feet in width unless the county commissioners shall, upon prayer of the petitioners for the same, determine on a less number of feet in width.” 1879 Code Sec. 10. When Okanogan County accepted the federal grant of rights-of-way across public lands, it specifically did so “to the extent of 30 feet on each side of the center line of all wagon roads which now exist or have heretofore existed upon or across or over lands that are now public lands of the United States, not reserved for public uses in said Okanogan County, Washington.” *Stofferan* at 269-270. Similarly, “[w]here the right to a public highway is acquired by use, the public is not limited to such width as has actually been used.” *Primark Inc. v. Burien Gardens Assocs.*, 63 Wash. App. 900, 909, 823 P.2d 116 (1992) (concluding that right-of-way at issue was 60-feet wide). The section of French Creek Road at issue in this case, having been established as part of the Methow Valley Road by prescription or petition across federal lands, is therefore 60-feet wide.

V. GAMBLE’S APPEAL IS FRIVOLOUS AND OORC SHOULD BE AWARDED ITS ATTORNEY’S FEES.

“An appeal is frivolous if there are no debatable issues upon which reasonable minds might differ, and it is so totally devoid of merit that there was no reasonable possibility of reversal.” *Millers Cas. Ins. Co., of Texas v.*

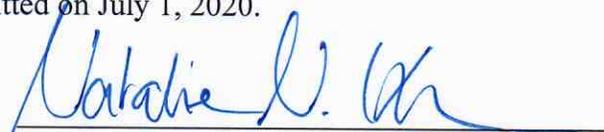
Briggs, 100 Wash. 2d 9, 15, 665 P.2d 887 (1983). Gamble has failed to demonstrate any basis for an appeal as of right or discretionary review of the trial court's Order. Gamble was unable to advance material facts in opposition to OORC's motion for summary judgment and could not provide its own uncontrovertable facts to support its claims.

Moreover, as noted by the trial court and in the copious citations to the record in this brief, solid evidence exists to affirm the entry of summary judgment for OORC. Gamble's appeal, therefore, is frivolous and must be dismissed, OORC's motion to dismiss Gamble's claims for lack of subject matter jurisdiction should be granted, and OORC should be awarded attorney fees. *See* RAP 18.9.

VI. CONCLUSION

Gamble's claims should be dismissed for lack of subject matter jurisdiction, the trial court's entry of summary judgment should be upheld, and OORC should be awarded attorney fees from Gamble.

Respectfully submitted on July 1, 2020.



NATALIE N. KUEHLER, WSBA No. 50322
Principal
RYAN & KUEHLER PLLC
Attorney for Respondent and Cross-Appellant
OORC

(The 1881 Manual is copied from an original volume now in the possession of the BLM, Oregon State Office,Portland.)

**INSTRUCTIONS
OF THE
COMMISSIONER
OF THE
GENERAL LAND OFFICE
TO THE
SURVEYORS GENERAL OF THE UNITED
STATES
RELATIVE TO THE
SURVEY OF THE PUBLIC LANDS
AND
PRIVATE LAND CLAIMS.**

MAY 3,1881.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1881.

**DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,**

Washington, D.C., May 3, 1881.

GENTLEMEN: The following instructions, including full and minute directions for the execution of surveys in the field, are issued under the authority given me by sections 453, 456, 2398, and 2399 United States Revised Statutes, and must be strictly complied with by yourselves and your deputy surveyors.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

To SURVEYORS GENERAL OF THE UNITED STATES.

-5-

INTRODUCTORY.

The present system of survey of the public lands was inaugurated by a committee appointed by the Continental Congress, and consisting of the following delegates:

Hon. THOS. JEFFERSON, *Chairman* Virginia.
 Hon. HUGH WILLIAMSON North Carolina.
 Hon. DAVID HOWELL Rhode Island.
 Hon. ELBRIDGE GERRY Massachusetts.
 Hon. JACOB READ South Carolina.

On the 7th of May, 1784, this committee reported "An ordinance for ascertaining the mode of locating and disposing of lands in the western territory, and for other purposes therein mentioned." This ordinance required the public lands to be divided into "hundreds" of ten geographical miles square, and those again to be subdivided into lots of one mile square each, to be numbered from 1 to 100, commencing in the northwestern corner, and continuing from west to east and from east to west consecutively. This ordinance was considered, debated, and amended, and reported to Congress April 26, 1785, and required the surveyors "to divide the said territory into townships of 7 miles square, by lines running due north and south, and others crossing these at right angles. * * * The plats of the townships, respectively, shall be marked by subdivisions into sections of 1 mile square, or 640 acres, in the same direction as the external lines, and numbered from 1 to 49. * * * And these sections shall be subdivided into lots of 320 acres." This is the first record of the use of the terms "township" and "section."

May 3, 1785, on motion of Hon. William Grayson, of Virginia, seconded by Hon. James Monroe, of Virginia, the section respecting the extent of townships was amended by striking out the words "seven miles square" and substituting the words "six miles square." The record of these early sessions of Congress are not very full or complete; but it does not seem to have occurred to the members until the 6th of May, 1785, that a township six miles square could not contain 49 sections of 1 mile square. At that date a motion to amend was made, which provided, among other changes, that a township

should contain 36 sections; and the amendment was *lost*. The ordinance as finally passed, however, on the 20th of May, 1785, provided for townships, 6 miles square, containing 36 sections of 1 mile square. The first public surveys were made under this ordinance. The townships, 6 miles square, were laid out in ranges, extending northward from the Ohio River, the townships being numbered from south to north, and the ranges from east to west. The region embraced by the surveys under this law forms a part of the present State of Ohio, and is usually styled "The Seven Ranges." In these initial surveys only the *exterior lines* of the townships were surveyed, but the plats were marked by subdivisions into sections of 1 mile square, and mile corners were established on the township lines. The sections were numbered from 1 to 36, commencing

-6-

with No. 1 in the southeast corner of the township, and running from *south to north* in each tier to No. 36 in the *northwest* corner of the township, as shown in the following diagram:

36	30	24	18	12	6
35	29	23	17	11	5
34	28	22	16	10	4
33	27	21	15	9	3
32	26	20	14	8	2
31	25	19	13	7	1

The surveys were made under the direction of the Geographer of the United States.

The act of Congress approved May 18, 1796, provided for the appointment of a surveyor-general, and directed the survey of the lands northwest of the Ohio River, and above the mouth of the Kentucky River, "in which the titles of the Indian tribes have been extinguished." Under this law *one-half* of the townships surveyed were subdivided into sections "by running through the same, each way, parallel lines at the end of every two miles, and by making a corner on each of said lines at the end of every mile," and it further provided that "the sections shall be numbered, respectively, beginning with the number one in the northeast section and proceeding west and east alternately, through the township, with progressive numbers till the thirty-sixth be completed." This method of numbering sections, as shown by the following diagram, is still in use:

RE-ESTABLISHMENT OF LOST CORNERS.

The original corners, when they can be found, must stand as the true corners they were intended to represent, even though not exactly where the professional care might have placed them in the first instance.

Missing corners should be re-established in the identical localities they originally occupied. When the point cannot be determined by the existing landmarks in the field, resort must be had to the field notes of the original survey. The law provides that the lengths of the lines as stated in the field notes shall be considered as the true lengths thereof, and the distances between corners set down in the field notes constitute proper data from which to determine the true locality of a missing corner; hence the rule that all such should be restored at distances proportionate to the original measurements between existing original corners. That is, if the measurement between two existing corners differs from that stated in the field notes, the excess or deficiency should be distributed proportionately among the intervening section lines between the said existing corners standing in their original places. Missing corners on standard, township, and range lines should be restored by proportionate measurement between the nearest existing original corners on those lines. Missing section corners in the interior of townships should be re-established at proportionate distances between the nearest existing original corners *north* and *south* of the missing corners.

As has been observed, no existing original corner can be disturbed, and it will be plain that any excess or deficiency in measurements between existing corners cannot in any degree affect the distances beyond said existing corners, but must be added or subtracted proportionately to or from the intervals embraced between the corners which are still standing.

RETRACING TOWNSHIP LINES.

If, in subdividing a township, it is found that the exterior boundaries have been improperly run, measured, or marked, or the corners estab-

-41-

lished thereon have been obliterated, the deputy will resurvey so much of said exterior boundaries as may be necessary, and establish new corners upon same wherever necessary. Where no subdivisions have been made on either side of a township boundary, it will be corrected, if necessary, in point of alignment as well as measurement, by establishing the section corners at lawful distances from the south or east boundaries of the township (as the case may be), and upon a right line extending between the township corners; and in such case, the old corners on said township boundaries will be destroyed.

Where subdivisional lines have been closed upon a township boundary in advance of the preliminary survey of the same, its alignment will not be changed. If it is found necessary to establish new corners on such boundary they will receive only the marks referring to the sections in the township being subdivided, and the marks on the old corners on such boundary, which refer to such sections, will be obliterated.

In all cases such necessary corrections will be made as will place the section corners at the aforesaid lawful distances from the south or east boundary, in order that a legal subdivision of the township may be made, and where new corners are thus necessarily established, the distance, be it one hundred links or more, and direction between new and old corners must be carefully noted.

New corners on township boundaries must be established by a survey of such lines, and in *no case* will such corners be established from *data* acquired in running lines closing on such boundaries. One set of chainmen, only, is required in retracing township lines.

If, in the subdivision of part of a township, the lands to be surveyed cannot be reached by lines extending from the south boundary of the township, a line corresponding to the south boundary of the same shall be extended from some section corner on the east boundary of the township to the west boundary thereof, in order that it may constitute the south boundary of the surveyable area; from which subdivisional meridian lines will be projected northward, and the surveys carried forward in the same manner as for the subdivision of a full township, in order that regular and fractional areas shall occupy their true and legal positions.

Fragmentary portions of surveyable lands lying south of the provisional base last described may be included in the survey by extending lines *south* from the same in harmony with the general system.

When the proper point for the establishment of a section corner is inaccessible, and a witness monument can be erected upon each of the two lines which approach the same at distances not exceeding twenty chains therefrom, the quarter-sections depending thereon will be disposed of in the same manner as if the corner had been regularly established.

The witness monument must be marked as conspicuously as a section corner, and bearing trees used wherever possible.

The deputy will be required to furnish good evidence that the section corner is actually inaccessible.

When township or subdivision lines intersect the boundaries of confirmed private land claims, the latter must be retraced so far as may be necessary to establish the corners to the fractional sections at their proper places, and such corners must be established, in all respects, like meander corners, except that instead of the letters "M. C." the letters used to designate such private land claim must be marked on corners. In retracing the boundary of such claim the deputy must set stakes thereon, at each forty chains, where the ground is level, and on broken

-42-

ground, at every spur, ridge, or other prominent point, and also at each angle formed by a change in the direction of such boundary.

FIELD NOTES.

The deputy surveyor will provide himself with proper blank books for his field notes, or same will be furnished to him by the surveyor general, and in such books he must make a faithful, distinct, and minute record of everything officially done and observed by himself and his assistants, pursuant to

instructions, in relation to running, measuring and marking lines, establishing corners, &c., and present, as far as possible, a full and complete topographical description of the country surveyed.

From the *data* thus recorded at the time when the work is done on the ground, the deputy must prepare *true* field notes of the surveys executed by him, in the manner hereinafter prescribed, and return same to the surveyor general, together with the required sketches, at the earliest practicable date after the completion of his work in the field.

The field notes of the survey of base, meridian, standard, exterior, and subdivision lines are each to be written in separate books.

The first, or title, page of the field-note book is to describe the subject-matter of the same, the locus of the survey, by whom surveyed, date of contract, and the dates of commencement and completion of the work. The second page is to contain the names and duties of the assistants, and the index is to be placed on same or following page. Whenever a new assistant is employed, or the duties of any one of them changed, such facts are to be stated in an appropriate entry immediately preceding the notes taken under such changed arrangements.

The exhibition of every mile of surveying, whether on township or subdivisional lines, and of meanders in each section, must be *complete in itself*, and be separated by a black line drawn across the paper.

The variation of the needle must always occupy a *separate line* preceding the notes of measurements on line.

The description of the surface, soil, minerals, timber, undergrowth, &c., on *each mile* of line, is to follow the notes of survey of such line, and not be mixed up with them.

The date of each day's work must follow immediately after the notes thereof.

No abbreviations of words are allowable, except of such words as are constantly occurring, such as "*sec.*" for "*section*"; "*in. diam.*" for "*inches diameter*"; "*chs.*" for "*chains*"; "*lks.*" for "*links*"; "*dist.*" for "*distant*"; "*1/4 sec. cor.*" for "*quarter-section corner*"; "*va.*" for "*variation*," &c.; for **14** inches long, **12** inches wide, and **3** inches thick, in describing a corner stone, use **14 x 12 x 3**, being particular to always observe the same order of length, width, and thickness. Proper names must never be abbreviated, however often their recurrence.

When the lines of survey cross hills or ravines, the height or depth of same, in feet, must be noted as nearly as practicable.

The corners established in previous surveys, from which the lines start, or upon which they close, must be fully described in the field notes. A full description of such corners will in all cases be furnished the deputy from the surveyor general's office at the date authority is given for commencing work.

In all cases where a corner is re-established the field notes must describe fully the manner in which it is done.

Field notes of the survey of base, standard, and meridian lines must describe all corners established thereon, how established, the crossings

timber, minerals, &c.; and after the description of each township corner established in running such lines, the deputy will note particularly in the "general description" the townships on each side of the lines run.

Field notes of the survey of exterior boundaries of townships must describe the corners and topography, as above required, and the "general description" at the end of such notes must describe the townships as fully as may be, and also state whether or not they should be subdivided. The topography on the *true line* of exterior boundaries must be given, and not that on the random line.

Field notes of the subdivisional survey of townships must describe the corners and topography as above required, and the "general description" at the end of such notes must state minutely the character of the land, soil, timber, &c., found in such townships.

A blank line must be left at the bottom of each page of the field notes, and the notes must be written in a plain, legible hand, and in clear and precise language, so that the figures, letters, words, and meaning will always be unmistakable, and erasures and interlineations avoided, as far as possible.

With the notes of the survey of principal lines forming a tract of **24** miles square the deputy will submit a plat of the lines run, on a scale of one-half inch to the mile, and with the notes of survey of the exterior lines of townships, a plat of the lines run, on the scale of two inches to the mile, on which are to be noted all the objects of topography on line necessary to illustrate the notes, viz, the distance on line at the crossings of streams, so far as such can be noted on the paper, and the direction of each by an arrow head pointing down stream; also the intersection of line by prairies, marshes, swamps, ravines, ponds, lakes, hills, mountains, and all other matters indicated by the notes, to the fullest extent practicable.

With the instructions for making subdivisional surveys of townships into sections, the deputy will be furnished by the surveyor general with a diagram of the *exterior* lines previously established of the townships to be subdivided (on the above-named scale), upon which are carefully to be laid down the measurements of each of the lines on such boundaries whereon he is to close, and the magnetic variation of each mile. And on such diagram the deputy who subdivides will make appropriate sketches of the various objects of topography as they occur on his lines, so as to exhibit not only the points on line at which the same occur, but also the direction and position of each between the lines, or within each section, as far as practicable, so that every object of topography may be properly completed or connected in the showing.

SUMMARY OF OBJECTS AND DATA REQUIRED TO BE NOTED.

1. The precise length of every line run, noting all necessary offsets therefrom, with the reason and mode thereof.
2. The kind and diameter of all "*bearing trees*," with the course and distance of the same from their respective corners; and the precise relative position of WITNESS CORNERS to the *true corners*.
3. The kind of materials of which corners are constructed.
4. *Trees on line*. The name, diameter, and distance on line to all trees which it intersects.
5. Intersections by line of *land objects*. The distance at

SURVEYING OUR PUBLIC LANDS



U. S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

1988

SHORT LIST OF SURVEYING TERMS

Bearing Tree — A marked tree used as a corner accessory; its distance and direction from the corner being recorded. Bearing trees are identified by prescribed marks cut into their trunks; the species and size of the trees are also recorded.

Corner — A point on the earth, determined by the surveying process, which defines an extremity on a boundary.

Field Notes — The official written record of the survey, certified by the field surveyor and approved by proper authority. Originally, field notes were prepared by hand, but are now typewritten.

Meander Line — A traverse of the margin of a permanent natural body of water.

Monument — The physical object which marks the location of a corner point.

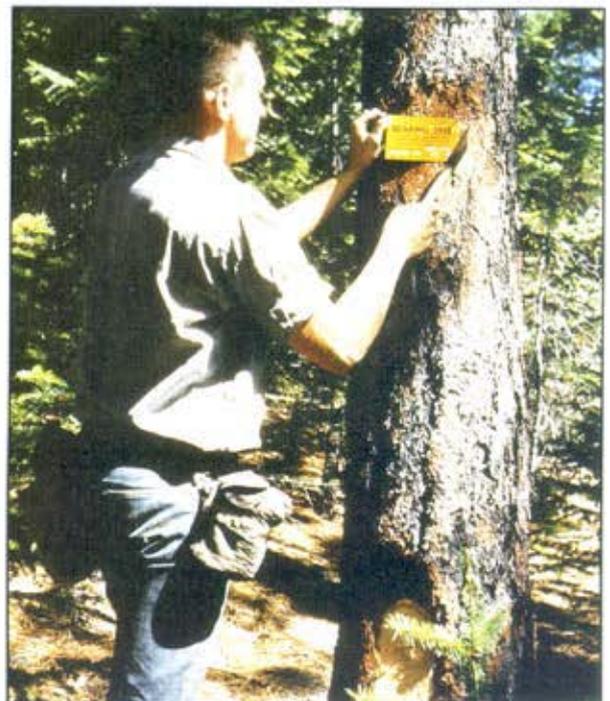
Original Survey — A cadastral survey which creates land boundaries and marks them for the first time.

Plat — As used technically by BLM, a graphic representation drawn to scale depicting the actual survey as described in the official field notes.

Resurvey — Cadastral survey to identify and remark the boundaries of lands which were established by an earlier survey.

Traverse — A sequence of lengths and directions of lines connecting a series of stations.

Witness Corner — A monumented point usually on the true line of the survey near a corner point which cannot be physically occupied or which falls at a place subject to destruction by the elements. The witness corner is then a reference to the true corner point.



GLOSSARIES OF BLM SURVEYING AND MAPPING TERMS



PDF VERSION

U. S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

GLOSSARY OF BLM SURVEYING AND MAPPING TERMS



PREPARED BY THE
CADASTRAL SURVEY TRAINING STAFF
DENVER SERVICE CENTER
1980
SEARCHABLE PDF 2003

FLA. – Florida.

FLPMA – Federal Land Policy and Management Act, of 1976.

FLS (Land Status Records) – Forest lieu selection.

FLUP – Free land use permit.

FM U (Land Status Records) – Farm unit.

FPA (Land Status Records) – Federal Power act.

FPAS ACT – The Federal Property and Administration Services Act of 1949, as amended, sets forth the basic contracting procedures and principles which all civilian agencies must follow.

FPC (Land Status Records) – Federal Power Commission.

FPR – Federal Procurement Regulations.

FR (Land Status Records) – Federal Register.

FRAC (Land Status Records) – Fractional.

FRAC INT PAT (Land Status Records) – Fractional Interest patent.

FS (Land Status Records) – Forest Service.

F. SUPP. – Federal Supplement.

FUP (Land Status Records) – Free use permit.

F&WS (Land Status Records) – Fish and Wildlife Service.

FX (Land Status Records) – Forest Exchange.

FAIRBANKS MERIDIAN – The principal meridian governing surveys in east-central Alaska; it was adopted in 1910.

FALLING – The distance by which a random line falls to the right or left of a corner on which the true line is to close. Usually the direction of falling is expressed as cardinal.

FEDERAL LAND – All classes of land owned by the Federal Government.

FEDERAL POWER PROJECT RESERVATION – A reservation of public lands for use in connection with a power development project under the jurisdiction of the Federal Power Commission.

FEDERAL PROCUREMENT REGULATIONS – The regulations issued by the General Services Administration implementing the Federal Property and Administrative Services Act.

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949 – This law, as amended, sets forth the basic contracting procedures and principles which all civilian agencies must follow.

FEE – The true meaning of the word “*fee*” is the same as that of “*feud*” or “*fief*,” and in its original sense it is distinguished from “*alodium*,” which is defined as a man’s own land, possessed in his own right, without owing any rent or service to any superior. In modern English tenures, “*fee*” means an estate of inheritance clear of any condition, limitation, or restriction to particular heirs, but descendable to the heirs in general, male or female, lineal or collateral. In American law, the terms “*fee*,” “*fee simple*” and “*fee simple absolute*” are equivalent. See FEE SIMPLE, FEE TAIL.

FEE SIMPLE – The estate which a man has where lands are owned by him and his heirs absolutely, with unconditional power of disposition during his life, and descending to his heirs and legal representatives upon his death intestate. Fee simple title to public lands in conveyed by a patent, approved clear list, deed or grant without condition. See APPROVED CLEAR LIST, PATENT, DEED, GRANT, and INTESTATE.

FEE TAIL – An estate limited to one class of heirs.

FIELD EXAMINATION – An on-the-ground investigation of certain public lands in regard to valuation, land use, application for entry, mineralization, etc. See FIELD EXAMINATION (Prior to 1910 and FIELD EXAMINER (Prior to 1910).

FIELD EXAMINATION (Prior to 1910) – A method of checking public land survey field work under the contract system. See FIELD EXAMINER (Prior to 1910), CONTRACT SYSTEM, DIRECT SYSTEM and FIELD EXAMINATION.

FIELD EXAMINER (Prior to 1910) – A surveyor who was employed by the Government to inspect the accuracy and authenticity of contract surveyors’ work. See FIELD EXAMINATION, FIELD EXAMINATION (Prior to 1910), CONTRACT SYSTEM and DIRECT SYSTEM.

FIELD NOTES – The official written record of the survey, certified by the field surveyor and approved by proper authority. Originally, Field Notes were prepared by hand, but they are now typewritten. See FIELD TABLETS and APPROVED SURVEY.

FIELD RETURNS – The field notes, reports and plats submitted for acceptance or approval. See FINAL RETURNS and RETURNS.

FIELD TABLETS – Notebooks in which the initial information is recorded in the field, and from which the Field Notes are transcribed. See FIELD NOTES.

STRIKE – In geology and mining, the direction of a line formed by the intersection of a stratum with a horizontal plane.

STRONG BEARING – A survey slang term for a bearing which departs markedly from cardinal. A bearing of 2 or more degrees from cardinal may be considered a “*strong*” bearing. “*Heavy bearing*” is used synonymously.

ST. STEPHENS MERIDIAN – The principal meridian governing surveys in southern Alabama and south eastern Mississippi; it was adopted in 1805.

SUBDIVISION – (verb) 1) Subdivision of a township into sections. 2) Subdivision of a section into half-sections, quarter-sections, sixteenth-sections or sixty-fourth-sections, or into lots, according to the Manual of Surveying Instructions. 3) The process of surveying such subdivisions. 4) In the private practice of land survey, subdivision is the division of an area into lots, streets, rights-of-way, easements and accessories, usually according to State law and local regulations – (noun) A particular aliquot part, lot, or parcel of land described according to the official plat of its cadastral survey. See SUBDIVISION, SMALLEST LEGAL, URBAN SUBDIVISION and MINOR SUBDIVISION.

SUBDIVISION-OF-SECTION SURVEY – A survey which subdivides a previously surveyed section into the required aliquot parts or lots, using methods which are legally prescribed. See REGULAR SECTION SUBDIVISION.

SUBDIVISION, SMALLEST LEGAL – For general purposes under the public-land laws, a quarter-quarter section or one lot. Under certain of these laws and under special conditions, applicants, claimants, etc., can select subdivisions smaller than a quarter-quarter section or lot. See MINOR SUBDIVISIONS and ALIQUOT PARTS.

SUBJECT TO SURVEY – Open to public land survey. See LANDS SUBJECT TO SURVEY.

SUBMERGED LANDS ACT – Also called Public Law 31. The act passed during the 1st session of the 83rd Congress and signed into law may 22, 1953. Confirms and establishes the titles of the states to lands beneath navigable water within their boundaries and to the natural resources within such lands and water. The act also establishes jurisdiction and control of the United States over the natural resources of the seabed on the continental shelf seaward of state boundaries. See CONTINENTAL SHELF, OUTER CONTINENTAL SHELF, and OUTER CONTINENTAL SHELF LANDS ACT.

SUPPLEMENTAL MASTER TITLE PLAT – An extension of the Master Title Plat, it depicts a congested section, or sections, within a township, drawn to a scale larger than the master title plat in order to adequately show land status in the area. See MASTER TITLE PLAT and USE PLAT.

SUPPLEMENTAL PATENT – A patent issued to modify one previously issued, such as a patent issued without a mineral reservation clause, covering coal, to supersede in whole or in part a patent which had been issued with coal reserved to the United States. In the above described case, the patent would be referred to as a “*supplemental non-coal patent.*”

SUPPLEMENTAL PLAT – A plat prepared entirely from office records designed to show a revised subdivision of one or more sections without change in the section boundaries and without other modification of the record. Supplemental plats are required where the plat fails to provide units suitable for administration or disposal, or where a modification of its showing is necessary. They are also required to show the segregation of alienated lands from public lands, where the former are included in irregular surveys of patented mineral or other private claims made subsequent to the plat of the subsisting survey, or where the segregation of the claims was overlooked at the time of its approval. In the past, Supplemental Plats were called “*diagrams*” or “*MAPS.*” See PLAT, MASTER TITLE PLAT, USE PLAT and STATUS DIAGRAM.

SUPRA – Above. When used in text it refers to matter in a previous part of the publication. See INFRA and OP. CIT. SUPRA.

SUPREME COURT OF THE UNITED STATES – The highest court in the land. The court of last resort in the federal and state judiciaries. Its jurisdiction is essentially appellate, but it has irrevocable original jurisdiction in cases affecting ambassadors, public ministers and consuls or in cases in which a state is a party. The court is composed of a Chief Justice and eight Associate Justices. See UNITED STATES DISTRICT COURTS and UNITED STATES COURTS OF APPEALS.

SURFACE RIGHTS – All rights in the land excepting the oil, gas and mineral rights to underground deposits.

SURVEY – 1) The plat and the field-note record of the observations, measurements, and monuments descriptive of the work performed. Occasionally used as implying that the official plat is “*The Survey.*” Commonly, any survey but, specifically, an original survey. 2) The process of recording observations, making measurements, and marking the boundaries of tracts of lands. See RESURVEY and SURVEY*.

SURVEYING INSTRUCTIONS – Various regions of the United States have been surveyed under amended or differing instructions from the passage of the first Land Ordinance to the present. The Ordinance of May 20, 1785, gave explicit cadastral survey instructions which were to be carried out under the personal supervision of the

**OORC APPENDIX D
XVIII.**

(These Instructions are copied from an original volume now in the possession of the National Archives The cover contains a hand-written notation, "Wash. Hoods Capt. Top'l Engineers, 1839.")

**GENERAL INSTRUCTIONS
TO HIS
DEPUTIES;
BY THE SURVEYOR GENERAL OF THE
UNITED STATES, FOR THE STATES OF
OHIO AND INDIANA, AND THE
TERRITORY OF MICHIGAN.**

CINCINNATI:

JOHN H. WOOD, PRINTER.

⋮⋮⋮

1833.

GENERAL INSTRUCTIONS

TO

DEPUTY SURVEYORS.

1. The public Lands of the United States are surveyed in a uniform mode, established by law, by lines run by the cardinal points of the compass; the north and south lines coinciding with the true meridian, and the east and west lines intersecting them at right angles, giving to the tracts thus surveyed, the rectangular form.

2. The public lands are laid off and surveyed, primarily, into tracts of six miles square, called *Townships*, containing, each, **23,040** acres. The townships are subdivided into thirty-six tracts, called *Sections*, each of which are one mile square, and contains 640 acres. Any number, or series, of contiguous townships, situated north or south of each other, constitute a *Range*.

3. To obtain and preserve a convenient and uniform mode of numbering the ranges and townships, it is usual, in commencing the survey of an insulated body of public lands, to run, or assume, two *Standard Lines*, as the basis of the surveys to be made therein. One of these standard lines is run due north and south, and is called the *Principal Meridian*, to which the ranges are parallel, and from which they are numbered eastward and westward. The other standard line is run due east and west, and is called the *Base Line*, and from which the townships are numbered northward and southward.

4. To distinguish from each other, the systems or series of surveys thus formed, the several Principal Meridians are designated by progressive numbers. Thus, the Meridian running north from the mouth of the Great Miami river, is called the *First* Principal Meridian; the Meridian running north through the centre of the State of Indiana, is called the *Second* Principal Meridian; that running north from the mouth of the Ohio river through the state of Illinois, is called the *third* Principal Meridian; and that running North from the mouth of the Illinois river, through the State of Illinois and the Wisconsin Territory, is called the *Fourth* Principal Meridian.

5. This mode of executing the public surveys, conduces more, perhaps, than any other which could be devised, to the

[4]

simplicity, regularity, and symmetry of the work; and to the ease and certainty with which any tract may be identified.

6. The public lands are surveyed under the direction of the Surveyor General, by Deputies appointed by himself. He selects for his deputies none other than skilful and experienced practical surveyors, men of good moral character, in whose integrity and fidelity and fullest confidence can be reposed.—Their duties are prescribed in the following code of General Instructions, a copy of which is furnished to every deputy, for his government.

7. Each deputy surveyor is required, before he enters upon the duties of his appointment, to take and subscribe an oath

or affirmation for the faithful performance thereof; which oath or affirmation is to be filed in the office of the Surveyor General. The following form of this oath or affirmation (or the substance thereof) will be used:

“I, A _____ B _____ do solemnly swear (or affirm,) that I will well and faithfully perform the duties of a deputy surveyor of United States Lands, to the best of my skill and ability, and according to the laws of the United States, and the Instructions of the Surveyor General, as I shall answer to God at the Great Day. A _____ B _____

Sworn and subscribed before me, this _____ day of
J _____ K _____

183

Justice of Peace.

8. Each deputy Surveyor appoints his own chain carriers, markers, and flag bearers, who must severally take and subscribe an oath, or affirmation, for the faithful performance of the trust reposed in them; which oath, or affirmation, may be administered by the deputy Surveyor himself, or by a Justice of the Peace, and must be filed in the Surveyor General's Office. The following is the oath to be taken by the chainmen.

“I, C _____ D _____ do solemnly swear [or affirm] that I will well and faithfully perform the duties of chain-carrier in all surveys of United States Lands in which I shall be employed as such: and that I will strictly attend to levelling the chain, and plumbing the tally pins, in measuring over hills or side-lying ground—to the best of my skill and ability, as I shall answer to God. C _____ D _____

sworn and subscribed before me, this _____ day of _____

183

A _____ B _____

D. Surveyor.

9. The oaths of the markers and flag-bearers may be varied to apply to their duties respectively.

[5]

OF CONTRACTS.

1. Before entering upon the execution of any surveys which may be allotted to a deputy Surveyor, he enters into a written contract with the Surveyor General, in which the surveys to be performed are described, and the period for their completion, and the compensation per mile, fixed; and wherein the deputy binds himself to a faithful performance of the work, according to the terms of the contract, and pursuant to the laws of the United States and the instructions of the Surveyor General. To the contract is annexed a bond, executed by the deputy with approved security, conditioned for the faithful performance of the work, in the penalty of double the estimated amount or value of the contract.

2. The surveys must be executed, in all cases, by the deputy contracting for the same, in his own person, or under his immediate personal superintendence and direction. All sub-contracts are illegal.

3. In case of failure to comply with the terms of a contract, unless such failure arise from causes satisfactorily proven to be beyond the controul of the contractor, immediate measures are to be taken to recover the penalty of the bond, agreeably to law. And no deputy surveyor who shall improperly fail to fulfil his engagements, will afterwards be em-

OF PRIVATE CLAIMS, INDIAN RESERVATIONS, &c.

1. In surveying Private Claims, Indian Reservations, or other tracts not conforming to section lines, the location thereof must be particularly described, and the place of beginning clearly stated in your Field Notes; also the name of the claimant in whose right the survey is made, with the number by which it is known; and if a reservation, the quantity contained in it, and the name of the reservee. The Field Notes of all the lines of each tract must be complete, and are to be entered in the Field Book separately from the notes of other tracts. The Field Notes of Private Claims and Indian Reservations, must be entered in separate books.

2. Wherever a section or township line intersects a line of a private claim, or Indian reservation, there a corner must be established. The particular line intersected, with its course, and the name of the claimant or reservee, with the number or other designation by which it is known, must be noted. And from such intersection, the private claim or reserve line must be carefully measured, each way along said line, to the

[21]

end thereof, unless it should be intersected by another section or township line before the end be reached.

3. The course of every line of the survey of a private claim or Indian reservation, with the length thereof, and the variation of the compass, and date of the survey, are to be inserted in the Field Notes, which are to be certified and signed by you.

OF FIELD NOTES.

1. The field books are all to be made of one uniform size, viz: foolscap octavo; or a sheet of common sized cap paper, folded into sixteen pages. The paper must be of good quality, and the books covered with morocco or other leather, and neatly stitched and trimmed, and containing space enough for all the field notes of a township. The pages are to be ruled with red ink, and feint lined.

2. On the first page of your field book of each township, insert in a plain and neat manner, by way of title, the number of the township and range, with the state or territory in which it lies, and by whom surveyed, with the date of the commencement, and the date of completing the subdivision of the same.

3. On the fourth page, draw a plan or diagram of the township, on a scale of one mile to an inch. On this diagram you will accurately delineate, as near as may be practicable by ocular observation on the spot, as you progress with the work, the crossing and courses of all streams of water, the intersection, situation, and boundaries of all prairies, marshes, swamps, lakes, and all other things mentioned in your field notes, the situation of which can be conveniently shewn on the diagram. You will also insert thereon, in small figures, the length of the section lines closing out to the north and west boundaries of the township.

4. At the head of each subsequent page, on which the field notes are written, you will insert a running title, designating

the number of the township and range, which is to be separated from the field notes by a double red line.

5. The *Field Notes* of the surveys furnish primarily, the materials from which the plats and calculations of the public lands are made; and the source from whence the description and evidence of the location and boundaries of those surveys are drawn and perpetuated. It is evidently, then, of the utmost importance that the Field Notes should be, at once, an accurate, clear and minute record of every thing that is done by the Surveyor and his assistants, (in accordance with these

[22]

Instructions,) in relation to the running, measuring and marking lines, establishing corners, &c. as well as a full and complete topographical description of the country surveyed, as it regards every thing which may afford useful information, or gratify public curiosity.

6. For this purpose you are to enter in your Field Book, in a neat and distinct manner, notes or minutes of the following objects:—

1. The description, course and length of every line which you shall have run.

2. The name, and estimated diameters of all corner and bearing trees, and the courses and distance of the bearing trees from their respective corners.

3. The description of all mounds which you shall erect as corners in prairies, or places where there shall be no trees convenient for bearings.

4. The names and estimated diameters of all those trees which fall in your lines, called *station or line trees*, with their exact distances on the line.

5. The face of the country, whether level, rolling, broken, hilly, or mountainous.

6. The quality and character of the soil, and whether first, second, or third rate.

7. The several kinds of timber and undergrowth, with which the land may be covered, naming each kind of timber in the order in which it is most prevalent; and in prairie, the kind of grass or other herbage, which it produces.

8. All rivers, creeks and smaller streams of water, with their width, and the course they run where the lines of your survey intersect or cross them, and whether the current be rapid, sluggish, or otherwise.

9. All rapids, cataracts, cascades, or falls of water.

10. All springs of water, and whether fresh and pure, or mineral; shewing also on which side of the line situated, and the distance therefrom, and the course of the stream flowing from them.

11. All lakes and ponds, with the description of banks surrounding them, and whether the water be deep or shallow, pure or stagnant.

12. The meanders of all lakes, navigable rivers, bayous, islands and streams forming boundaries.

13. All prairies, swamps, and marshes.

14. All coal banks or beds, and peat or turf grounds.

15. All precipices, caves, stone quarries, and ledges of rock, with the kind of stone found in them.

16. All towns and villages, Indian towns and wigwams, houses or cabins, fields or other improvements, sugar-tree groves, and sugar camps.

17. All minerals and ores, with particular descriptions of the same, as to quality and extent.

18. All diggings for minerals, smelting or other furnaces, forges and factories.

19. The exact situation, and description of all mines, salt springs, salt licks and mill-seats, which you may discover, or that may come to your knowledge.

20. All fossils, petrifications, and other natural curiosities, with descriptions thereof.

21. All travelled roads, and "trails," with their courses, and denoting the places from, or to which they lead.

22. The tracks of tornados or hurricanes, commonly called "windfall," or "fallen timber," shewing the direction of the wind, as indicated by the fallen trees.

23. All ancient works of art, as mounds, fortifications, embankments, ditches, or other similar objects.

24. All offsets, or methods of whatever kind, by which you shall obtain the measurement or distance on any line which cannot be actually measured.

25. The method and calculations by which you shall determine the variation of the compass, at each observation for that purpose.

7. In addition to the foregoing items, you will insert notes of any others as the occasions therefor may occur. The field notes are to be written out in your book, on the spot, as you proceed with the work. Nothing in your notes must be left to be supplied by memory.

8. Rivers, creeks, and smaller streams, lakes, swamps, prairies, hills, mountains, or other natural objects, are to be distinguished in your field notes by their received names only, where names have heretofore been given. To such you are not to give original names.

9. Beside the ordinary Field Notes taken on the lines, you will add at the end of your field book, such further description or information as you may be able to give, concerning any thing in the township, worthy of particular notice, or which you may judge necessary or useful to be known. And you will add also, a general notice or description of the township, in the aggregate, as it regards the face of the country, soil, timber, &c.

10. In your field book, the courses and distances must be placed in a column on the left hand side of the page, and your notes and remarks on the right. Each page is to contain the field notes of one section line only. The field notes of the subdivisions of each township and fractional township, are to be written in a separate field **book**. The field notes are to be written in a fair and legible hand; if otherwise, they must

be accompanied with true and fair copies. The *original* field notes must in all cases, be returned into the office of the Surveyor General.

11. The date of each day's work must be inserted at the close thereof, near the bottom of the page.

12. At the close of the original field notes of the subdivision of each township, and fractional township, the following certificate is to be written and signed by yourself, and also by your chainmen and marker:—

"Whereby certify, that in pursuance of a contract with Surveyor General of the United States, for the States of Ohio and Indiana, and the territory of Michigan, bearing date, the day of 18 , and in strict conformity to the laws of the United States and the Instructions of said Surveyor General, I have surveyed and subdivided into Sections, Township, [or Fractional Township] No. , in Range No. , in the State [or Territory] of . And I do further certify, that the foregoing are the true and *original* Field Notes of the said Survey and subdivision, executed as aforesaid.

Certified this _____ day of _____ 18 .
A _____ B _____
Deputy Surveyor.
C _____ D _____ }
E _____ F _____ } Chainmen.
G _____ H _____ } Marker."

13. A printed specimen of the Field Notes of the subdivision of a township into sections, accompanies these Instructions; which will serve to illustrate both the order and method of performing the surveys, and the most approved form of keeping the Field Notes; for which purposes, it is to be regarded as a part of these General Instructions.

14. Any material departure from these Instructions, or negligence in the observance thereof, will be considered as a violation of the conditions of your contract, and a forfeiture of all claim for payment. And loose, inaccurate, precipitate, or defective work, either as it respects the surveys in the field, or the notes and returns thereof on paper, *will not be admitted*.

Surveyor General.

To
Deputy Surveyor,
Surveyor General's Office,
Cincinnati.

OORC APPENDIX E

XXIX.

(This copy of General Instructions was made from an original volume now in the possession of the National Archives. The field notes indicate they were issued in 1851.)

GENERAL INSTRUCTIONS.

**OFFICE OF THE SURVEYOR GENERAL
OF WISCONSIN AND IOWA**

OFFICE OF THE SURVEYOR GENERAL
OF WISCONSIN AND IOWA,
DUBUQUE, 18

To _____, Deputy Surveyor:

SIR:—You are to survey in person, or by the assistance of some duly authorized Deputy Surveyor, acting under your immediate direction and supervision, the district assigned you under contract of

18 _____, conformably to such parts of the following instructions as apply to the character of the work for which you have contracted, except so much thereof as is modified or countermanded by manuscript special instructions, hereinafter written.

SYSTEM OF SURVEY.

1. The United States lands are surveyed into rectangular tracts, bounded by north and south, east and west lines. They are first surveyed into townships or tracts of six miles square, which are subdivided into thirty-six equal parts, called sections.

2. Townships and ranges number from base and meridian lines—the former bearing due east and west, and the latter intersecting them at right angles, and bearing due north and south.

3. The base line of the surveys in Wisconsin is the south boundary of so much thereof as borders the State of Illinois; that of Iowa, is located near the geographical centre of the State of Arkansas.

4. The fourth principal meridian, to which the surveys in Wisconsin

relate, starts from the mouth of the Illinois river. The fifth principal meridian, to which the surveys in Iowa relate, starts from the mouth of the Arkansas river.

5. The townships, both in Wisconsin and Iowa, number from their respective base lines, northward; the ranges, in each, number from their respective meridians, both east and west.

6. Sections are numbered from east to west and from west to east progressively, commencing with the north-east corner section.

7. Correction lines provide for the error that would otherwise arise from the convergency of meridians, and arrest that arising from the inaccuracies of measurement. They are run due east and west, at stated distances, forming a base to the townships north of them. This base, for each township, is extended sufficiently to meet the convergency for a given distance.

INSTRUMENTS.

Base, meridian, correction and township lines are to be run with an instrument that operates independently of the magnetic needle, which is to be employed only to show the

true magnetic variation. Section, meander and all other lines interior of a township, may be run either with the same instrument, or with the Plain Compass, provided it is of approved construction and furnished with a vernier or nonius.

ASSISTANTS—THEIR OATHS.

You are to employ no other assistants than men of reputable character, each of whom must, before performing any duty as such, take and subscribe an oath (or affirmation) of the following form, which must be forwarded to or deposited in this office, prior to or upon the return of your field notes:—

For Chainmen.

I, A. B., do solemnly swear (or affirm,) that I will impartially and faithfully execute the duties of Chain Carrier, that I will level the chain upon uneven ground, and plumb the tally-pins whether sticking or dropping the same; that I will report the true distance to all notable objects, and the true length of all lines that I assist in measuring, to the best of my skill and ability.

Sworn and subscribed before
me at _____ this
18 _____

Justice of the Peace.

(or other officer authorized to administer oaths)
of _____, County of _____, State,
(or Territory) of _____

For Flagman or Axeman.

I, C. D., do solemnly swear (or affirm) that I will well and truly perform the duties of axeman or flagman, according to instructions given me, and to the best of my skill and ability.

MARKING LINES, ESTABLISHING AND MARKING CORNERS.

1. All lines which you actually establish are to be marked as follows: Those trees which intercept your line are to have two notches upon the side where your line intersects and leave them, without any other mark whatever.

2. A sufficient number of those trees which approach nearest your line, to render the same conspicuous, are to be blazed upon two sides, diagonally or quartering towards the line; the blazes to approach nearer each other the farther the line passes from the blazed trees, and to be as nearly opposite—coinciding with the line—as possible, in cases where they are barely passed.

3. Corner posts are to be made only of the most durable wood found in the vicinity of your lines. Township corner posts must not be less than five, section and meander corner posts four, and quarter section posts three inches in diameter. These posts must be set firmly into the ground, by digging a hole to admit them two feet deep, and be very securely rammed with earth, also with stone when convenient. They are to appear above ground, at township corners, three feet,

tion with the west boundaries six notches on the east edge; and as many notches on the east or south sides (as the case may require,) as the corner is sections distant from the township corner. Quarter section corner stones will have $\frac{1}{4}$ cut on the west side on north and south lines, and on the north side on east and west lines.

[6]

Where a corner is perpetuated by a stone of the dimensions, marked and set in the manner above described, no mound need be erected.

When the closing lines to the north or west boundaries of the townships, either in subdivision or exterior work, exceed one hundred chains of length, corners for the legal subdivisions of the sections will be established at every twenty chains north or west of the quarter section corner.

MEASUREMENTS AND WHERE TO ESTABLISH MEANDER CORNERS.

1. Your distances are all to be noted and returned in chains and links, and to be taken with a half or two pole chain of fifty parts, each measuring seven inches and ninety-two-hundredths. The length of your chain should be adjusted by means of a screw attached to the handle of the hind end; every tenth link should compose a swivel, and all the rings and loops should be welded or brazed. The accuracy of your chain is to be preserved by comparing it with a standard adjusted at this office.

2. Your tally-pins, eleven in number, must not exceed fourteen inches in length, must be of sufficient weight to drop plumb, and are to be made of iron or seasoned wood pointed with steel.

3. The length of every line you run is to be ascertained by horizontal measurement.

4. Whenever your line is obstructed by an object over which you cannot measure with the chain, you are to pass the same by offsets, traverse or trigonometry, observing that the distance thus obtained extends no farther than is necessary to actually pass the interposing object.

5. Whenever your course is so obstructed by navigable streams, or other bodies of water which are to be meandered, you are to establish a meander corner at the intersection of your lines with both margins thereof, and also on each side of all islands which said lines may cross.

TOWNSHIP LINES.

1. North and south lines are termed range lines; east and west, township lines. The former are styled, in the field notes, the line between certain ranges; the latter, the line between certain townships. Each mile, both of a range and township line, is particularized by the number of the sections between which it is run, thus; north between sections 31 and 36, west between sections 1 and 36.

2. Upon the base or township line forming the southern boundary

[7]

of your district, township corners are established at intervals of six miles. From each of these corners you are to run range lines due north, six miles; establishing a quarter section corner at the end of the first forty, and a section corner at the end of the first eighty chains, and observing the same order and intervals of establishing quarter section and section corners to the end of the sixth mile, where you will temporarily set a township corner port.

3. You will then commence at a township corner upon the first range line east of your district, and immediately east of the township corner ports temporarily set by you, and from thence run due west across your whole district, intersecting your range lines at or within three chains and fifty links, due north or south, of your said six mile posts. At the point of intersection, if within the above limits, you will establish a township corner. Upon this township or last mentioned line, quarter section and section corners are to be established at the same distances and intervals as directed for range lines; observing that the length of each and every township line which you are to establish, is in no case to exceed or fall short of the length of the corresponding township boundary upon the south, more than three chains and fifty links. If, however, in closing your first tier of townships, and all others closing to or upon old work, you find it impossible to preserve the true course of your lines and close within the above limits, you are to resurvey and examine until you detect the real cause of discrepancy, which if not in your own work, you will report to this office, and for which you will provide in the field, in all instances where the same is practicable, by adding to, or deducting from the length of your first range line or lines. And where, in order to close a township to or upon old work, you are compelled to employ a variation greater or less than the true magnetic Variation, both must be stated.

4. After closing your first tier of townships, you are to run up and close successive tiers, to the completion of your district, by the same method of survey as directed for the first tier.

5. You are to observe and note the true magnetic variation, at least once upon every mile or section line, and as much oftener as there is a change therein.

6. The bearing trees, standing upon the west side of range, and upon the north side of township lines, are to be entered first in your field notes.

7. After a township corner is established as before directed, you are to complete the notes of the corresponding range line, by inserting the

[8]

said corner, with the true distance thereto, and adding or erasing the notes of any topography or other minutes, that may be included or excluded by thus adding to or deducting from the length of the range line as temporarily established.

8. With your field notes you must return a diagram, drawn upon a scale of three inches to six miles, on which you are to represent each boundary you have run with the length and

OORC APPENDIX F

These documents are readable and color copies of documents in the record on appeal that, as transmitted by the court, are difficult to decipher. Each page is identified by its court proceedings page number on the bottom of the page.

Commissioners proceedings cont. June 14.

527775

Road resolution 13-65 for a hearing on vacating road to be held July 6 at 9:30 A.M.
Resolution attached

An agreement between Okanogan County and Elmer Bruns for a right of way. Copy of the agreement attached.

An agreement between Okanogan County and Stephen R Gilman for a right of way. Copy of agreement attached.

The meeting was recessed at 5:00 P.M. to be continued Wednesday June 16th at 1:30 P.M.
June 16, 1965. 1:30 P.M.

All commissioners present to adopt or reject the comprehensive plan. John Carlson made a motion to adopt the comprehensive plan and Jack Abrams seconded the motion. So ordered. Unanimously adopted. Copy of resolution attached.

Meeting adjourned.

June 21, 1965

The Board of County Commissioners met at 9:00 A.M. with all members present.

Don Ray in to see the commissioners in regard to the Hadfield property right of way for a road. Mr. Ray said that they had offered fencing material to fence one side of the Hadfield property for the road and that was agreeable to Mrs. Hadfield and the agreement was sent to Mr. Hadfield's husband in Alaska. Mr. Hadfield thought that they should get more for the right of way than just material for fencing as the county is taking more than 1/2 acres of their ground. Don Ray asked Jack Abrams to accompany him to see Mrs. Hadfield and Mr. Abrams said that he would go with him the next day.

The commissioners went to visit the French-Texas Creek area on Tuesday June 15th and, considering the opposition to vacation by private citizens and government agencies, the commissioners unanimously decided that road #51 (French-Texas Creek) in the matter of vacating would have to be denied in the public interest and the engineer instructed to return the \$100,00 deposit minus the cost of advertising the hearing.

A hearing to decide whether or not to sell the Twisp storage shed. After discussion Jack Abrams moved and John Carlson seconded a motion that the storage building be advertised for sale. So ordered. Resolution 15-65 attached.

John Thorp appeared before the county commissioners to request vacation of the former location of the road at Chesaw which has been replaced by a new road and he also requested that the county repla ce the road approach into his property. The board said that they would install the road approach and initiate vacation proceedings. Copy of resolution 14-65 attached.

Jack Abrams moved and John Carlson seconded a motion that the commissioners approve the Maltais Tract. So ordered.

Jack Abrams moved and John Carlson seconded a motion that the commissioners approve the Arndt Tract (Wannacut Lake). So ordered.

A request from the assessor's office and Jennie Fore for an extension of employment past the age of 70 under provisions of RCW 41.10.180. A resolution made to extend

French - Texas Creek vacation denied

Do you believe it is possible to maintain this road? No.

Are there any agricultural or commercial areas connected by this road? No.

This road is just an access to petitioners and public agencies? Yes.

It was indicated that the real use of the road to the public was for the state for fire control. Mr. Judd: This road is used by four of us and we are trying to cooperate with the fencing. The commissioners can't give a legal right to fence off the road with gates. We can't afford cattleguards and we can't fence the road because of water. We have no objection to right of access for public agencies for timber and fire control. All landowners, which includes State and Forest Service, will still have access.

Reese Mansfield: We are opposing the closing of this road as it is a useful road and serves a useful purpose to landowners in this area. Mr. Preston said he had 160 acres which he hasn't farmed but intends to in the future. If he were able to farm it depends on whether there is a road. Charles Nelson would be affected by this road as he has grazin permit on the west end of Sec. 35.

Jim Reeder: There was an original petition which included Mr. Nelson's land; The present petition now excludes Mr. Nelson's land. It was stated that Mr. Nelson did have a permit on the west of Sec. 35. Mr. Reeder moved that beginning at Intersection of the said County Road with the North-South Center line of Sec. 35, TWP 32 Range 22 E.W.M. be excluded. Leonard Therriault said this is an old road and a scenic route although it is not used very much. It is one of the finest hunting areas. To close one part of it we of the Sportsmen's Association are opposed.

Walt Smith of the Dept. of Natural Resources: We had no problems in the past. The State opposes the closing for 3 reason. 1. There is a need for hauling supplies. 2. For fire control. 3. Public hunting and fishing.

Jim Bigham of the Dept. of Game on record as opposing.

Jim Reeder said in rebuttal that there comes a time when the general interest of the public is weighed against the rights of individuals. May not individuals in this day have the same right in the uses of their land. The opposition by way of numbers outweighs the petitioners. If this road is useful as a part of the road system then you may vacate it, but if it is not useful then you may vacate it. Since your engineer has told you that this does not connect to agricultural or commercial roads; is not a thoroughfare except in hunting season. It is not a useful part of the road system.

Jack Abrams questioned the legality of the hearing and proposed that the petitioners would have to re-petition the board for another hearing. Mr. Mansfield said that the two parties involved are the State and Mr. Nelson and, since there was an exclusion and not an inclusion he doubted at this point that they needed to re-petition. Jim Reeder agreed that if the petition was valid in the beginning then the exclusion would not invalidate the hearing. Mr. Abrams said he would have to withdraw his line of thinking.

Wood cattleguards were suggested as a means of satisfying the needs of the petitioners. It was not acceptable as there would be too much maintenance with wood guards. The commissioner said they would need time to go over this before giving their decision.

John Carlson moved and Jack Abrams seconded a motion to close the meeting. So ordered.

Jim Thomas in to represent Bill Scholz on a road at Blue Lake, Road No. 109. It has been determined that in 1955 this was added to the county road system; the northern portion of this has always had gates so no maintenance has been done on that portion; the southern portion from Concomully to Blue Lake has been maintained. Mr. Thomas does not want to petition for the vacation of the north portion and suggested that it was legal and in order for this to originate with the board. He suggested that the commissioners take action to close the northern part of the road as it was erroneous in making this a county road. Ted Weber agreed there is no need for this northern part of the road. A meeting is to be set with Bill Scholz and the commissioners and Ted Weber.

526971

think it would be a benefit to appoint these rural people but I think there is too much Grange done. Jack Abrams told them that you have to have a plan to legalize a zoning ordinance. If you have a twelve man board you have confidence in, then make a plan and have maps for some small zoning areas around cities when the people involved come in and ask for zoning; this would originate from and be at the request of the people.

Moved by Jack Abrams and seconded by John Carlson that the Planning Board be increased from nine members to twelve members and that the Grange, The Cattleman's Association, Farm Bureau and Traffic Association be asked to give a list of names - each organization to submit six names, two from each county commissioner's district - to fill the positions. So ordered.

Ted Weber in asking for permission for bids for rock crushing at various sites in Okanogan County. Jack Abrams moved and John Carlson seconded a motion that Ted Weber call for bids for rock crushing at various pit sites within the county. So ordered.

An agreement between the Okanogan Wildlife Council Inc. and Okanogan County that the county shall surface with gravel the access road into the Wildlife Council's clubhouse and in return the county may employ and operate on the premises, crushing, screening and other machinery to produce necessary aggregates and may use a portion of the premises for stockpile sites. This agreement is for a term of ten years. Copy of agreement attached.

After routine business the commissioners adjourned at 3:30 P.M.

May 24, 1965

The Board of County Commissioners met at 9:00 A.M. with all members present.

Mr. Orv Storlie of San Francisco, California in to see the commissioners in regard to a right of way across property he owns in Brewster. Mr. Storlie has stated that one of the conditions for a right of way across his property is that said roads be named for the three slain Civil Rights workers. He said that the Brewster Flats Irrigation District had written a letter in favor of this. Jack Abrams said that it might create a problem on the Brewster project unless we went with the rules that have been established. Mr. Abrams also suggested that Mr. Storlie contact Stan Goshry in Brewster and get his reactions. The commissioners agreed that a request from the Brewster Chamber of Commerce be accepted as the entire Brewster Flat Road Project has been in cooperation with them.

LEADS TO FRENCH CREEK

A hearing on vacation of Texas-French Creek road. A petition was presented and is attached to the minutes. Those present were Mr. and Mrs. Charles Judd, Leonard Therriault, Frank Beckham, Weldon Darlington, William Bergenholts, Walt Brownlee, Hayes Loot, Fay Windle, Ralph Averill, Jim Brigham, Mr. and Mrs. Rodarick O'Toole, Mr. and Mrs. Ellis Preston, Mr. and Mrs. Charles Nelson, E. W. Smith, Lawrence Mills, Effie Robinson, Mark Averill, Jim Reeder, council for the petitioners, Reese Mansfield for the opposition. Since the road is in Jack Abrams district, he presided at the meeting.

Ted Weber read his opinion as follows: On April 30, I made an investigation of the Texas-French Creek road No. 51 and hereby report on the condition of said road; The road is of a generally low standard, but easily travelled by passenger car. Three gates are presently in place illegally across the road. Access to several tracts of state land is provided by this road. It carries little traffic at most times, but is extensively used during hunting season.

Jim Reeder asked the following questions and Ted Weber answered as follows:
How long since the county maintained this road? Several years.
Did you find that the road is not in the boundaries of the original road. Some deviation.

526971

BEFORE THE BOARD OF COUNTY COMMISSIONERS
COUNTY OF OKANOGAN, STATE OF WASHINGTON

NOT VACATED

In the Matter of the Petition
for the Vacation of
County Road No. 51
(Partial)

TO: THE BOARD OF COUNTY COMMISSIONERS OF OKANOGAN COUNTY, WASHINGTON:

We, the undersigned, being ten (10) or more freeholders, do hereby respectfully petition the Board of County Commissioners of Okanogan County, Washington, for vacation and abandonment of that certain road in Okanogan County, Washington, known as County Road No. 51 (Texas Creek-French Creek Road) and running generally southeasterly between the intersection of said road with the West line of Section 35, Township 32 North, Range 22 E.W.M. to its point of intersection with the East-West mid Section Line of Section ²⁵ 21, Township 31 North, Range 23 E.W.M. all in Okanogan County, Washington, and in support of said petition alleges:

I

That the undersigned are freeholders residing in Okanogan County, in the vicinity of the aforesaid road.

II

That the land owned by each petitioner in the vicinity of said road is described as follows:

A. George Miller and Mary Miller, his wife

$S\frac{1}{2}$ of $NW\frac{1}{4}$; $N\frac{1}{2}$ of $SW\frac{1}{4}$, and $SE\frac{1}{4}$ of $SW\frac{1}{4}$, Section 34, Township 32 N., Range 22 E.W.M.

B. Charles J. Judd and Barbara J. Judd, his wife

Lots 1, 2, 3 and 4; $SE\frac{1}{4}$ $NW\frac{1}{4}$; $E\frac{1}{2}$ $SW\frac{1}{4}$; $S\frac{1}{2}$ $NE\frac{1}{4}$ and $SE\frac{1}{4}$, Section 1, Township 31 North, Range 22 E.W.M.; $NE\frac{1}{4}$ $NE\frac{1}{4}$; $S\frac{1}{2}$ $NE\frac{1}{4}$ and the $NE\frac{1}{4}$ $SE\frac{1}{4}$, Section 12, Township 31 North, Range 22 E.W.M.

Lots 7, Section 6; Lot 1, $SE\frac{1}{4}$ $NW\frac{1}{4}$; $SE\frac{1}{4}$; $E\frac{1}{2}$ $SW\frac{1}{4}$, Section 7, $SW\frac{1}{4}$ of Section 8, ALL in Township 31 North, Range 23 E.W.M.

C. Jack Wells and Helma Wells, his wife

SE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$; NW $\frac{1}{4}$ SW $\frac{1}{4}$; E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$;
NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 17, Township 31 North,
Range 23 E.W.M.

D. Rod O'Toole and Janet O'Toole, his wife

SE $\frac{1}{4}$ of Section 21, Township 31 North, Range
23 E.W.M.

E. Henry Rogers and Patricia Rogers, his wife

W $\frac{1}{2}$ of SW $\frac{1}{4}$, Section 22; NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 27;
ALL in Township 32 N., Range 22 E.W.M.

III

That said County Road, in the parts herein sought to be vacated,
is useless as a part of the County Road system because:

- A. It cannot be maintained and kept open for through traffic on a year round basis.
- B. It serves as no connecting link between any two commercial or agricultural points.
- C. Its only real use is as an access to lands owned by these petitioners and lands belonging to public agencies.
- D. The public would be benefitted through decreased cost of partial maintenance by its vacation and abandonment.

IV

That these petitioners propose the following as conditions to be imposed upon the vacation and abandonment of said road.

- A. That all owners of land for which said road serves as an access have reserved to them a private access way over said road to their lands.
- B. That right of access and use of said road be reserved to officers, agents and employees of the United States Forest Service and other public agencies which have jurisdiction over lands and resources for which said road serves as an accessway.
- C. That public right to use of said road be reserved in case of dire emergencies and/or disasters.

V

That this petition is accompanied by a bond in the penal sum of One Hundred (\$100.00) Dollars, payable to Okanogan County, Washington, pursuant to statute, conditioned upon petitions paying into the County Road

Fund of said County the amount of all costs and expenses incurred in the examination, report, and proceedings pertaining to this petition for the vacation and abandonment of said Road.

WHEREFORE, your petitioners pray:

1. That this Board direct the County Engineer to make examination and report as to whether or not said Road should be vacated and abandoned as required by R.C.W.A. 36.87.040.
2. That notice of hearing be given upon this petition pursuant to R.C.W.A. 36.87.050.
3. That after hearing upon said petition that the Board vacate and abandon that portion of said County Road No. 51 hereinbefore described.

Respectfully submitted,

<u>Name</u>	<u>Residence</u>	<u>Date</u>
Robert W Toole	Method	March 30-1965
Janet Toole	Method	March 30 1965
Charles J Fidd	Carlton	" 11
Barbara J Fidd	Carlton	March 30, 1965
Henry Rogers	Carlton	March 30, 1965
Patricia Rogers	Carlton	March 30, 1965
Mary Miller	Carlton	April 4 1965
Geo. Miller		
Paul Miller	Bridgport	April 7, 1965
Thelma Miller	Bridgport	April 7, 1965

Virgil U. Clifton
 Madel B. Van Liew
 Mrs. M. Van Liew
 Mr. J. M. Judd
 Mrs. J. M. Judd
 S. M. Skyles
 Guy M. Mally

Find of said County the amount of all costs and expenses incurred in the examination, report, and proceedings pertaining to this petition for the vacation and abandonment of said Road.

WHEREFORE, your petitioners pray:

1. That this Board direct the County Engineer to make examination and report as to whether or not said Road should be vacated and abandoned as required by R.C.W.A. 36.27.020.
2. That notice of hearing be given upon this petition pursuant to R.C.W.A. 36.27.020.
3. That after hearing upon said petition that the Board vacate and abandon that portion of said County Road No. 21 hereinafore described.

Respectfully submitted,

<u>Name</u>	<u>Residence</u>	<u>Date</u>
Richard W. Stone	Winton	March 30 - 1952
Paul O. Stone	Winton	March 30 1952
Charles J. Judd	Carton	" "
Richard J. Judd	Carton	March 30 1952
Henry J. Judd	Carton	March 30 1952
Patricia J. Judd	Carton	March 30 1952
Wm. J. Judd	Carton	April 1 1952
Paul J. Judd	Carton	April 1 1952
Richard J. Judd	Carton	April 1 1952

Report of Road Viewers.

To the Hon. Board of County Commissioners of Otanogon County, A.T.
 We, the undersigned viewers, appointed by your honorable body at your May Term, 1889, to view and locate a county road described as follows: Commencing at a place known as the Forks of the Methow River, thence running to a point on the Columbia River, about 2 miles above the mouth of the Methow River, the most practical route, via the ranches of Alex. Hatern, Silas Choral and Mr. Sumpter, and down the Methow river on the east side. present the following report:

We met on the 15th day of May, 1889, and after having been sworn by Frank W. Baum, & faithfully and impartially discharge the duties of our appointment; we took to our assistance G. C. Stickell and Edward Jackson, two suitable persons as chain bearers, and W. S. Gamble and D. A. Yeargin as marker and axe man, and proceeded to place of beginning of said road as designated in your order and viewed, surveyed and laid out said road as directed, as near as in our opinion a good road can be made, at a reasonable expense. For a full and complete description of our work we refer you to the field notes, survey and plat of said road, presented herewith by the surveyor. Our opinions are in favor of the establishment of the said road, for the following reasons: That it is the only road that can be constructed with the resources at hand.

Respectfully submitted,

W. S. Dudley.

J. S. Meyer.

Henry Carr.

Viewers.

Surveyors return and certificate.

To the Hon. Board of County Commissioners of Otanogon County, A.T.
 The undersigned having been appointed by the board at its May 1889, session as surveyor to survey a county road, described as follows, commencing at a place known as the Forks of the Methow River thence running to a point on the Columbia river about 2 miles above the Methow river, the most practical route, via the ranches of Alex. Hatern, Silas Choral and Mr. Sumpter, and down the Methow river on the east side. hereby certifies that the following is a true and correct return of the survey of said road as made by me under the direction of the viewers, to wit: See field notes, and that herewith is a correct

plat of said road, according to said survey.

Dated this 1st day of June 1889

Henry Carr. Surveyor.

Field Notes of the survey of the
Methow County Road!

In Okanogan County, Wash. Ter.

Beginning at the north terminus of said road at a point marked by a blazed tree chiseled R. O. W. whence the Forks of the Methow River bears due south 200 feet and the next water hole on prominent mountain bears S 87° 30' E

1309 ft. Thence running S. 61° 30' E - Tarawton 22° 30' E
To a stake marked R.

500 Thence running S. 49° 45' E -
To a stake marked R.

600 Thence running S. 43° 50' E -
To a stake marked R.

2871 Thence running S. 46° 10' E
To a pine post 4 in. dia. 4 ft. long set 18 in. in the ground in a mound of earth 4 ft. square and 18 in. deep marked R. 1. W.

1450 ft. Thence running S. 30° E Tar. 22° 30' E

To a stake marked R.

3830 Thence running S. 44° 50' E -
To a pine post 4 ft. long 4 in. dia. set 18 in. in the ground in a mound of earth 4 ft. square and 18 in. deep marked R. 2. W.

550 ft. Thence running S. 45° E Tar. 22° 30' E
To a stake marked R.

950 Thence running S. 35° 55' E -
To a stake marked R.

400 Thence running S. 13° E -
To a stake marked R.

- 1066 To a stake marked "H"
 Thence running S. $74^{\circ} 20' E$
- 448 To a stake marked "H"
 Thence running S. $41^{\circ} 30' E$
- 746 To a stake marked "H"
 Thence running N. $82^{\circ} 15' E$
- 850 To a stake marked "H"
 Thence running N. $71^{\circ} E$
- 650 To the South Terminus of the Methow County Road
 connecting with the Chelan or Columbia River Road
 at the 3rd mile post: 4 ft. long, 4 in. dia. set in a
 mound of earth, marked,
 N. 35. W. + 3876 ft.
 Terminus Methow Road.

I certify the foregoing to be a true and correct copy
 of the field-note of the survey of the Methow
 County Road, as shown by Plat.
 Henry Carr.

Filed 1st day of June, 1889.
 Road opened Aug 9th 1889. F. W. Faum.
 Auditor.

Surveyors Return's Certificate

To the Hon Board of County Commissioners of Okanogan County
 W. T. The undersigned having been appointed by this board
 at its May 1890 session as surveyor to survey a County road
 described as follows, Commencing on Look Look Creek at a point
 where the present trail leaves the Look Look wagon road for
 the Chloride mine, thence down the Look Look about one
 mile more or less crossing said creek and ascending the
 west bank of said creek to a bench of land about, thence west-
 erly to the sweat house on sweat Creek; thence westerly do-
 wn the south fork of Prager Creek to the Methow Valley
 hereby certifies that the following is a true and correct return
 of the survey of said road as made by me under the direction
 of the viewers to wit: Commencing on the trail and crossing
 the Look Look Creek thence ascending the west bank in a
 southerly direction to the bench above in one mile thence
 to sweat Creek and the low divide in the mts thence
 down to Prager creek and down the north bank to Pragers
 Ranche thence crossing that creek along the left bank to
 Beaver Creek. thence down Beaver Creek on the east side to
 the intersection with the Methow Valley County Road the
 point of termination and herewith is a correct plat of
 said road according to said survey.

Dated this 25th day of May 1890

Rayton S Baldwin Surveyor.

May Meeting County Commissioners

May 6th 1889

Proceedings

Monday May 6th 1889

Meeting called to order 9 o'clock A.M. present Charles Johnson, P. C. McDonald and E. W. Lee.

Minutes of previous Meetings read and approved. It was moved that the levy of taxes for the year 1889 be as follows;

For Territorial revenue	2.5	Mills
" County	8.	"
" School	3.	"
" Roads	5.	"
" Roads and Bridges	2.	"
" Military	0-2	"

Letter of instruction from pros. ally Jones in regard to assessment of property, on reservation and granting license to sell liquor on reservation. read and moved that the letter be placed on file in Auditor's office. The assessor instructed to assess all property liable to taxation within the limits of Okanogan County, whether on reservation or not excepting the property of Indians ^{who are} under the charge of an Indian agent.

The application of H. J. Smith for license to sell liquor, rejected.

Auditor ordered to order six copies of the Code of 1881, six copies each of session laws of 1883-4, 1885-6, and two copies of 1887-8.

Ordered that warrant Number 578 in favor of John Miller Murphy for \$100.00⁺ be cancelled.

Auditor ordered to draw warrant in favor of Hon. J. H. Cavanaugh for \$35.00⁺ to pay for Codes & session laws ordered, and if amount not sufficient Bal. will be sent when difference is known.

Adjourned until one P.M.

Meeting called at one P.M.

W. J. Russell granted license to sell liquor ^{for one year at retail} at his place of business in Toobcoole. Government, said license to date back from July 12th 1888.

Petition Bond and affidavit for Methow valley road, running from near the mouth of Methow river, on the Columbia river up the Methow valley.

May 6th 1889

to forks of said Methow river. Read and also remonstrance against accepting said roads ^{which was} laid out table for consideration after the report of vicinus is received.

Mr H. N. Nichols is hereby appointed road supervisor for Methow road District Number (14) Bill of B. J. Bradley as quarantine officer Ruby Hill allowed \$200.00

Application of Dixon and Mours for license to sell liquor in Ruby City. granted upon the filing with the Auditor of the proper bond and payment of license money. license to be from the 18th of March 1889. and Auditor authorized to approve bonds when filed.

Resignation of Geo H. Noyes Justice of the peace Foots Coole jurament accepted.

Resignation of J. D. Fuller as constable of Ruby jurament accepted. and H. A. Hentley appointed to fill the vacancy created.

Adjourned until 7 P.M.

Night Session

Meeting called at 7 P.M.

Auditor authorized to credit the Treasurer with \$2552.75 account of warrants paid and cancelled, School orders, and orders on road fund 2 and including May 6th 1889. and warrants Audited. Amount of money that should be on hand in Treasury May 6th \$3021.50.

Amount and kind of money actually in hands of Treasurer. Coin \$550.00

Currency 2404.58

Bank cr. 66.92

Total \$3021.50

Meeting Adjourned until 9 o'clock A.M. May 7th

May 7th 1889

May 7th Meeting called at 9 a.m.

Moved that \$1900. be appropriated out of the road fund of the county to be expended under the direction of Mr E. W. Lee Commissioner, on the Concoully, Fish Lake and Foots Coole road, and that the warrants be drawn on the road fund in favor of Thos

Humphreys.

May 7th 1889

Moved that Charles Barron be appointed to survey said road, and that J. Hardening and W.L. Danden be appointed as viewers, to meet May 10th

Moved that C.H. Ballard be appointed to survey the Methow valley road, and that M.R. Dudley and J.D. Meyers be appointed viewers to meet May 13th. Bill of Lichtenstadter Co expressage - allowed 18⁰⁰ drawn on poll fund

Bonds of C. Robinson road supervision of road district number (8) approved.

Bill of O. Sherman for lamps and stamps \$4.00 allowed drawn on Poll Fund.

Bond of Watson Smith road supervision of road district number one (1) approved.

Bill of C.H. Ballard \$4.00 and O. Sherman \$3.00 as canvassing board Election returns of special election held in Ruby precinct, allowed.

Bill of Graham and Johnson for lumber and labor coffin for Mr. Asbell allowed \$24.00

Bill of Pioneer Press Company for Stationary and supplies allowed \$21.10

Moved that the Methow road district be changed so as to include the Methow valley proper and from Rowell canyon on Columbia river down Columbia river to a point opposite the watershed line between Methow river and Lake Chelan.

Moved that W.L. Ford be appointed road supervisor road district number (6) and Auditor authorized to approve his bond for same when presented.

Moved that Petitions for new school disto No 5 and 6, be granted as follows.

School District No 5 To comprise all that portion of Okanogan County, lying south and west of the watershed line between the Methow river and Chelan Lake and river, formerly in School District No (4)

School District No (6) to comprise that portion of School District No 4, commencing at the head waters of the Chellishist creek thence down said creek to Okanogan river and down said river to Columbia river, down Columbia river to the line of the watershed between Methow river and Chelan Lake and river and up said watershed line to the termination of the boundary above.

Aug 5th 1889

Minutes of meeting of County Commissioners
August regular session

Aug 8th 1889.

Meeting called to order at 9 AM by Chairman Lee

Present E. M. Lee, Chas Johnson, P. C. McDonald & F. M. Baum
Clerk

Minutes of previous meeting read and approved

Bill of M. G. Barney - board and lodging of Geo Smith & nurse 64th allowed
- For \$53.¹²/₁₀₀ ✓

Moved that resignation of M. A. McDougal as Justice of the
peace Okanogan precinct be accepted, but bondsman not released

Bill of M. A. McDougal for Codes & C not allowed.

Ordered that Auditor after auditing accounts of M. A. McDougal
Justice of the Peace Okanogan Precinct shall make demand
on M. A. McDougal and his bondsmen for balance due
from him

Report of viewers and surveyor on Methow Valley road read
also remonstrance against acceptance of said road Road

Report of viewers and surveyor on road from Hagon Road
Coulee running by the farms of A. J. Aquino and J. M. Cauley
to intersect with Tuato Coulee and Conconully road Road

Report of viewers and surveyor on road from near Guthrie
place on Okanogan River to Spring Coulee road near Wm
Taylors ranch. Road

Petition for a County road from Conconully to Loop Loop
Commencing at intersection of Main & Silver Sts Conconully
following Main to Broadway and Loop Loop to the now
traveled road to Loop Loop Road

Adjourned until 1³⁰ AM.

Called at 1³⁰ AM.

Moved to appoint M. S. Dudley, R. Malone Viewers and L. S. Baldwin
surveyor to meet Aug 14th and view & survey said road.

In the Case of the Territory vs J. W. Lane Cost Bills were allowed as

follows J. P. Muleahy Fees as Justice	\$5.35	✓
C Antilon assisting officers	21.00	✓
C. H. Feickert services as deputy shff & board of prisoners 3 days	33.00	✓
Hastly Porter horse hire for prisoner	5.00	✓
Sheriff Allison fees & mileage	88.75	✓

Bill of J. B. Price M. D. for Medical attendance upon Hess a pauper
not allowed.

Bill of E. Bilderbeck for Blankets Clothing etc burned by order
of Dr Webb, reconsidered and not allowed as he had been
furnished with new clothing etc.

Aug 8th 1889

Application of John A. Simms for license to keep ferry on Okanogan River at the place where he has formerly kept ferry. Granted & Bonds approved.

License granted to Newton & DeBolt to keep a ferry on the Columbia River ^{3 miles} below the mouth of the Okanogan River and the mouth of Methow river and Bonds approved. Ordered that Auditor have the Sheriff notify W. J. Russell, L. Rachenburger and H. A. Huntley to appear and pay Liquor Licenses at once.

Bill M. J. Hoyt Board & lodging nursing washing &c J. M. C. Kimon
\$46.⁵⁰ allowed for \$130.⁰⁰ ✓

Adjourned until 9 A.M.

Aug 9th 1889

Aug 9th 9 AM All present.

Moved that warrants be drawn for all officers of ^{the} Genl Election held May 14th and also those officers who carried in returns, for the amounts allowed by law for their services.

Application of Wm Stafford for License to sell Liquor at Retail in Ruby City granted and Bonds approved License to date from June 25th 1889.

Application of D. B. Lee for license to sell liquor at Retail in Loop Loop City granted and Bonds approved License to date from Aug 1st 1889.

Application of Wm Nelson for License to sell Liquor at Retail in Golden Granted providing proper bond is presented License to date from May 6th 1889.

J. Hardenburgh's bond as Justice of the Peace in Chelan Precinct approved.

Ordered that Auditor be authorized to approve Bonds of Thos Cannon Road Supr. R. D. No 9 upon presentation.

Bill of R. Malone Carrying notice to County Court Johnson allowed \$10.⁰⁰ ✓

Report of viewers and surveyor on road from near Guthrie place to Spring Coulee Road 2nd time.

Ordered that road be declared open and that it be named the Okanogan & Spring Coulee Road.

Bills allowed	H. C. Richardson	Viewer on said Road	\$4.50	✓
	Elmer Clark	" " " "	4.50	✓
	Chas Guthrie	Chairman " " "	3.00	✓
	George Meyers	" " " "	3.00	✓
	C. H. Ballard	Team " " "	2.00	✓
	" " "	Surveyor " " "	22.50.	✓

Report of Viewers and Surveyor and Remonstrance

Aug 9th 1889

against the acceptance of the Methow Valley road Read 2nd time
Moved that Road be declared opened as a County Road and be named
the Methow Valley road.

Bills allowed Henry Carr surveyor on said road	\$114.75 ✓
M. S. Dudley Viewer " " "	60.00 ✓
John S. Meyers " " " "	60.00 ✓
G. H. Kieckell Chairman " " "	14.00 ✓
Edward Jackson " " " "	14.00 ✓
A. H. Gamble Marker " " "	14.00 ✓
Thomas Hanway Team " " "	48.00 ✓
A. W. Yeargin Axeman " " "	24.00 ✓

Report of viewers and surveyor on road from Stagon Road
Coulee to Fish Lake Road 2nd time Road declared open
and named the "Squires" road

Bills allowed C. H. Ballard Surveyor said road	\$47.50 ✓
M. S. Dudley Viewer " " "	30.00 ✓
P. H. McGregor " " " "	30.00 ✓
Chas Millberger Chairman " " "	12.00 ✓
A. P. Peirce " " " "	12.00 ✓
Stephen Harriks Marker " " "	12.00 ✓
Thomas Hanway Team " " "	24.00 ✓
J. A. Harris Axeman " " "	12.00 ✓
Chas Miller " " " "	12.00 ✓

Petition for County Road Commencing at C. F. Stavars
and running down Columbia River on West bank to
Entiat thence up the Entiat to a point opposite Tree
mountain Road.

Moved that E. S. Finch W. F. Cannon be appointed viewers
J. A. Stavars surveyor to view & survey said road to
meet on the 19th of August at commencement point

Petition presented for a School Dist to be made Commencing
3 miles east of the mouth of Sumpter Creek a line extending
north to Paragon Lake thence west to a point one and
a half miles above the mouth of Sumpter Creek thence
East to the place of beginning. also recommendation
of County School Supt Romaine that petition be granted
Read.

Moved that said petition be granted.

Bill of W. A. Harris Blacksmith work on jail allowed	38.00 ✓
" H. T. Bingle 3 Empty Barrels for offices " "	15.00 ✓
" S. S. Collins " " " " " "	15.00 ✓
" H. T. Bingle Rent of offices for ending Aug 2 nd " "	75.00 ✓
" John H. Clark Guarding prisoner McDougal 15 ⁰⁰ " "	11.00 ✓

U.S.G.S.
FILE COPY

U.S. GEOLOGICAL SURVEY Ed. Div. Topographic Maps.
CHARLES D. WALCOTT DIRECTOR

TOPOGRAPHIC SHEET

WASHINGTON
METHOW QUADRANGLE
R.22 E.

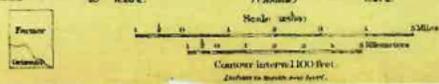


U.S.G.S.
FILE COPY
Ed. Div. Topographic Maps.

U.S.G.S.
FILE COPY
Ed. Div. Topographic Maps.

U.S.G.S.
FILE COPY
Ed. Div. Topographic Maps.

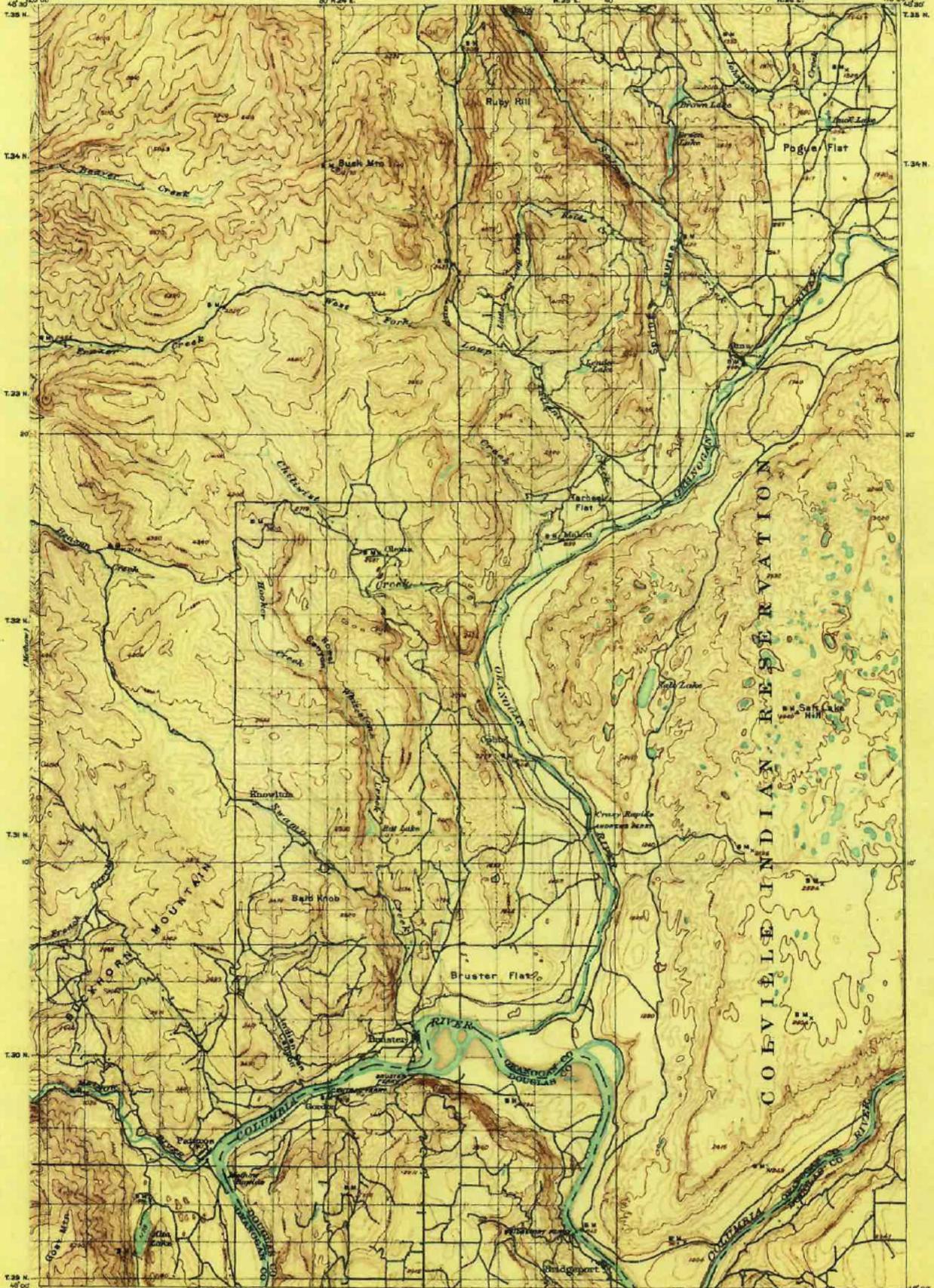
H. U. Goode, Geographer in charge.
Triangulation by A.H. Sylvester.
Topography by W. C. Swack and R.A. Farmer.
Surveyed in 1897 and 1898.



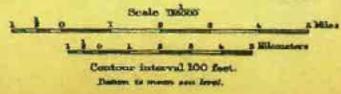
U.S. Geological Survey.
APR 15 1901 2595
Ed. Div. Topographic Maps.

USGS
Historical Files
Topographic Division

Methow



E. M. Douglas, Geographer in charge
Topography by L. C. Fletcher assisted by W. C. Guerin.
Triangulation by C. F. Urquhart
Surveyed in 1903.



NOTE: Projection based on Spheroid Astronomical System.
The datum used was geoid from mean sea level
on the datum of 1903.
Edition of June 1905.

6 5 4 3 2 1
7 8 9 10 11 12
13 14 15 16 17
18 19 20 21 22 23 24
25 26 27 28 29
30 31 32 33 34 35 36

U.S. Geological Survey
JUL 30 1905
Div. Topographic Maps
OKANOGAN

FILE COPY
Div. Topographic Maps

USGS
Historical
Topographic

CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, the undersigned hereby certifies under penalty of perjury under the laws of the State of Washington that, on June 30, 2020, the foregoing was delivered to the following persons in the manner indicated:

Thomas F. O'Connell, Esq.
Davis, Arneil Law Firm, LLP
Attorney for Appellants and Cross-Respondents
Via email sent to: tom@dadkp.com

David Y. Gecas
Okanogan County Prosecutor's Office
Attorney for Respondent Okanogan County
Via email sent to: dgecas@co.okanogan.wa.us

Court of Appeals
Division III
Via e-filing on JIS/ACCORDS



Natalie N. Kuehler

RYAN & KUEHLER PLLC

June 30, 2020 - 3:10 PM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 37297-9
Appellate Court Case Title: Gamble Land & Timber, LTD, et al v. Okanogan County
Superior Court Case Number: 17-2-00086-0

The following documents have been uploaded:

- 372979_Briefs_20200630150915D3736707_3791.pdf
This File Contains:
Briefs - Respondents/Cross Appellants
The Original File Name was 20200630 Memo of Law.pdf

A copy of the uploaded files will be sent to:

- dgecas@co.okanogan.wa.us
- thargraves@co.okanogan.wa.us
- tom@dadkp.com

Comments:

Sender Name: Natalie Kuehler - Email: nk@ryankuehler.com
Address:
PO BOX 3059
WINTHROP, WA, 98862-3001
Phone: 509-996-2832

Note: The Filing Id is 20200630150915D3736707