

Hand delivered

Louis Michael Mikolaichik  
310 N. First St. #575  
Hamilton, Montana 59840

August 22, 2019

**RECEIVED**

Honorable Jennifer Lindt  
District Court  
Hamilton Montana 59840

AUG 22 2019

Ravalli County Commissioners

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This information is brought to the court in order to offer critical information that must be used in pending decisions in the matter, which is presently before the court. I only became aware that this matter is before the court, at this late date of August 21, 2019. I would like to thank the court for excusing the lateness of my action.

Affidavit of evidence

The county has erred in many instances during the proceedings leading up to the present situation that must be considered by this court before making a decision as to whether the Hughes Creek gate shall remain in place or be ordered to be taken out. These errors and matters of great concern are of the utmost of importance in order to protect the landowners and the people of Ravalli county.

I am writing this affidavit without the assistance of an attorney, thus I ask the court to excuse the lack of proper format, etc... I bring this document in English language format, not using the law language.

A. During the proceedings, I have challenged jurisdiction on several occasions, having been run over with the continuance of the proceedings in a complete disregard for due process. The fact is, due process of law requires the matter be settled before proceedings can move forward. One of the maxims of law states that jurisdiction can be challenged at any time in a proceedings and must be proven before the matter can move forward. The county has disregarded the law concerning myself and my land in this matter and has yet to offer any evidence that they ever had any jurisdiction.

It is to my understanding that the county must have personal jurisdiction, subject matter jurisdiction and also geographic jurisdiction in order to hear a matter. I do not believe the county has ever held any of these at any time. Any presumed jurisdiction has been challenged on multiple occasions and the county's continued disregard is a violation of the law which makes it clear that if a presumption is challenged, it must be proven with facts, of which has at no time been done in this matter.

It is true that two of the landowners who own land beyond the gate had brought action to the Montana Supreme Court concerning jurisdiction of their interests. The fact remains that I have not been involved in that action and thus the court's opinion is only relevant to them directly and not of myself.

It is also an important fact in the matter that the Petition for Abandonment that was brought to the county has been found to have errors within it and thus I have rescinded my name retroactively from that document, after having found inconsistencies with the information within the document.

**B.** It appears county attorneys and/or commissioners are also in violation of my and the other landowners civil rights with intent to defraud. In an open hearing on September 21, 2018 at around 2:20 - 2:40 or so of the public video record on the county website, Commissioner Hoffman asked Mr. Bugli why he would have trusted the county attorneys after the first hearing, some two years earlier, concerning taking their advice to file the Petition for Abandonment; He then added "since they were working for the other side". I challenged the commissioner on this asking him if he realized that he just stated that the same county that believes that they have the lawful right and authority to rule in the matter had just admitted on the record that the county held a position (bias) against the interests of the landowners, before making a ruling. Commissioner Hoffman stated that my questions needed to be addressed by the county attorneys, of which has been ignored completely.

How is it lawful or even legal for that matter, for the county to rule in a matter in which it held a previous position on and has something to gain in the matter? Maxims of law make it clear that a body that hears a matter must be unbiased and hold nothing to gain in a matter in order for their decision to be valid. The actions and admissions of county officials make it clear that their purpose in handling the matter was to get our gate removed, ie, a railroading, trampling over private property rights, law and justice.

**C.** Concerning the bias matter further, the county held the position that the county roadway went beyond the gate at the very beginning, of which the county made claim, gave them the right of geographic and/or subject matter jurisdiction to hear the matter. This in spite of the most recent judicial decision from 1993 which stated that the county had no evidence that a county roadway was ever established beyond the present gate and the gate shall remain in place. It becomes evident that the county held a position that was in violation of the district court that had ruled. This seems very much like a contempt of court matter in which the county was in violation of, does it not?

The facts also show through procedural evidence and testimony within the hearings that the county held a bias against the interests of the landowners from the beginning, despite remarks by some of the commissioners to the contrary. The facts are certainly clear without rebuttal that the county heard no evidence to show that a county roadway was ever created beyond the present gate. Any testimony was only hearsay, presumption and testimony that was predicated upon a presumption that the road beyond the gate was already a county road. There was absolutely no evidence brought against the landowners position. Meanwhile the county disregarded evidence and testimony brought by the landowners including the documents from the earlier cases from the 1980's and 1990's.

Sadly, the critical piece of "evidence" that the county used to base their decision upon was the placement of the 1900 Alta post office. I challenged the county to bring evidence of their placement of the 1900 Alta Post office and one commissioner testified that it was determined by "consensus". Consensus is not evidence. Meanwhile the landowners brought evidence of a U.S. government map dated 1900 which shows the placement of the Alta post office a great distance from where the county presumed it to be, though this evidence was also disregarded and ignored by county officials. Isn't it against the law for one who is to bring a ruling to also bring testimony and/or evidence?

The fact also remains as to the clear evidence from the 1900 petition for a county roadway in the Hughes Creek drainage makes it clear, that a county roadway was to be created starting from the Alta post office and ending at the threshold of the Wood's Placer mining land. Though the placement of the Alta post office may be in question, the end point of the county roadway is clear, when it states "~~to~~" the Woods placer land. It must also be made known that the gate presently sits at the beginning of the Woods placer land, evidenced by the record, in that the Hecla placer was patented by Woods Placer just a few years earlier, yes the Hecla placer land is the land that I and my wife own where the gate presently stands.

*D.* The county has clearly not acted in good faith in the matter, holding contempt against the landowners position from the beginning, ignoring evidence and even closing off access to records held by the county for over 6 months at a critical time. Yes, the county prevented access to county held public records that might be used by the landowners in their defense, three months or so before a critical hearing and 3 months or so after that second hearing. It is also clear that the county violated many laws. The county officials have sworn an oath to uphold the constitution of the united states and also the Montana State Constitution of which they are presently in gross violation of.

*E.* It must be noted concerning who is responsible for the gate, all landowners who own land beyond the gate are contracted with each other in a shared responsibility to keep the gate in place and locked, preventing public access. Though the gate stands on my land, the gate is not my property, but is shared property of all of the landowners. I am obligated and contracted with all other landowners beyond the gate, all of which share the burden in this matter and privacy that is brought by the gate. Therefore it must be made known that any order to have the gate removed must be brought equally to all of the landowners and not only to myself and my wife.

**In summary, the county officials involved in this matter have broken the law at many levels, and have violated the people's trust. At the current time, the landowners are working on bringing a Federal lawsuit against the county due to their handling of this matter. There is also much more evidence that is part of this matter that will be much more complete and better organized heading forward. This matter must be decided at a federal level and I urge your court to reject Ravalli County's request for an order to remove the gate and allow the process to play out at the Federal level.**

**May the God of creation bring his true blessing upon you.**

**Respectfully,**

**L.M. Mikolaichik**

**Ravalli County Commissioners:**

**In regards to the Hughes Creek Gate, there is one serious issue that has not been discussed: The land parcels at and behind the gate are Patented Mining Claims granted with Allodial Title under the power of the United States Congress pursuant to Article IV, Section 3, Clause 2 of the U.S. Constitution. Patent Land is transferred to the patentee, his heirs and assigns forever when the contract between the U.S. government and the patentee is fulfilled.**

**Any and all claims or interest the State may have on Patented Land should have been identified and described during the Patent Process (SUMMA CORP. V. STATE OF CALIFORNIA COASTAL COMMISSION, FLETCHER V. PECK). If the State had identified this road easement during the Patent Process, the easement would have been included on the Patent Title. Since there is no record of such easement on any of the Patent Lands above the gate, the easement you are claiming is legally barred.**

**Article I, Section 10, Clause 1 of the U.S. Constitution bars the states from passing any laws impairing the Obligation of Contracts. For the State to now claim an easement on these Patent Lands more than 100 years after the obligations of the Patent Contracts have been fulfilled is changing or impairing the obligation of the Land Patent Contract, and is therefore in direct violation of the Constitution of the United States.**

**Neither the State nor any Court has the jurisdiction to change the original Patent Contract without the patent owners' agreement (CORPUS JURIS SECUNDUM 73 (b)). A Land Patent is the highest Title at Law and is superior to any other type of deed. Article VI, Clause 2, of the U.S. Constitution states: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." (Patent Land is an Allodial Title protected by Treaty Law of The US Constitution)**

**I would advise you and your legal counsel to carefully consider your options when it comes to Federally Patented Land. And let's not forget, you have all sworn an oath to uphold The Constitution of the UNITED STATES.**

**Sincerely**

**Jay Bugli**

**August 16, 2019**