

## Glenda Wiles

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**From:** Jeff Burrows  
**Sent:** Friday, January 4, 2019 4:27 PM  
**To:** 'montanajossi@hotmail.com'  
**Cc:** Ravalli County Commissioners Office  
**Subject:** RE: Hughes Creek Decision Response

Debra, Toby,

I am unclear as to what exactly you are requesting at this time. I have attempted to answer your questions via email. I offered time for you to come in and discuss the issue as email correspondence is a time consuming method of communication, especially to answer what are sometime ambiguous questions.

Is the response you are looking for is answers to the following questions? These are the two questions I see in your latest response to me, the first question I feel I answered in the email, but the question was asked again.

Where is the new evidence that made this decision possible in 2017?

Judging from your answer, and correct us if we are wrong, it is your position that the current road today is the exact route/distance as the road was in 1900? Is this what you are saying?

Tony Hudson came in a presented additional information to myself and Commissioner Chilcott is an informal meeting. Since we have transitioned to 3 commissioners that option is no longer available, but if you feel you have additional information for the commission, we would be interested in seeing what you have, but it would have to be presented to an individual commissioner.

If you are not interested in a face to face meeting and have a question that has not been answered, I will attempt to answer via email. v We will not answer the same question over and over.

Thanks,  
Jeff

Jeff Burrows  
Ravalli County Commissioner  
(406)-375-6503

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**From:** Glenda Wiles <gwiles@rc.mt.gov>  
**Sent:** Friday, January 4, 2019 11:32 AM  
**To:** Jeff Burrows <jburrows@rc.mt.gov>  
**Subject:** FW: Hughes Creek Decision Response

How to answer their email? Glenda

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**From:** D Jossi [<mailto:montanajossi@hotmail.com>]  
**Sent:** Friday, January 4, 2019 11:28 AM

To: Glenda Wiles <[gwiles@rc.mt.gov](mailto:gwiles@rc.mt.gov)>  
Subject: Fw: Hughes Creek Decision Response

Hi Glenda-

We were communicating with Jeff and the other commissioners for the past months on the West Fork gate issue but after the letter on December 3 when we responded to the answers received from Jeff Burrows with actual facts its been nothing but radio silence. Not one response from any of the commissioners Is this usual?

Is this something we need to set up to discuss in an upcoming County Commission meeting? Would that be the best way to get our answers?

Debra & Tobby

Any assistance you can provide will be greatly appreciated.

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From: D Jossi <[montanajossi@hotmail.com](mailto:montanajossi@hotmail.com)>  
Sent: Monday, December 3, 2018 4:03 PM  
To: [jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov)  
Cc: [rhawk@rc.mt.gov](mailto:rhawk@rc.mt.gov); [gchilcott@rc.mt.gov](mailto:gchilcott@rc.mt.gov); [cahoffman@rc.mt.gov](mailto:cahoffman@rc.mt.gov); [dschallenberger@rc.mt.gov](mailto:dschallenberger@rc.mt.gov)  
Subject: Re: Hughes Creek Decision Response

Hi Jeff-

Thank you so much for the response to two of the questions of the longer list of relevant questions we have sent to all the Ravalli County Commissioners regarding the Hughes Creek Gate removal.

It seems we were correct that there is no new evidence that led to this decision by our current county commission, but rather lack of information presented to you allowed to the ability to make a decision in regards to the Hughes Creek gate which past County Commissioners and County Attorneys were unable to make. We are glad to be able to enlighten you a bit on what you are missing.

In regards to the response of the first question ***What new evidence were they provided in 2017 that invalidated prior evidence and decisions in 1967, 1984, 1988 and 1993 that there was insufficient evidence that the upper portion of Hughes Creek Road was a public road?***

Attached are two letters, from Ravalli County Attorney in 2009 George Corn and also John D Robinson Ravalli County Attorney in 1988, that show where we are coming from when asking about new evidence, as it is clear that past inquiries in this matter and why we want to know what, if any, new evidence you have been presented. These letters show that there was insufficient evidence to come to a decision in this matter in both of these years, going against exactly what you stated in your response to us.

In regards to the response on the second question ***Why is a County Commission decision in 1967 that the public road ended at the west boundary of mining claim MS5883 -- approximately 4/10 of a mile beyond the current gate -- ignored and deemed invalid?***

Do you recall what the original petition was for this action? It was for the 4/10 of a mile to be abandoned as a county road, because until this point this was the section that was in question. Your commission voted down this petition and

then went on to essentially take more miles of this road from private land owners due to the commission, for some odd reason, only being presented cherry picked evidence, not the full evidence available, on this issue.

Judging from your answer, and correct us if we are wrong, it is your position that the current road today is the exact route/distance as the road was in 1900? Is this what you are saying? Please clarify.

As stated previously, our concern is the horrible precedence the current decision will make on private land owners in Ravalli County, the State of Montana and states surrounding us. It is our hope that this County Commission is remembered for protecting the private property rights of the landowners paying taxes in this county and not for negatively changing private property rights in our region in the future.

At the end of the last meeting on this issue in September, Dave Campbell, who clearly has been pushing for this gate removal for decades, stood up confidently with a copy of Montana Code Annotated 2017 7-14-2112 that he had run out to get a copy of and stated that this code States *the width of all county roads, except bridges, alleys or lands must be 60 ft.*

What he did not share was item (3) of this code that states

***"Nothing in this section shall be construed as increasing or decreasing the width of either kind of highway or road established or used as such to prior to December 31, 1966."***

This, to us, is one of many examples of how the Commissioners are being misled by being presented cherry picked evidence instead of the full evidence that has been presented to the past Commissioners who concluded there was insufficient data to make the decision. Again leading us to ask, where is the new evidence that made this decision possible in 2017?

Again, we appreciate your time and willingness to communicate with us on this important issue.

Tobby Thompson  
Debra Jossi  
Stevensville, MT

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**From:** Jeff Burrows <[jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov)>  
**Sent:** Thursday, November 29, 2018 8:41 AM  
**To:** 'D Jossi'  
**Subject:** RE: Hughes Creek Decision Response

Tobby, Debra,

Sorry for the delay in response. I was out for most of the Thanksgiving week. Congratulations on your Grandma, 104 years is amazing. Below are responses:

***What new evidence was provided to the County Commissioners in 2017 that invalidated prior evidence and decisions in 1967, 1984, 1988 and 1993 that there was insufficient evidence that the upper portion of Hughes Creek Road was a public road?***

There seems to be a misunderstanding on Hughes Creek Road as far as I understand the history of Hughes Creek. Hughes Creek Road was made a county road through the petition process back in 1900, and was declared to be about 12 miles in length. By law, once that occurred, the only way that the road or some portion thereof could be abandoned is by operation of law, by judgment of the court, or by the board of county commissioners granting a petition to abandon. None of those things happened. There has never been a decision

by any court or by the board of county commissioners in 1967, 1984, 1988, 1993 or at any other time that there was “insufficient evidence that the upper portion of Hughes Creek Road was a public road.”

In 1982, a petition to abandon Hughes Creek Road was denied. In the process of denying the petition, the Commissioners found the public portion of the road to be 11.8 miles long as it existed in 1982.

In 1984, the County brought suit to force removal of two gates, one at 9.5 miles up Hughes Creek Road and the other at 11 miles. Obviously, at the time the county still considered Hughes Creek Road to be a county road for 11.8 miles in length otherwise it would not have brought the suit.

In 2017, the Commissioners again denied a petition to abandon a portion of Hughes Creek Road because it found it provided access to public lands and water, and thus by law the commissioners could not abandon the road. The effect of denying the petition to abandon was to leave the public portion of Hughes Creek Road as it was. The Commissioner’s action did not alter the length or location of the public portion of Hughes Creek Road.

***Why is a County Commission decision in 1967 that the public road ended at the west boundary of mining claim MS5883 -- approximately 4/10 of a mile beyond the current gate -- ignored and deemed invalid?***

This is an interesting assertion to make as by doing so there is an admission that the gate in its present location blocks a public road and that there is no right to have a gate in its current location. That being said, there was no decision in 1967 declaring the boundary to be the mining claim. The effect and purpose of the resolution passed in 1967 is discussed in detail in proposed finding # 22. This proposed finding notes that it was passed in connection with the work of the Forest Service to realign and reconstruct 9 miles of Hughes Creek Road, not for the purpose of shortening the length of Hughes Creek Road, for if it was, the process was deficient and it would have been illegal.

If, however, the 1967 map is what is meant by the 1967 “decision,” a map in and of itself does not establish the end of the public portion of Hughes Creek Road.

It needs to be noted that the landowners’ attorneys raised this argument in its two lawsuits. The District Court rejected it. The MT Supreme Court is considering it as part of the second appeal but is not expected to disagree with the District Court.

If you have additional information you would like myself and the rest of the commission to have, please schedule or stop by the office and we can discuss the information you are referring to.

Thanks,  
Jeff

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**From:** D Jossi <[montanajossi@hotmail.com](mailto:montanajossi@hotmail.com)>  
**Sent:** Wednesday, November 21, 2018 2:52 PM  
**To:** Jeff Burrows <[jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov)>  
**Subject:** Fw: Hughes Creek Decision Response

Hi Jeff -

Sorry to have not heard from you after our last communication.

At this time, due to a family situation that has us now taking care of Debra's amazing 104 year old Grandma full time during her final approach to heaven, we are unable to meet with you to discuss this issue.

Considering this, if the amount of questions are overwhelming, it would be helpful if just one or two were answered. As stated before, after watching the videos of the meetings on Hughes Creek and attending meetings these are the top questions in the list we sent you:

***What new evidence was provided to the County Commissioners in 2017 that invalidated prior evidence and decisions in 1967, 1984, 1988 and 1993 that there was insufficient evidence that the upper portion of Hughes Creek Road was a public road?***

***Why is a County Commission decision in 1967 that the public road ended at the west boundary of mining claim MS5883 -- approximately 4/10 of a mile beyond the current gate -- ignored and deemed invalid?***

We are willing to assist in setting up a meeting with the Hughes Creek landowners, but know that our concerns regarding this is as private citizens who are concerned this rash decision, made without any new evidence and ignoring relevant historical documents, will have a negative impact on private property rights for years to come.

If you could please contact us with the answers to these questions and also let us know what type of set up you picture reviewing the missing evidence it would greatly appreciated.

We look forward to hearing from you and really do appreciate the opportunity to discuss the Hughes Creek decision.

Tobby Thompson  
Debra Jossi

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**From:** D Jossi <[montanajossi@hotmail.com](mailto:montanajossi@hotmail.com)>  
**Sent:** Friday, November 9, 2018 11:31 AM  
**To:** [jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov)  
**Subject:** Re: Hughes Creek Decision

Hi Jeff-

Thank you so much for your thoughtful response. Our appreciation goes to all of you willing to serve the community in positions like County Commissioner.

We do feel it is important that you see the information that was not presented to you, though it was available right there in the court house where your offices are and meetings are held. As you saw in our email yesterday, many questions arise when you see the resources that were overlooked in making this precedence setting decision, especially in light of no smoking gun evidence being presented.

**We also feel it is imperative to get the initial questions answered in writing from the email we originally sent to you.** These are questions that have been lingering along since taking part in the September meeting in regards to Hughes Creek and watching videos of past meeting on this issue.

When Debra returns back to town we will get in touch with you in regards to finding a location and time to present the other evidence, mentioned in our questions, for your review.

Thanks again for your response and look forward to hearing from you.

Sincerely,

Tobby Thompson  
Debra Jossi  
Stevensville

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**From:** Jeff Burrows <[jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov)>  
**Sent:** Thursday, November 8, 2018 11:50 AM  
**To:** 'D Jossi'  
**Subject:** RE: Hughes Creek Decision

Tobby, Debra,

Thank you for the congratulations. We are busy right now, but the Hughes Creek issue is important and one I want to make sure we get right and I have no problem discussing and researching the issue further. Responses to all of your questions below would result in a very lengthy email and most likely email discussion chain. If you are available, I would much rather discuss in person and if there is additional information you feel the Commission did not have at the time of the decision, I would like to see it.

I appreciate the opportunity to respond to your concerns before writing to the paper. I would like to make clear, that despite at least one of the landowners allegation that this is some grand conspiracy private property grab agenda, that the commission does not have an agenda against the landowners up Hughes Creek and are following the law based on the information we have been presented and our attorneys counsel.

Thanks,  
Jeff

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**From:** D Jossi <[montanajossi@hotmail.com](mailto:montanajossi@hotmail.com)>  
**Sent:** Thursday, November 8, 2018 10:05 AM  
**To:** Jeff Burrows <[jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov)>  
**Subject:** Hughes Creek Decision

Hi Jeff-

Congratulations on winning your re-election. We know you are incredibly busy and most likely not wanting to revisit the Hughes Creek issue, but after further research there are questions that leave us unsettled on this decision by the Ravalli County Commissioners.

We respect your positions on this but feel there are so many unanswered questions that still linger on such a precedence setting decision against private property rights.

We wrote the following to send to the paper but want to give you the opportunity to respond first:

So many questions arise after looking at all the evidence presented on the removal of the gate on Hughes Creek Road. Questions that are especially disturbing because the decision in this case sets a horrible precedence for private property rights, not only for our county but for the entire state and surrounding states.

Who approached Howard Recht, deputy county attorney, or the County Commissioners to initiate this action? There was no mention of who triggered this action or what initiated the letter to Hughes Creek landowners regarding the gate.

Recht stated it was based on a precedent setting decision in another county's lawsuit, Modesty Creek, but he failed to disclose that that decision was overturned by the Montana Supreme Court. Did Recht not know that it was overturned before initiating this action? Or did he merely fail to mention this to the Commissioners?

Why did Recht not recuse himself from this case in the very beginning, given that he had previously represented one of the Hughes Creek landowners in a past legal case?

Who provided the evidence the County Commissioners relied upon for their "findings of fact"?

What new evidence were they provided in 2017 that invalidated prior evidence and decisions in 1967, 1984, 1988 and 1993 that there was insufficient evidence that the upper portion of Hughes Creek Road was a public road?

Why is a County Commission decision in 1967 that the public road ended at the west boundary of mining claim MS5883 -- approximately 4/10 of a mile beyond the current gate -- ignored and deemed invalid?

Why is the original adoption of the public road in 1900 the only historical document considered by the County Commissioners to determine the location of the road? And why did they rely upon only part of the legal description of that road?

Who decided where to start tracking miles along the road as they made their road inspection in 2016? What documentation was used to make this determination? Why was the 1900 decision that the road was "about 12 miles" in length more important than the legal description that the road ran TO the Woods Placer Mining Company claims, which began at the west boundary of mining claim MS5883? Did they consider at all that the road as it exists today does not travel along the exact same route as the original road built in the late 1890s?

Who decides what historical documents are no longer valid? Why was only cherry-picked evidence provided as part of the decision making process?

Why do deeds for properties on Hughes Creek Road from the junction with the West Fork Road to the gate mention the public road, but deeds for those beyond the gate only contain information on a private road? How old are these deeds?

How do the landowners beyond the gate own the mineral rights under the road? Is this usual for public roads?

How did a petition to abandon 4/10 of mile of Hughes Creek Road -- from the gate to the west boundary of MS5883, where the original public road ended based upon all historical documents -- result in the Ravalli County Commissioners TAKING essentially three miles of private land?

When was the statute passed that the Commissioners were “blindsided” by that changed their thoughts on this? And was the legal advice they were given that led to that decision accurate, or was it designed for a predetermined outcome?

State statute is not the issue here. It is the decision that was made on faulty evidence provided by the county attorneys. The same county attorneys that are now telling the Commissioners the landowners have no recourse to challenge or overturn this decision because it is now law -- even if it was based on incomplete, inaccurate and faulty “findings of fact.”

Why when Montana Code 7-14-2112 was mentioned no one read the 3rd section that states (3) *“Nothing in this section shall be construed as increasing or decreasing the width of either kind of highway or road established or used as such prior to December 31, 1966”* , though this is completely relevant in this case where commissioners keep declaring a 60 foot easement”

How does this happen in America in 2018?

Our Ravalli County Commissioners need to revisit this decision, review the evidence that was not provided to them from the County Attorney, question why the County Attorney’s office was not forthcoming on evidence provided for this precedence setting decision to be made and are unwilling to work through the process now more evidence has been brought to light.

Our commissioners will be remembered for setting this horrible precedence on private property rights, not the county attorney’s office who provided the misleading evidence and guidance on this case.

As stated in past communication, the decision to remove the gate at Hughes creek and take over of a private road sets a horrible precedence for private property rights, not only for our county but for the entire state and surrounding states.

Sincerely,

Tobby Thompson  
Debra Jossi  
Stevensville, MT