09/25/2020 USFS Comments

Prior To completion of the Shenango bridge in the 1930’s site of the current ranger station about a mile upstream a wooden bridge had been constructed adjacent to the point just south of Storm Castle Creek (AKA Squaw Creek) entering the Gallatin River. This bridge was accessed via, an 11/28/1918 USFS road easement created by the owners the Diers with a reversion to the heirs and successors should the road ceased being use by Gallatin County and USFS. (Filed 11/26/1918, Right of Way Deed #8775, Record of Deeds, Vol.59 P341) The road is now identified as Luhn Lane.

This area is generally shown on your various maps as Gallatin Riverside and designated for recreational use. Within this recreational area is the Storm Castle Subdivision and is essentially private land sandwiched between The Lee Metcalf Wilderness to the West the Forest service to the East divided by the Gallatin River. This area is a prime example of a wildland interface area.

As a property owner since 1978 in the Storm Castle subdivision I am particularly concerned with the increasing commercial activity taking place within the Storm Castle Subdivision in contravention of a court ordered RoadEasement**:** On September 23, 1959 the District Court awarded a 24’ road easement over the land owned by J. E. and Joanna Beckman at that time not identified as a lot (Currently is lot 39) but to the south of Tract 27 owned by Clyde B. and Medora B. Cox. The road from which the easement is derived is the old U.S. Forest Service road now Luhn Lane.

In that court order under FINDINGS **OF FACT** Page 2. Item 2 It states “That in the month of August, 1955 the Defendants, J. E. Beckman and Johanna Beckman, were in the process of causing said piece and parcel of land to be surveyed, platted and subdivided into lots and parcels of land to be surveyed, platted and subdivided into lots and parcels, containing less than ten (10) acres each, for the purpose of selling the same as (continued on page 3) **home sites;** that said subdivision was titled and styled by the said defendants as “Castle Rock Tracts” and that plat thereof , duly approved by the board of County Commissioners of Gallatin County, Montana was filed of record in the office of the County Clerk and Recorder of Gallatin County, Montana.”

“Together with the right of ingress and egress to said Tract 27 by motor vehicle or otherwise, over and across the land of the parties of the first part, (Beckman ) situated between the south side of said tract 27 and the U.S. forest service Road. “… “It is further ordered, adjudged and decreed that the obligation for the maintenance of said easement shall be on the Plaintiffs, Clyde B. Cox and Medora B. Cox, and their heirs, executors, administrators and assigns.”

On 2/3/1941 a Right of Way deed was filed in Book 84 of Deeds, page 503, to the United States of America (USA) for an easement and right of way for highway purposes over and across the SE1/4SE1/4 of Section 33, Township 4 South, and Range 4 East. At some point in the 1950’s the Storm Castle (Squaw Creek) Bridge was demolished.

On 2/4/1956 Beckman’s filed a subdivision plat known as Castle Rock Tracts with Gallatin County Commissioners. This plat contains a public road designation and was partially represented as the USFS roadway. According to Eric Semerad the current Gallatin County Clerk and Recorder the plat was approved **but not accepted** by Allen Hargrove, Chairman of the Board on 4 Feb.1956 with a similar short plat being filed on 1/18/1971.

On 11/18/71 as recorded in Book 33, page 209 Court order 19755 declared the Old USFS road was not a public road and ownership based on Diers original reversion declarations now rested with the grantors and their successors in interest (Beckman’s).

The Tragedy of the Commons is: Luhn Lane road usage involves the traversing of school buses used as commercial vehicles and trailers from a Rafting Company on highway 191 on Luhn lane down a spur that was formerly the unimproved U.S. Forest Service road leading to what was the bridge over the Gallatin River.

The same 1959 ruling that created the easement declared in its “Finding of Facts” the Lots were being sold as **home sites** is now being used by the Raft Company to access its commercial camping and Raft take out. Apparently this allows the business to exceed its allocated number of Gallatin River raft trips.

This road easement appears to cross over septic system leach fields from lot 33 to Tract 27. If any one of the three septic systems currently in use by the residents of lots 32, 33,34,38,37 are compromised it will compromise all of them. The Raft Company has no direct access to the Old USFS service road and therefore does not have any responsibility for any road maintenance.

Moreover, Luhn Lane spur, a one-way roadway, is unimproved and is not designed for and cannot accommodate safe travel by large commercial vehicles and residents’ use. Emergency traffic in the event of a fire could be impeded. A large section of the spur shown in the 1971 Plat is currently in default on county property taxes in the amount of $4644.

**Other than the USA 2/3/1941 Right of way Deed the adjacent road property owners are apparently not aware of their ownership responsibilities in the road as indicated in the 11/18/71 court declaration. My 1979 and 1980 title insurance policies do not show these declarations or court orders but continue to reference the Forest Service road. In 2020 $3,668 in county road assessments were levied against property owners in the Castle Rock subdivision. However, because Luhn Lane was declared a private road by the 11/18/71 court decision none of these funds were spent maintaining Luhn lane.**

**What role does the USFS have along with Gallatin County in publically notifying the Luhn Lane property owners that in addition to road taxes they are also responsible for the upkeep of the former USFS road? If the road remains private can the property owners determine the size of vehicles using the road?**