

RIGHT OF WAY APPLICATION FOR 50'x30' AFFECTING THE NE1/4, SEC. 34, T1P. 13N, R06E. 19W, MISSOULA COUNTY, MONTANA.

EX 219 REC 410

Form R. 6-114

No. D-1370

RIGHT OF WAY DEED

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF MONTANA

To All To Whom These Presents Shall Come:

Know ye that the State of Montana, in consideration of the sum of EIGHTEEN AND 20/100 Dollars now paid, grants to WALTER B. COX AND EVELYN S. COX a right of way for a PRIVATE ROAD

upon and across state lands, as follows:

A tract or strip of land in the NE1/4, Section 34, Township 13 North, Range 19 West, Montana Principal Meridian, Missoula County, Montana, more particularly described as follows: A tract or strip of land 30 feet wide, 15 feet on each side of a center line which is a line extending from the north boundary of Section 34, Township 13 North, Range 19 to the south boundary of the NE1/4 of SW1/4 of said Section 34 which lies 15 feet West of the East boundary of said NE1/4 of said Section 34, and which is parallel thereto. This right of way contains in all 0.91 of an acre, more or less. Said easement shall be limited for use for residential purposes and shall not be used for or in connection with any commercial business or ventures which right be established on the land owned by Walter B. Cox, his heirs, representatives, successors and assigns.

It is further Provided that whenever said lands herein granted as a right of way shall cease to be used for such purpose, the same shall revert to the state upon notice to that effect being given to the said grantee named herein.

IN TESTIMONY WHEREOF, the State of Montana has caused these presents to be executed by the Governor, and to be attested by the Secretary of State, and countersigned by the Commissioner of State Lands and Investments, and the Great Seal of the State, and the Seal of the State Board of Land Commissioners to be hereunto affixed this TWENTY-FOURth day of FEBRUARY A. D. 19 61



Attest: Ronald S. Nutt, Governor of the State of Montana; Frank Murray, Secretary of State; Don E. Bretzke, Commissioner of State Lands and Investments

179197

Executed and filed this instrument for record on the 3rd day of March 1961 at Helena, Montana. Recorded by 717 of the County Clerk of Missoula County, Montana. Notary Public: [Signature] Missoula, Mont.

S.34

SOUTH AVENUE

668.27' (F)

668.27' (F)

EXISTING ASPHALT STREET,  
30' AVG. WIDTH

COS 413

STATE OF MONTANA

END OF ASPHALT STREET,  
BEGIN GRAVEL ROAD,  
+/- 12' WIDE TOP WIDTH

30' RIGHT OF WAY PER  
BOOK 219 PAGE 410

MARIANNE FORREST  
BOOK 230 PAGE 2507  
N89°46'30"E 669.07'

/4NW1/4

BOOK 612, PAGE 1380 &  
BOOK 612, PAGE 1384  
"A NON-EXCLUSIVE EASEMENT  
ACROSS SAID TRACT 'A' FOR THE  
EXISTING ROAD, IN ITS PRESENT  
LOCATION..."

TRACT  
COS 50.  
CITY OF MISS

BOOK 599, PAGE 384 (MICRO)  
"EASEMENT TO USE THE EXISTING  
ROADWAY, IN ITS PRESENT WIDTH..."

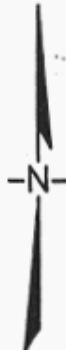
SW1/4NE1/4  
COS 4987  
MARIANNE FORREST

PRESENT TRAVELED WAY  
+/- 12' WIDE ROAD SURFACE

C 1/4  
FOUND 4"X6" CONC.  
POST W/ "X" IN TOP

1341.90'

N89°41'37"E 2675.75'



S 34

PRESENT TRAVELED WAY  
+/- 12' WIDE ROAD SURFACE

TRACT A  
COS 5035  
OF MISS

**USDA FOREST SERVICE**

**Individual - Existing Road**

**EASEMENT**

**THIS EASEMENT**, dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, from \_\_\_\_\_, (marital status) \_\_\_\_\_, whose address is \_\_\_\_\_ County of \_\_\_\_\_ State of \_\_\_\_\_, hereinafter called "Grantor(s)" to the **United States of America**, hereinafter called "Grantee," whose address is Washington, D.C. 20013.

**WITNESSETH:**

Grantor(s), for and in consideration of spell out dollars (\$ ) received by Grantor(s), does/do hereby grant to Grantee and its assigns, subject to existing easements and valid rights, a perpetual easement for a road along and across a strip of land, hereinafter defined as the "premises," over and across the following described lands in the County of \_\_\_\_\_ State of \_\_\_\_\_:

(list township, range, section, & 40's crossed by road(s))

The word "premises" when used herein means said strip of land, whether or not there is an existing road located thereon. Except where it is defined more specifically, the word "road" shall mean roads now existing or hereafter constructed on the premises or any segment of such roads.

The location of said premises is shown approximately on Exhibit A, attached hereto.

Said premises shall be \_\_\_\_\_ feet in width, \_\_\_\_\_ feet on each side of the centerline with such additional width as required for accommodation and protection of cuts and fills. If the road is located substantially as described herein, the centerline of said road as constructed is hereby deemed accepted by the Grantor(s) and Grantee as the true centerline of the premises granted. If any subsequent survey of the road shows that any portion of the road, although located substantially as described, crosses lands of the Grantor(s) not described herein, the easement shall be amended to include the additional lands traversed; if any lands described herein are not traversed by the road as constructed, the easement traversing the same shall be terminated in the manner hereinafter provided.

The acquiring agency is the Forest Service, Department of Agriculture.

This grant is made subject to the following terms, provisions, and conditions applicable to Grantee, its permittees, contractors, and assigns:

Approved as to Consideration, Description, and Conditions  
By: \_\_\_\_\_  
Date: \_\_\_\_\_

A. Except as hereinafter limited, Grantee shall have the right to use the road on the premises without cost for all purposes deemed necessary or desirable by Grantee in connection with the protection, administration, management, and utilization of Grantee's lands or resources, now or hereafter owned or controlled, subject to such traffic-control regulations and rules as Grantee may reasonably impose upon or require of other users of the road. Grantee shall have the right to construct, reconstruct, and maintain roads within the premises.

Grantee alone may extend rights and privileges for use of the premises to other Government departments and agencies, States, and local subdivisions thereof, and to other users including members of the public.

B. Grantee shall have the right to cut timber upon the premises to the extent necessary for constructing, reconstructing, and maintaining the road. Timber so cut shall, unless otherwise agreed to, be cut into logs of lengths specified by the timber owner and decked along the road to disposal by the owner of such timber.

This easement is granted subject to the following reservations by the Grantor(s), his/her/their heirs and assigns:

1. The right to use the existing road described herein for all purposes deemed necessary or desirable by Grantor in connection with the protection, administration, management, and utilization of Grantor's lands or resources now or hereafter owned or controlled, subject, however, to traffic-control regulations as Grantee may reasonably impose and the bearing of road maintenance costs proportionate to use, in each case as authorized and provided by the regulations of the Secretary of Agriculture and as they may be amended and published in the Code of Federal Regulations.
2. The right to cross and recross the premises and road at any place by any reasonable means and for any purpose in such manner as will not interfere unreasonably with use of the road.
3. The right to all timber now or hereafter growing on the premises, subject to Grantee's right to cut such timber as hereinbefore provided.

If the Regional Forester determines that the road, or any segment thereof, is no longer needed, the easement traversed thereby shall terminate. The termination shall be evidenced by a statement in recordable form furnished by the Regional Forester to the Grantor(s) or his/her/their heirs or assigns in interest.

IN WITNESS WHEREOF, the said Grantor(s) has hereunto subscribed his/her/their name(s) on the day and year first above written.

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**INSERT NAME**

---

**INSERT NAME**

**APPROPRIATE ACKNOWLEDGMENT**

S.27  
S.34

SOUTH AVENUE

Attachment 3

S89°57'35" W 1336.54'

668.27' (F)

EXHIBIT 1.

EXISTING ASPHALT STREET,  
30' AVG. WIDTH

COS 413

STATE OF MONTANA

END OF ASPHALT STREET,  
BEGIN GRAVEL ROAD,  
+/- 12' WIDE TOP WIDTH

30' RIGHT OF WAY PER  
BOOK 219 PAGE 410

1315.88'

MARIANNE FORREST

BOOK 230 PAGE 2507  
N89°46'30"E 669.07'

GRAVEL  
PARKING

1E1/4NW1/4

BOOK 612, PAGE 1380 &  
BOOK 612, PAGE 1384  
"A NON-EXCLUSIVE EASEMENT  
ACROSS SAID TRACT 'A' FOR THE  
EXISTING ROAD, IN ITS PRESENT  
LOCATION...."

528.00'

669.61'

N00°00'51" W 2631.76'

N89°46'30"E 1339

SE 1/4, NW 1/4

BOOK 599, PAGE 384 (MICRO)  
"EASEMENT TO USE THE EXISTING  
ROADWAY, IN IT'S PRESENT WIDTH..."

SW1/4NE  
COS 498  
MARIANNE FORRES

30'

PRESENT TRAVELED WAY  
+/- 12' WIDE ROAD SURFACE

SCALE: 1" = 200'

C 1/4  
FOUND 4"X6" CONC.  
POST W/X' IN TOP

1341.90'

## MEMORANDUM

**The Trust for Public Land  
Northern Rockies Field Office**

432 North Last Chance Gulch

P.O. Box 200

Helena, MT 59624

(406) 443-4017

(406) 443-3831 (FAX)

RECEIVED

AUG 06 2002

FACILITIES SERVICES

To: Hugh Jesse

From: Robert Rasmussen 

Date: 9/5/2002

Re: **Proposal for access easements across U of M property**

As we have previously discussed, the Trust for Public Land (TPL) is working with private landowners, the US Forest Service, the City of Missoula, and the Five Valleys Land Trust in an effort to acquire the last remaining large parcel of private land on Mount Sentinel. The specific transaction involves a 475-acre tract (known as Tract B of COS#5035) located on the south side of Mt. Sentinel, currently in the ownership of the Cox family. A vicinity map is attached for reference. The purpose of the transaction is to place this property into public ownership status for use as open space and dispersed outdoor recreation. It is anticipated that the majority of the property will be incorporated into the Lob National Forest and less than ten percent of the property will be incorporated into City ownership.

As part of this transaction, we are completing due diligence efforts relating to several issues, including access considerations. We contracted with a local land surveying company to accurately define the location of the existing road and determine the relationship between existing legal access and existing physical access. I provided you with a copy of this survey document last Friday. The results of this work indicate that for the majority of the road alignment, legal and physical access are coincident; however, there are some locations where adjustments need to be addressed.

Pertinent to the University of Montana, there are several circumstances we would like to address. Some issues involve revising and expanding the legal access across UM property; other issues involve existing physical access and the possibility of alternate physical access in the future. Individual access requests are discussed below:

- 1) As shown on the attached Exhibit I (and a detail exhibit), Maurice Street (south of South Avenue) has been developed for access to University housing. A deeded right-of-way (r-o-w) in favor of the owners of Tract B (and other property) was established in 1961, as recorded in Book 219, Page 410. A copy is attached. This r-o-w is shown in a crosshatched pattern on Exhibit 1. The western limit of the paved portion of Maurice Street (—520' in length) is located outside the established r-o-w. In addition, a short section of the gravel portion of Maurice Street (—180' in length) is located outside the established r-o-w. I have highlighted these areas in orange color. In order to safely utilize these sections of Maurice Street, granting of additional r-o-w width is requested. At a minimum, this width should extend to the outside edge of the constructed road (—15' additional width).

Request: To expand the width of the current access easement by approximately 15 feet to accommodate the physically constructed portions of Maurice Street that are located west of the easement.

- 2) Another issue related to the deeded r-o-w described above is the restriction in its use “for residential purposes”. Please note that this r-o-w extends from South Street (the north edge of Section 34) to the south edge of the NE1/4, NW1/4 of Section 34, a distance of approximately 1316 feet. This r-o-w is shown in a crosshatched pattern on Exhibit 1. It is the desire of the USFS to utilize this road for two principal purposes: 1) administrative access by vehicle (weed and fire control, maintenance, etc.), and non-vehicular public access (foot and bicycle). In order to clearly provide for such access, the USFS desires a standard format road easement. I have enclosed a copy of the USFS generic road easement; Section A. on Page 2 contains the boilerplate language desired by the USFS. Other sections of this easement form will need to be completed/ revised to accurately reflect specific conditions of the property and width of easement. This can be finalized in the coming month, if the Board supports the concept.

Request: To grant to the USFS a standard format road easement across UM property in the NE1/4, NW1/4 of Section 34 for the area described in item 1) and the area described in the r-o-w deed recorded at Book 219, Page 410.

- 3) A third access issue addresses a potential need for legal and physical access, in the event that the existing access alignment crossing private property is no longer available. This would involve the southward extension of the deeded access described in the first item above. This extension would run adjacent and parallel to the east property line of the golf course, extending the length of the SE1/4, NW1/4 of Section 34 at a width of 30 feet; this is shown in the solid pattern on Exhibit 1. This location includes the alignment of the existing trail on UM property, which is roughly parallel to the existing road on the adjacent private property. The proposed easement would be a standard format road easement as described in the second item above. This easement is sought as a “fall back” position; no development of additional access is anticipated, except in the event of inability to use the existing access road across the private property.

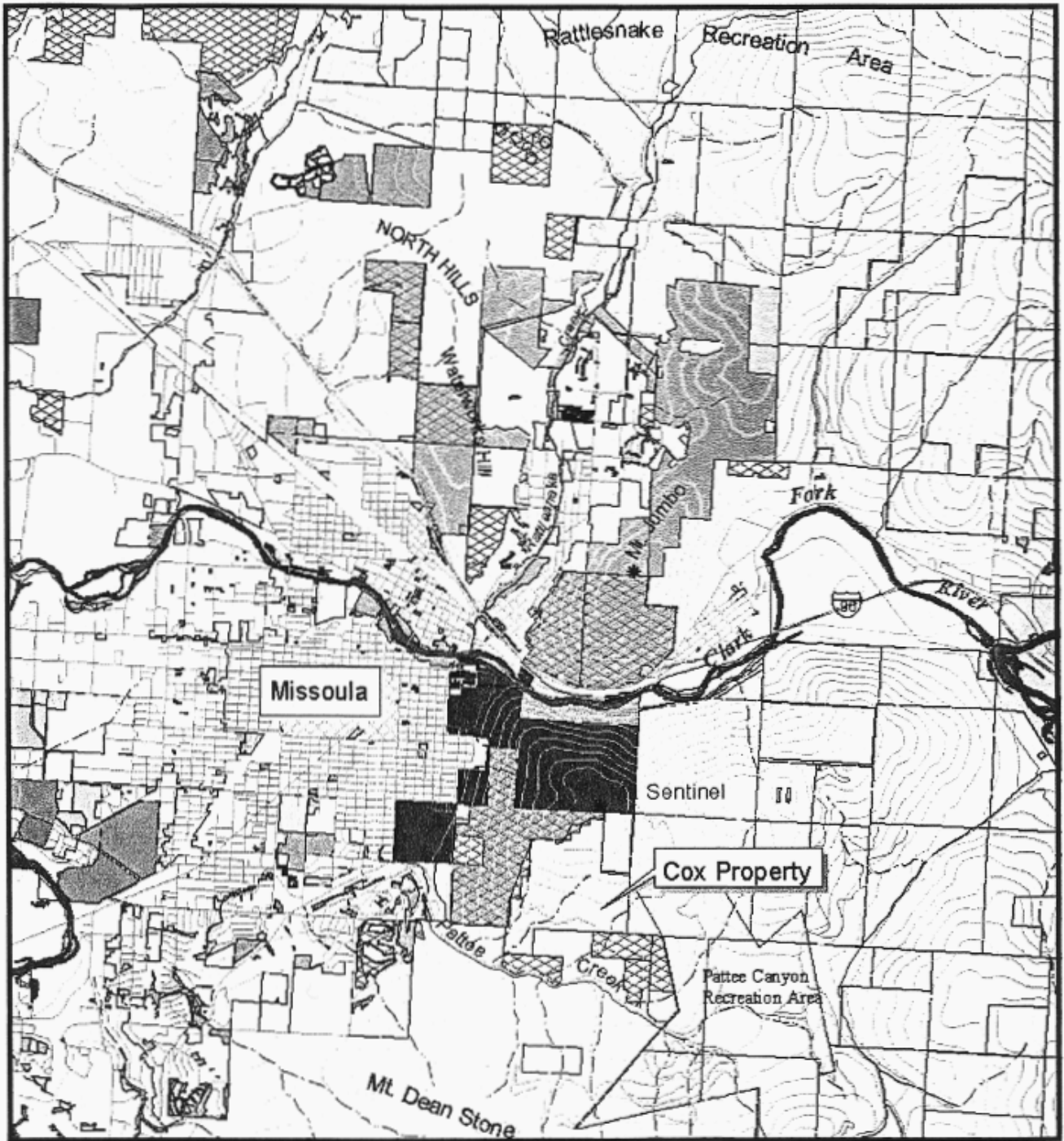
Request: To grant to the USFS a standard format road easement across UM property along the East 30 feet of the SE1/4, NW1/4 of Section 34.

I have broken these access issues into discreet parts for purposes of clearly identifying the need for each request. Certainly, the Board could also act on a comprehensive action that addresses all of these issues. As you are aware, I have briefed Mr. David Aronofsky on the concept of these requests. He has asked me to work out a detailed proposal with you to forward to the Board of Regents for their consideration. Please review the requests I have outlined in this memo and advise me of your comments, concerns, and (hopefully) concurrence. If possible, please schedule this request for initial presentation to the Board of Regents at their September meeting. I will make myself available to participate in a presentation or respond to questions, if that would be helpful. Thanks for your assistance with this effort to provide for public access to the mix of public land ownerships on Mount Sentinel! -

c: Janet Krivacek, Lob National Forest  
Guy Adams, USFS-Region One



Cox - Mt, Sentinel Property and Other Conservation Lands



- |                                  |                              |                          |
|----------------------------------|------------------------------|--------------------------|
| Cox Property                     | County School District Land  | Flum Creek Timber Co     |
| Conservation Easement            | County Land                  | Fish, Wildlife and Parks |
| City Park Land                   | University Land              | State Land               |
| County Park Land                 | National Wildlife Federation | Forest Service           |
| Land within the City of Missoula |                              |                          |



Map modified from Missoula County Surveyors Data (2001).

