

# CERTIFICATE OF SURVEY

## RETRACEMENT OF COUNTY RIGHT OF WAY EASEMENT

LOCATED IN THE NE 1/4 OF SEC. 12,

T.35N., R.26W., P.M.,M.,

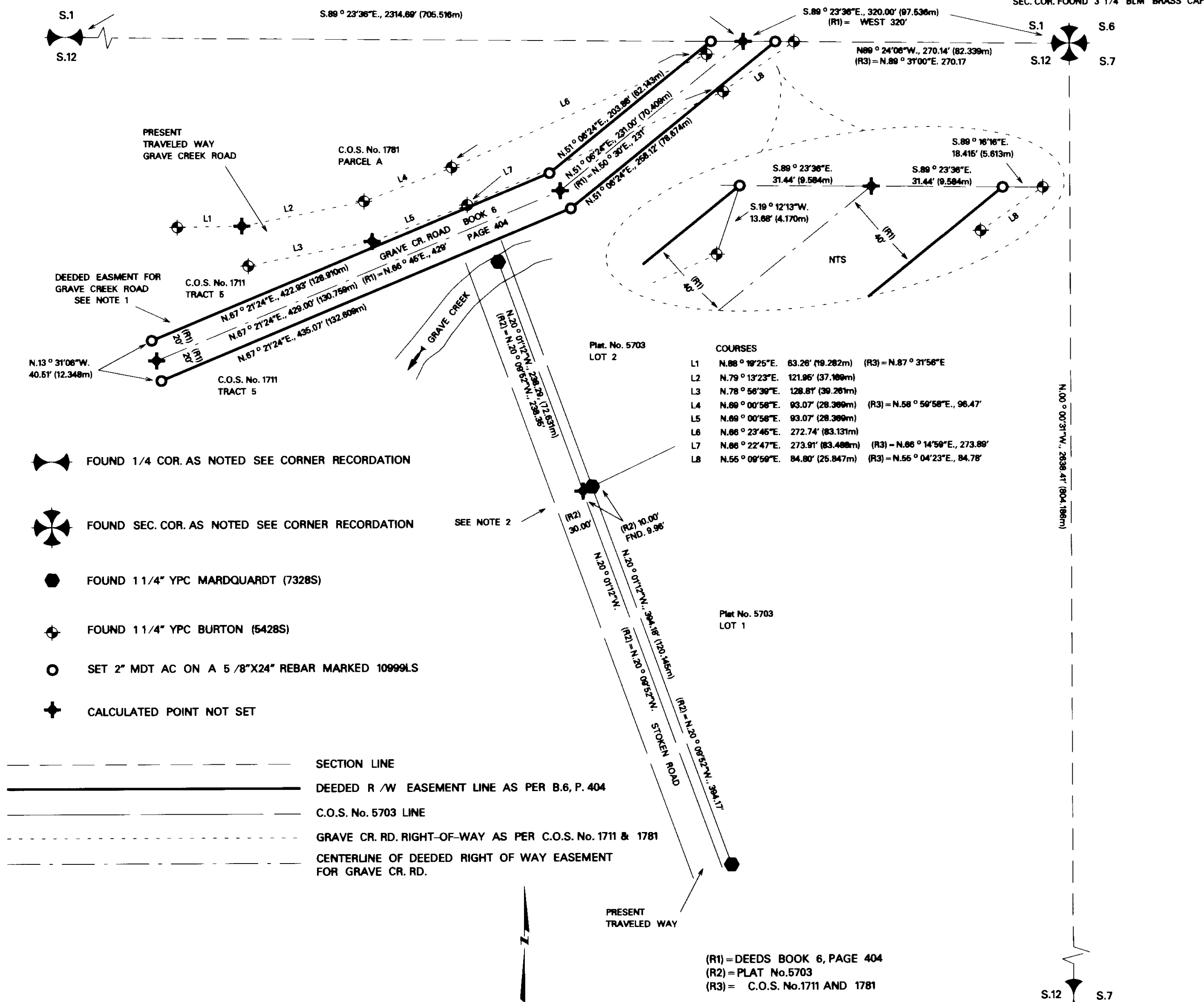
LINCOLN COUNTY, MONTANA

FOR: MONTANA DEPT. OF TRANSPORTATION

DATE: JULY, 2003

PURPOSE: RETRACE EXISTING RW AND  
PROVIDE MATERIAL EVIDENCE  
PER 76-3-404 M.C.A.

1/4 COR. FOUND 3 1/4" AC (8428S)



**Note 1 - Grave Creek Road Location**  
The county granted petition Number 23 and Declared the road public in March 1913. The Commissioners do not specify a width in the declaration, but adjoining landowners and petitioners waived damage claims for a 40 foot width. The location is given as follows: "...Thence NE to NE corner of the NW4SW4 S12 Thence 1/2 mile North to the old Grave Creek trail. Thence on the North side of Bunch Grass Flats to the Government Buildings on S 6 in T.35, R.25, M.M." (The declared description has obvious Transcription errors.)

In 1932, Lincoln County acquired easements, recorded in Book 6, Pages 401-405, for a 40 foot road across section 12. This Certificate of Survey retraces a portion of this location.

COS No. 1711 (1989), COS No. 1781 (1990), and COS No. 1907 (1992) were prepared by others, and retraced the centerline of the existing roadway as the county road.

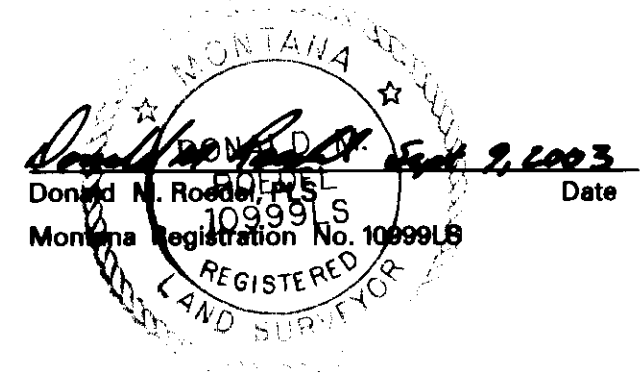
It appears that the County has, at least, prescriptive rights to the existing roadway as documented on the above mentioned Certificates of Survey, and deeded easement to the location shown on this document.

**Note 2 - Stoken Road Location**  
The petition documents for Stoken road No. 122 are incomplete. This road was petitioned for on June 30, 1943, and was declared a county road on July 7, 1943. The description is "...the present private or forest road now extending from the Northwest corner of Sec. 7, Twp. 35 N; Rge. 25W; and running in an easterly direction for a distance of 2.3 miles to land now owned by John and Joe Stoken in Sec. 4 of aforesaid township and range..."

In 1953, Deed Exhibits No. 185 and 186 Show the County road extending into Section 12, T.35N., R.26W.

Bear Hazen Subdivision (PF 5703, 1998), depicts the the roadway as a 40' declared county road, including portions in Section 12. It also denotes that the roadway on the west side of Lots 1 & 2 of the subdivision is a 10' easement on the lots, and a 30' easement on the on the adjoinder. The Subdivision makes no dedication of roadway to the public.

It appears that the County has, at least, prescriptive rights to the existing roadway as documented on the above mentioned documents, while claiming a 40' easement in section 12; however, there is no record to support a claim for the full 40' easement.



### CERTIFICATE OF EXAMINING SURVEYOR

APPROVED THIS 15th DAY OF SEPTEMBER 2003

EXAMINING LAND SURVEYOR

MONTANA REGISTRATION No. 4130S

STATE OF MONTANA )

COUNTY OF LINCOLN )

FILED ON THE 29th DAY OF Sept 2003 A.D. at 2:45 o'clock P.M.

COUNTY CLERK AND RECORDER

DEPUTY

FEE

INSTRUMENT NO. 170927

SHEET 1 OF 1

CERTIFICATE OF SURVEY NO. 3221

14	Sec.	T.	R.
	S.12	35N.	26W.