

**REPORT TO THE
MINUTES OF THE BOARD OF
CARBON COUNTY COMMISSIONERS
Public Hearing in the Matter of the Resolution Considering the Formal Adoption and
Damages of Carbon County Road 451 also known as Cherokee Road
Road Action RA-2022-01
May 31, 2023
Carbon Building-Courthouse Annex, Rawlins, WY**

A special public hearing of the Board of Carbon County Commissioners (BOCC) commenced May 31, 2023, at 9:03 a.m. at the Carbon Building-Courthouse Annex in Rawlins, WY. Attending the meeting were Chairman, Sue Jones, Vice Chairman, Travis Moore, John Johnson and John Espy with Byron Barkhurst absent.

This hearing was also transcribed by Court Reporter, Sabrina Trevathan. Please see the transcript for the full testimony.

Craig Silva with Williams, Porter Day and Neville, PC, appointed Hearing Examiner called the meeting to order at 9:03 a.m. to consider testimony and petitions for and remonstrances against the establishment of the Carbon County Road 451 also known as Cherokee Road (RA-2022-01).

Mr. Silva asked each landowner seeking damages to introduce themselves. Present were:

- Giovanna M. Merendino-Lamb, claim submitted of \$2,400.00.
- Evelyne E. Ezell, claim submitted of \$3,000.00.
- Trent Morgan, claim submitted of \$10,700.00.
- Trent Morgan on behalf Travis and Kim Morgan, claim submitted of \$10,700.00.
- Waylan Morgan, claim submitted of \$10,700.00.
- Rose B. Cain, claim submitted of \$20,000.00/per acre.
- Gwen L. Gale on behalf of Doris Lacey, claim submitted of \$20,000.00/per acre.
- Soto Arturo, a late and informal claim submitted for fencing.
- Michael Scheid, no claim submitted but he identified himself as a landowner who was not notified.

Other landowners not present but identified as having submitted claims were:

- Nicole K. Garner, claim submitted of \$20,000.00/per acre.
- Mary Beth Gale, claim submitted of \$20,000.00/per acre.

Mr. Silva announced that Commissioner Byron Barkhurst was absent and asked all present if there was any objection to proceeding because of his absence. There were no objections from anyone present therefore Mr. Silva ruled in favor of a waiver relating to Commissioner Barkhurst's absence.

Public Hearing

Mr. Silva outlined the processes for today's hearing as stated by WY State Statute.

Attorney Ashley Davis conducted opening statements stating that the evidence will show that it will be a public benefit for the county road to be formally adopted and that the county has already expended a large amount of money in maintaining the road as a county road for approximately 20 years. Ms. Davis stated that the issue in front of the Board is whether to choose to adopt the road as a county road and whether there should be any damages awarded.

Claimants then were provided the opportunity to conduct opening statements and all declined.

Road & Bridge

Attorney Davis called Kandis Fritz, Carbon County Road and Bridge Superintendent as her first witness. Ms. Fritz provided testimony on the length of the road, the fact it is a school bus route making it a priority road for county snow removal, the items installed on the road such as gravel, culverts, ditches, etc... and discussed costs of annual maintenance and other repairs.

Attorney Davis moved to admit Carbon County Road and Bridge exhibits 1-13 and 19-20 into the records as follows:

- Exhibit 1 – Resolution No. 2022-45 Initiating Adoption of County Road 451 Cherokee Rd
- Exhibit 2 – Resolution No. 2022-50 Continuing Cherokee Road Hearing
- Exhibit 3 – Notice all Letters to Landowners
- Exhibit 4 – Viewers Report and Oath
- Exhibit 5 – Letters During Comment Period
- Exhibit 6 – Public Notice – Regarding Damages
- Exhibit 7 – Letters Received Landowners - Damages
- Exhibit 8 – Resolution No. 2023-07 - Appoint Cherokee Road Appraisers
- Exhibit 9 – Notice of Appointment of Appraisers - Instructions
- Exhibit 10 – Reschedule for Viewers
- Exhibit 11 – Reports from Appraisers and Oath
- Exhibit 12 – Order of Appointment of Hearing Examiner
- Exhibit 13 – Setting of Public Hearing Notice
- Exhibit 19 – Inventory Sheet Road and Bridge
- Exhibit 20 – Costs County Road 451

Mr. Silva provided time for everyone in attendance to review the exhibits and after a brief recess approved the introduction of these exhibits after there were no objections from anyone present.

Mr. Silva provided each commissioner and each landowner an opportunity to question Ms. Fritz. Commissioner Johnson asked Ms. Fritz if she felt the public would benefit from this road being formally designated as a county road to which she replied that it absolutely would. No other claimants had questions for Ms. Fritz.

Mrs. Davis called Sydney “Scott” Thayer, appointed appraiser of CR451 as the next witness. Mr. Thayer testified to his position as an appraiser noting he served with Jezria Latham and Veronica Pell. He overviewed various documents including the Appraiser’s Report, reports from WLC, the Engineering and Associates viewer report, along with the Road and Bridge’s Cherokee Road files

and discussed that they viewed recent sales using MLS data to arrive at a land value \$0.22 per square foot. Mr. Thayer outlined the various square footage for each landowner claiming damages. He did admit that the appraisers did not subtract any benefits from this amount as they were unsure how to calculate that. Mr. Thayer noted they did not recommend damages for those with existing easements to the county through their properties.

Trent Morgan asked Mr. Thayer about easements whether there were damages calculated for people who already have an existing easement to which Mr. Thayer replied they did not recommend damages for those properties.

Attorney Davis called Douglas Allan Boyd, professional land surveyor with WLC Engineering and Surveying as a witness.

Mr. Boyd explained his qualifications, noted he was hired by the county to stake the location of the road as originally designed.

Attorney Davis overviewed various exhibits as listed below with Mr. Boyd and questioned him about various property easements and patents.

Attorney Davis moved to admit exhibit CCRB 14 -18 and exhibits CCRB 21-33 as follows.

- Exhibit 14 – Easement/Patent Ezell
- Exhibit 15 – Easement/Patent Merendino-Lamb
- Exhibit 16 – Easement/Merendino-Lamb
- Exhibit 17 - Easement/Morgans'
- Exhibit 18 – Easement/Watson/Soto
- Exhibit 21 – WLC Engineering and Surveying Overall Survey Map
- Exhibit 22 – WLC Engineering and Surveying Detail Survey for Ezell
- Exhibit 23 – WLC Engineering and Surveying Detail Survey for Merendino-Lamb
- Exhibit 24 – WLC Engineering and Surveying Detail Survey for Watson
- Exhibit 25 - WLC Engineering and Surveying Detail Survey for Soto
- Exhibit 26 – WLC Engineering and Surveying Detail Survey for Holloway
- Exhibit 27 – WLC Engineering and Surveying Detail Survey for Trent Morgan
- Exhibit 28 – WLC Engineering and Surveying Detail Survey for Travis Morgan
- Exhibit 29 – WLC Engineering and Surveying Detail Survey for Waylan Morgan
- Exhibit 30 – WLC Engineering and Surveying Detail Survey for Marybeth Gale
- Exhibit 31 - WLC Engineering and Surveying Detail Survey for Gwen Gale/Lacey
- Exhibit 32 – WLC Engineering and Surveying Detail Survey for Cain
- Exhibit 33 – WLC Engineering and Surveying Detail Survey for Garner

Mr. Silva allowed all in attendance time to view each exhibit and after a brief recess there were no objections from anyone in attendance and the exhibits were entered into evidence.

Mr. Silva recessed the meeting for lunch at 12:03 p.m. and reconvened at 1:10 p.m.

Mr. Silva noted that while Road and Bridge had not rested he would take one landowner out of order to present her evidence and testimony as she needed to leave the proceeding.

Giovanna M. Merendino-Lamb specifically requested a 15 MPH speed zone and legally enforceable stop signs if the county formally adopts the road.

Attorney Davis asked if Ms. Lamb is supporting the formal adoption of Cherokee Road. Attorney Davis asked that since there is an existing easement from Patent would she be seeking damages. Ms. Lamb clarified that she does support the road being a county road and is not looking for damages and that she would like to make sure the adoption of the county road is enforceable for safety reasons. Nobody else in attendance had questions for Ms. Lamb.

Mr. Silva turned the proceeding back over to Attorney Davis who recalled Mr. Douglas Allan Boyd back as a witness.

Mr. Boyd reviewed the surveys and stated the exact footage of affected property for each parcel if the road was to be formally adopted.

Attorney Davis moved to admit exhibits CCRB34 through CCRB45 as follows:

- Exhibit 34 – Wagon Circle/Ezell
- Exhibit 35 – Wagon Circle/Merendino-Lamb
- Exhibit 36 – Wagon Circle/Watson
- Exhibit 37 – Wagon Circle/Soto
- Exhibit 38 – Wagon Circle/Holloway
- Exhibit 39 – Wagon Circle/Trent Morgan
- Exhibit 40 – Wagon Circle/Travis Morgan
- Exhibit 41 – Wagon Circle/Waylan Morgan
- Exhibit 42 – Wagon Circle/Marybeth Gale
- Exhibit 43 – Wagon Circle/Gwen Gale
- Exhibit 44 – Wagon Circle/Cain
- Exhibit 45 – Wagon Circle/Garner

There were no objections from anyone in attendance and the exhibits were entered into evidence.

Mr. Silva again opened the floor to any landowner seeking damages to present evidence and testimony.

Waylan Morgan testified about past survey issues that have occurred on his and his family's properties which has created mistrust. He was clear that he and his family favors this being a county road and they had previously fenced their property an additional 5 feet away from the existing road to allow the county additional room for snow removal. Mr. Morgan respectfully requests the Board to reconsider compensation for all the Morgans' previous good faith for actions.

Currently, Waylan Morgan is not willing to move the current fence line. Attorney Davis asked if Morgan was aware of an existing easement prior to his purchase of the property from his mother and he acknowledged that he was aware and in fact acknowledged he attended the original hearings to make this a county road in the early 2000's. Attorney Davis asked if the Morgan family was in favor of the adoption of Cherokee Road as a County Road, in which they stated that they are. Mr. Silva asked Waylan if he agrees that the benefit of having this be a county road outweighs the damages requested to which he replied he did agree. There were no questions from anyone else present.

Evelyn E. Ezell asked what happened to the rest of her property citing that she formerly owned more previously. She stated she does not object to the formal adoption of County Road and when asked by Mr. Silva agreed that the benefit exceeds the costs of damages that would occur if the road was adopted. There were no other questions of Ms. Ezell.

Sharon Watson discussed dirt used from her property for the development of the county road which created an irrigation pond. Ms. Watson does not object to the formal adoption of the County Road and when asked by Mr. Silva, she stated that the benefit of formal adoption exceeds the costs of the damages requested.

Arturo Soto admitted that while he did not submit an original request for damages timely, he would like assistance in relocating his fence. He stated he totaled the materials to be approximately \$14,000.00. Attorney Davis showed Mr. Soto a certified mail return receipt and he acknowledged that he did sign for the letter from the county but did not read it timely to respond with his damage request prior to the deadline.

Mr. Soto does not object to the formal adoption of County Road and when asked by Attorney Davis he stated that the benefit exceeds the costs of damages that would occur if the road was adopted.

Greg Nelson stated that he is specifically requesting 15 MPH speed zone and legally enforceable stop signs if the road is adopted. He would like to see the safety of the road increased. Mr. Nelson, is in favor of the formal adoption of County Road. He did not request damages.

Michael Scheid stated he is the 1/5 owner of a 160-acre parcel on the northern portion of the road and he is not concerned with receiving damages for his portion of his property from the county for his property.

Mr. Silva called for any other testimony or evidence noting that the county would have to assume landowners that did not present evidence or testify today did not refute the evidence and testimony presented by Carbon County Road & Bridge.

Attorney Davis did not have any rebuttal remarks.

Closing Statements

Attorney Davis provided her closing statements outlining a recommendation of calculating the square footage of property of the road at the recommended \$0.22 per square foot less any benefits. She did recommend allowing the Morgans to submit three bids to relocate their fence and the county paying that expense from its chosen bid however offering no damages to Mr. Soto as he did not submit a request timeline. Finally, she recommended formal adoption of this as County Road 451, Cherokee Road.

EXECUTIVE SESSION

Commissioner Espy moved to go into executive session at 2:28p.m. with Wendy Newbrough and Hearing Examiner Silva to discuss matters considered confidential by law. Commissioner Moore seconded and the motion passed unanimously.

Commissioner Espy moved to come out of executive session at 4:45 p.m. noting no action was taken and that the minutes be signed and sealed. Commissioner Johnson seconded and the motion passed unanimously.

FINDINGS OF FACT & CONCLUSIONS OF LAW

Commissioner Moore moved to approve and adopt the Findings of Fact and Conclusions of Law Regarding Adoption of Cherokee Road (County Road 451) and that no net damages will be awarded to any landowner. Commissioner Johnson seconded and the motion passed unanimously.

ADJOURNMENT

Commissioner Espy moved to adjourn the meeting at 4:49 p.m. Commissioner Moore seconded and the motion carried unanimously.