

STATE OF MAINE
WALDO, SS

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. BELSC-CV-2024-48

Charles Hadyniak,)
Lynn Hadyniak,)
Catherine Hadyniak, and)
Kyle Hadyniak.)
Plaintiffs,)
v.)
Town of Freedom, Maine,)
Defendant, and)
Parties in Interest.)

AFFIDAVIT OF HEATHER DONAHUE

I, Heather Donahue, of [REDACTED], in the Town of Freedom, County of Waldo, State of Maine, duly sworn, do hereby state under oath:

1. I am an elected Member of the Freedom Select Board and resident of the Town of Freedom, Maine and this affidavit is prepared in both capacities.
2. I purchased my land on Beaver Ridge Road in 2020 and have been walking and snowshoeing on Beaver Ridge Road since then, which I have done without permission from any abutter.
3. I walked the full length of Beaver Ridge Road at least once a week during the summer of 2022.
4. I was not aware of any conflict around the road at that time, but I did notice a barricade and no trespassing signs.

5. Despite these signs, I continued to walk on the road. It was mapped as an open road in my 2015 DeLorme Maine Gazetteer (considered the authoritative mapping book of the State of Maine), on the tax map page of the town website, and on the Waldo County Emergency Response map that hangs in the Town Office. I have attached all three of these maps in Exhibit 1.

6. In a conversation that occurred while passing on the road in late summer of 2022, Lynn Hadyniak claimed passage on the road was by the Hadyniaks' permission only. I disputed this based on the maps. I continued to use the road. No one stopped me.

7. In Fall of 2023, during a conversation at Tyler Hadyniak's house, he expressed support for the use of eminent domain for a high-voltage powerline proposed to come through Freedom. I told him I found this surprising given the Hadyniaks' stance on the road. I didn't understand how they could barricade a public way, taking more than their share, while supporting the seizure of other resident's legitimate private property. This conversation led to an email exchange between me and Tyler Hadyniak regarding the status of the road. We agreed to disagree.

8. In March of 2024, I was elected to the Freedom Select Board.

9. On the Select Board, I was asked to be the point person for legal matters.

10. By agreement among the three Select Board Members, I am the primary researcher for the Select Board regarding the status of Beaver Ridge Road, in the hopes that if I could do some legwork for the Town Attorney, we might keep legal costs down. The current litigation is the second complaint filed by Tyler Hadyniak against the Town in the past year.

11. In the course of my research, I found many maps and documents that showed the scope and location of the public easement for Beaver Ridge Road as originally taken in 1823, and the portions explicitly retained by town vote in 1956. I also discovered the significant historical, emergency, and transportation value of Beaver Ridge Road to our town, in addition to its ongoing recreational use.

12. I found the only map of what is now Freedom without Beaver Ridge Road. Attached as Exhibit 2 is the first known survey of what was then known as Beaver Hill Plantation. It is from the Massachusetts Archives Maps and Plans #2637. On the map is originally noted, “from Senate papers 1811, No. 4236.” Its exact creation date is given as 4/27/1810. I retrieved this online. I have labeled the year in red.

13. I found the first known map of Freedom, as Freedom, originally from 1818. In it, Beaver Ridge Road is already laid out. The Road connects Montville and Palermo. This map is in the Town Office, filed with documents from the Freedom Road Committee. I have labeled this map with the year, highlighted the original road in red, and placed dots where Greeley and Sibley Roads intersect Beaver Ridge Road—the same location in 1818 and today, and attach it as Exhibit 3

14. In Town Office records, I found the 1823 document filed with Kennebec County (Waldo County didn’t exist yet), finalizing the way laid out and damages paid for what I believe to be the original length of Beaver Ridge Road, as a portion of the County Road taken through Freedom and connecting Montville to Palermo, and attach it as Exhibit 3.5. I have included and highlighted in yellow an excerpt from the original document that shows the taking to be a four rod road, which is sixty-six feet wide. I have learned that this document came from the Maine DOT archive and was researched and provided to the town by Town resident Robert Kanzler,

from his work on the Freedom Road Committee with Sallyann Hadyniak and Stephen Bennett
The Town will hire an expert surveyor to review the document, its legal descriptions, and provide
an opinion if it does include the Beaver Ridge (Hill) Road.

15. I found that Revolutionary War soldier, Levi Temple and his wife, are buried In Beaver Hill cemetery. His grave has not yet been found. This information was presented to the Select Board by the Freedom Cemetery Committee and supported by the attached screenshot from a search on findagrave.com.

16. I found, upon a close up of the 1818 map, that the shape of Beaver Ridge Road from Greeley to Sibley Roads looks as it does today. I have highlighted this portion of Beaver Ridge Road and labeled the year in red, which is attached in Exhibit 4

17. I found, on the 1916 USGS map, that the shape of Beaver Ridge Road from Greeley to Sibley Roads looks as it does today. I have highlighted this portion of Beaver Ridge Road and labeled the year in red. I have retrieved this map from the USGS “Get Maps” website (ngmdb.usgs.gov). See attached Exhibit 5.

18. I found, on the 1926 map, that the shape of Beaver Ridge Road from Greeley to Sibley Roads looks as it does today. There is a black and white version of this map in the town office. The color version here was downloaded through the “Hiiker” app’s historical map collection. I have highlighted the portion of the road and labeled the year in red, and attach it in Exhibit 6.

19. I found, on the 1942 USGS map, that the shape of Beaver Ridge Road from Greeley to Sibley Roads looks as it does today. I retrieved this map from the Federal USGS “Get Maps” website. I have highlighted this portion of the road and labeled the year in red. This section of Beaver Ridge Road looks just as it did in 1818, 1916, and 1926, and I attach it in Exhibit 7.

20. I found, on the 1950 USGS map, that the shape of Beaver Ridge Road from Greeley to Sibley Roads looks as it does today. I retrieved this map from the Federal USGS “Get Maps” website. I have highlighted this portion of the road and labeled the year in red. This section of Beaver Ridge Road looks just as it did in 1818, 1916, 1926, and 1942, and I attach it in Exhibit 8.

21. The Town voted to discontinue Beaver Ridge Road to maintenance in 1956, while preserving a “public way” that implies at least a public easement “From O.B. Ward’s to discontinued road over Beaver Hill.”

22. I found, on the 1961 USGS map, that the shape of Beaver Ridge Road from Greeley to Sibley Roads looks as it does today, and as it did in 1818, 1916, 1926, 1942, and 1950. The exception in 1961 is that for the first time the road is now a dashed line instead of a solid line from O.B. Ward’s house to the “road Over Beaver Hill”(now called Deer Hill) where it intersects with Sibley Road. This reflects the 1956 vote of discontinuance. I retrieved this map from the Federal USGS “Get Maps” website. I have highlighted this portion of the road and labeled the year in red, which I attach in Exhibit 9.

22.5 Attached in Exhibit 9.5 are the collection of aerial photographs taken in 1978, as found in the Town Office records safe, and the collection depicts that the Beaver Ridge Road ran in 1978 from the Greeley Road to the top of Beaver Hill and the Sibley Road intersection.

23. I found the next available USGS map available on their “Get Maps” website is from 2011. The USGS started using satellite mapping in 1972. The 2011 map shows the portion of Beaver Ridge road from Greeley to Sibley Roads as a solid line again. This map once again shows the

shape of this portion of Beaver Ridge Road just as it was in 1818, 1916, 1926, 1942, 1950, and 1961, and as I continue to walk it today, which I attach in Exhibit 10.

24. I found the next available USGS map of the area on the Federal USGS “Get Maps” website was from 2018. This is the first map in which there is a break in the road depicted after 200 years intact. I have highlighted the portion of the road from Greeley Road to Tyler Hadyniak’s house in red. The discontinued portion on this map is a dashed line, after O.B. Ward’s house. I have also highlighted the Sibley Road and labeled the year in red, and attach the map in Exhibit 11.

25. The Hadyniaks had been living on the road and confronting members of the public who were using the road for just over twenty years by 2018. These confrontations were confirmed by their own testimony at the town hearing on January 28th and corroborated by the town’s public on-line questionnaire/survey regarding use of Beaver Ridge road, collected in 2024.

26. I found the next available USGS map of the area available on their “Get Maps” website is the current, 2025 map. Beaver Ridge is depicted as a discontinued road after the Hadyniaks’ homes, but with a small gap in the Northern end of the route. At this gap is a new road diverting the public way in a Northwest direction toward Sibley Road, on and to Bennett family land. I attach the current USGS map that I’ve labeled with the year in red and circled, in yellow, the new gap in the road. This is a screenshot of the current USGS map from within the “Hiiker” app that I use to record my walks, and is attached in Exhibit 12.

27. Using the “Hiiker” app, I recorded my walk of January 27. 2025 on Beaver Ridge Road from Greeley Road to Sibley Road and back down to the Southern end of the disputed portion. The road, despite diversion, is still fully passable on foot. With a day’s repair, it could again be

passable by ATV and snowmobile. Its original stone wall boundaries are damaged, but still visible.

28. The attached screenshot of my recorded walk shows the shape of Beaver Ridge Road today is as it has been for 207 years, as measured from the date of the 1818 map attached hereto in Exhibit 3. The recording shows I am well within the sixty-six foot easement. I have labeled the year in red, and it is attached in Exhibit 13.

29. On my January 27th walk, I took the attached photograph, facing north, toward Sibley Road, from the junction at which the Bennett's road diverts the public way, which I attach in Exhibit 14. There are no trees in this brushy section (the small gap in the current USGS map) over fifteen years old, judging by tree circumference. There is certainly no eighty year old growth here. The culvert has been removed and replaced with a small wooden bridge.

30. In this photograph in Exhibit 14, the orange blazes I painted are depicted, using the historical maps, gps, and visible rock walls. The blazes are approximately thirty feet apart, showing the center of the easement.

31. From that position of taking the photograph in Exhibit 14, I pivoted left to take the attached photograph of the Bennett's diverting road, facing northwest, as attached in Exhibit 15. The Bennett's road forms a berm that functions as a dam to keep water in the public way and prevent it from running onto their land, ensuring that the public way continues to be damaged by water.

32. On this January 27th walk, Stephen Bennett and his wife Judy were waiting for me in their car at the intersection of Sibley, Deer Hill, and Beaver Ridge Roads. According to Mr. Bennett's testimony at the hearing on January 28th, Tyler Hadyniak had notified him when I passed his house, so the Bennetts could meet me at the Sibley Road. I was accused of criminal trespass and

vandalism I was told by Mr. Bennett that he, “Would be calling the sheriff again.” Mr. Bennett informed me that he would “Tell everyone!” of these accusations.

33. I requested he bring a survey to the next day’s hearing.

34. Mr. Bennett and his daughter, Erin Bennett-Wade reiterated their accusations at the public hearing on January 28th.

35. I have received no visit, nor any other communication, from law enforcement.

36. I have attached as Exhibit 16 a screenshot from the OnX hunting app, which shows roads and property lines. I have circled in red the section where Erin Bennett-Wade has a driveway leading to no home. This driveway runs parallel to and overlaps the sixty-six foot easement. This driveway also functions as a dam to retain water in the public easement, ensuring continued damage, while preventing the water from running onto Bennett property.

37. Given that Article 34 in the 1955 Town Report (voted on in 1956) states that the retained easement runs, “From O.B. Ward’s to discontinued road over Beaver Hill,” the next phase of my research was to determine the location of the “discontinued road over Beaver Hill, in which I focused on the road being “over” and “Beaver Hill” as a geographic location and not a road name.

38. The attached photo from the Town Office copy of the 1955 Town Report, shows notations in the margin beside each of the roads mentioned in the article, as attached hereto in Exhibit 17. All are accurately labeled with current road names. Next to the article regarding the disputed road is written, “Bloomstein” The Bloomstein’s live on the upper section of the road over Beaver Hill, now called Deer Hill. I do not know who added this marginalia, but it names roads as they were after the adoption of 911 addressing standards, sometime in the late 1990s.

39. I was aided by Barbara Arsenault in the Waldo County Commissioners office in obtaining an index of all petitions from the Town of Freedom to the County regarding road matters.

40. In 1931, there was a petition for repairs on the road “over Beaver Hill to Shibley’s (sic) Four Corners.” I have attached the relevant page of the index with this line highlighted, in Exhibit 18.

41. I then requested the original petition from 1931 and Ms. Arsenault kindly provided a copy. I have attached it in Exhibit 19. I have highlighted the description of the road over Beaver Hill in yellow. It describes the road as running, “...over Beaver Hill in a westerly direction to Sibley’s Four Corners...”

42. The location of this road was further confirmed by the 1938 Maine Traffic Flow Maps. These maps were produced at the time Maine was installing or upgrading State Aid roads for newly popular automobiles. In the map attached in Exhibit 20, the then-newly constructed North Palermo State Aid Road is depicted (left side dark print) as an upgraded traffic corridor, which still serves as a major traffic route through Freedom. The singular purpose of the Traffic flow map was to depict the designed traffic flow, which is why the North Palermo Road stands out in the depiction. The elimination of a depiction of a portion of the Beaver Ridge Road from this map is as a suggestion of the status of the Beaver Ridge Road in 1938 is contradicted by the many post-1938 maps I have attached to this affidavit this. It is further contradicted the 1944 and 1948 Town appropriations and requests for funds as demonstrated in the attached Exhibits 22 and 23.

43. For demonstrative purposes, on the traffic map in Exhibit 20 I have highlighted the “road over Beaver Hill” in yellow, and labeled in red. The yellow portion highlights the location of the Beaver Ridge Road that ran “over” Beaver Hill as referenced in the 1956 Warrant Article in

question. As has been referenced by Plaintiffs' affiant Stephen Bennett in public, the portion of Beaver Ridge Road that was heavily damaged in 1954 includes this yellow area, as marked, and this area was not repaired by the Town, but was repaired through a private donation and work. Thus, a large portion of the Beaver Ridge Road was unusable between 1954 and the time of the 1956 vote to discontinue the road "From O.B. Ward's to discontinued road over Beaver Hill." The only rational reading of Article 34 is that the Town voted to discontinue the Beaver Ridge Road "over" "Beaver Hill", a geographic location, to the "discontinued road," meaning the large section of Beaver Ridge Road (now called Deer Hill) that was for all practical purposes "discontinued" or unusable after the 1954 hurricanes.

44. There is no record of any Freedom public way being "discontinued" by legislative vote prior to 1956 which could possibly be construed as being the "discontinued road over Beaver Hill," if we give each of these five words their reasonable meaning. Multiple on-line dictionaries demonstrate that a common synonym for "discontinued" is "inaccessible" and defined as "no longer available." The first definition in the World Book dictionary defines "discontinue" as "to cause to cease; put and end or stop to." The Cambridge Dictionary defines "discontinue" as "To end something or cause it to end." The drafters of the 1956 Warrant Article were not exacting in their use of words: they voted to keep all the discontinued road sections of the Beaver Ridge Road "opened as public ways," which many people in Freedom assume really intended to retain a "public easement."

45. Stephen Bennet read a letter from Richard Martin at the February 4, 2025 public hearing on the Beaver Ridge (Hill) road, and Mr. Martin wrote, "The road over Beaver Hill was washed out in 1953 (sic, 1954) from a hurricane and never repaired." Mr. Martin signed this letter, "Sincerely, Richard Martin, previous owner of property bordering the Over the Beaver Hill Road

and a resident of Freedom for over 50 years.” Mr. Martin owned 85 acres in the area between North Palermo Road and Beaver Hill Road along Sibley Road. The road over Beaver Hill could be considered “discontinued” in a literal sense that no one was using it at that time after the back to back hurricanes in 1954, as the population of Freedom dropped dramatically between 1950 and 1970, and there were too few taxpayers to cover such repairs.

46. Plaintiff’s claim the “road over Beaver Hill” is near where their property begins, which is over a mile and a half from the area Mr. Martin describes. I have attached the letter from Richard Martin, entered into the record by Stephen Bennett in Exhibit 21.

47. The Plaintiff’s claim the road has been abandoned for at least eighty years. That would be 1944, from the date of their filing. I have attached the Town of Freedom’s appropriations for 1944 in Exhibit 22. I have highlighted the title of this document and the item that reads, “Improve Beaver Hill Road—\$400.00” I found this document in the town vault, with assistance from our Clerk, Cynthia Abbott. Residents of Freedom testified to their ongoing maintenance of the road at the January 28th hearing. Though I found no appropriations were made by the Town after 1944, we have a Town Meeting form of government and our residents *are* the Town, and function as the legislative body. Therefore, it is reasonable to consider that residents’ maintenance is maintenance by the Town.

48. I searched online to find the equivalent spending power of four hundred 1944 dollars today. It is \$7,172.84. I have attached a screenshot of this Google search in Exhibit 22.5. For context, the Town of Freedom recently appropriated a little over \$ 4,000 which served to maintain about a thousand feet of a gravel road.

49. I further searched the County's road index for Freedom and Beaver Hill/Ridge and found that a petition was presented to discontinue—*for winter maintenance only*—a portion of Beaver Ridge Road one-half mile past O.B. Ward's residence in 1948, which record is attached as Exhibit 23. The reason this was done was because Beaver Ridge Road is steep in parts and O.B. Ward's house was then the last winter occupied house when travelling from the Greeley road toward the top of Beaver Hill.

50. There is no mention of any otherwise discontinued road in this petition, nor is there any mention of the "road over Beaver Hill". If either was a terminus for this winter discontinuance, it would have been included as important context for the Commissioners. I have attached the copy of this petition provided to me by Barbara Arsenault in the County Commissioners office. I have labeled this document in red.

51. The 1948 petition to discontinue winter maintenance is the only town or county document to mention anything about the status of a road for a half-mile past the Ward house. The Plaintiffs have offered no official town or county document to support their claim that the easement on Beaver Ridge Road ends a half-mile from O.B. Ward's property.

52. I found it to be a reasonable assumption that the town was otherwise maintaining the full length of Beaver Ridge Road in 1948. This assumption is supported by Plaintiff's 1997 letter to Maine Municipal Association.

53. In the Town Office map archive, I found the survey of the Log Land subdivision, from which the Hadyniaks bought their land. I've attached in Exhibit 24 it as found, except for my highlighting of the property pins and noted distance to the center of Beaver Ridge Road.

54. I've also attached a closeup of the subdivision map, showing the property pins were placed outside the easement, on the edges of the road, which I attach in Exhibit 25.

55. The distance from the pins to the center of the road is marked as twenty-five feet. The original easement is four rods wide, or sixty-six feet, so this number should rightfully be thirty-three feet.

56. A 1991 the deed into a Hadyniak from Log-Land Corporation was the first deed to include a description that went to the centerline of the Beaver Ridge Road.

57. The Hadyniaks were informed via a September 1992 letter from Selectman Red Mitchell to Sallyann Hadyniak regarding the Road that, "Snowmobilers enjoy this route over the hill". This logically assumes the retention of the public easement over Beaver Ridge Road. See Exhibit 26.

58. Red Mitchell also wrote, "As these roads were discontinued in the fifties, I stated at the time that as the town grows, these roads will be reopened." This would not be possible without the retention of the public easement. I have attached this letter with the aforementioned portions highlighted in yellow in Exhibit 26.

59. I have learned that Red Mitchell was far from being an attorney, and his correspondence in the 1990s on this topic was not always consistent. Mr. Mitchell's correspondence demonstrates that he was not very careful to address the legal distinctions of the terms "discontinuance, public way, public easement, or abandonment;" however, documents he did write from a layman's perspective do make clear that the Town intended to retain at least a public easement in the disputed portion of Beaver Ridge Road.

60. In his 1992 letter, Mr. Mitchell is acknowledging both the discontinuance of maintenance in 1956 and the retention of the public easement. As I have discovered, the difference between these

separate legal categories at different periods of time can be very confusing for the layperson. See letter attached in Exhibit 26.

61. In a letter from Red Mitchell to Sallyann Hadyniak dated May 21, 1996, he no longer equivocates, and states: "The road still remains under the selectmen's control." I have attached this letter with said portion highlighted, in Exhibit 27.

62. In 1997, the Plaintiffs Charles and Lynn Hadyniak signed a letter to Maine Municipal Association, which was co-signed by the Select Board as well as neighbors Walter and Rebecca Woods. I have attached this letter with portions highlighted, as Exhibit 28.

63. In this 1997 letter to MMA, it is stated as fact that, "Until March 3, 1956, the Town of Freedom maintained the entire length of Beaver Ridge Road." This statement is unequivocal in the letter.

64. In this letter to MMA, it is stated as an agreed fact by Plaintiffs' Charles Hadyniak and Lynn Hadyniak that, "On March 3, 1956, the Town of Freedom voted to discontinue Beaver Ridge Road from Ollie Ward's place." Two key pieces of information are noted: 1. the discontinuance location as plainly stated in the letter must have been for the entire "Beaver Ridge Road" as it ran up Beaver Hill from O.B. Ward's home, as there are no words of distance or limitation, and 2. the letter is silent as to the fact that Article 34 retained a "public way" or public easement.

65. In MMA's response to this letter as attached in Exhibit 29, Richard Flewelling wrote that public interest in the road would have reverted to abutting property owners, "*unless otherwise stated in the order of discontinuance.*" (Emphasis his). He further reiterates, "The 1956 town meeting records should be checked to make sure that this is not the case." But it is the case. The public easement was retained.

66. Neither the Select Board nor Town Meeting took a vote to rescind, vacate or discontinue the “public way” or public easement retained in 1956.

67. After all of my research, I conclude that the only logical and rational interpretation of the geographic location described in the phrase “to discontinued road over Beaver Hill,” particularly because the starting point at O.B Ward’s house is located at the bottom of Beaver Hill, is a reference to that portion of the Beaver Ridge Road that was heavily damaged in 1954 and located at the top of Beaver Hill, and the word “discontinued” was just a reality of the fact that there was a portion of the road that was heavily damaged with no intent to repair it.

68. The Select Board made no filing with the County or MDOT to rescind the public easement on Beaver Ridge Road.

69. In 2011, Stephen Bennett had an article added to the warrant for the annual Town Meeting. In it, he asks the Town to vote for the Select Board to explore whether a discontinuance should be declared on the currently disputed portion of Beaver Ridge Road. The article language specifies discontinuance and says, “Can’t use abandonment, as requested.”

70. I have attached a copy of this 2011 warrant article from the Town Office archives. I have labeled this document in red in Exhibit 39 (green highlighting is original to this Town record.)

71. Under the 2011 iteration of MRSA 3028, a declaration of abandonment would have retained the full public easement, including snowmobiles and ATV’s. A declaration of discontinuance, however, would have provided for additional municipal action to determine the extent of the public easement, if it was retained at all. The Select Board never followed up on this article.

72. Mr. Bennett, according to his own testimony, intended to limit the use of Beaver Ridge Road to foot traffic only.

73. Mr. Bennett was already aware of the existing discontinuance with a “public way” easement retained, from his time on the Freedom Road Committee. Despite this knowledge and his 2011 article, he also claims in sworn testimony that the road was abandoned in the 1920’s. The Select Board has repeatedly requested the minutes from the Road Committee be provided them, to no avail.

74. I have included an excerpt from Mr. Bennett’s affidavit, filed with Plaintiff’s motion for Summary Judgement. I have highlighted and labeled this screenshot in Exhibit 31.

75. Regarding his placement of this 2011 article on the town meeting warrant, Mr. Bennett says, “I thought the road had much value as a recreational trail across the axis of town.” I couldn’t agree more. I believe the residents in 1956 also agreed, which is why they retained the public easement.

75.1 The Select Board of the Town of Freedom did not proceed with requests to “privatize” any portion of the Beaver Ridge (Hill) Road in 2021.

76. I’ve attached and highlighted in Exhibit 32 a screenshot from the Court’s December 2024 Order. It cites the Plaintiff’s complaint regarding their claim that “the general public has not used the...Road...for at least the past 80 years,” this representation is entirely in conflict with the testimony received from the public on January 28 and February 24, 2025, and entirely contradicted by over 50 on-line responses from the public to a questionnaire which requested information as to use of the Beaver Ridge road. Uses for ATVs, snowmobiles, walking, hunting, traversing the road to other parts of town, horseback riding and snowshoeing continue by many members of the public. Many members of the public testified to routinely cutting brush to keep open the Beaver Ridge Road.

77. I've attached in Exhibit 33 a photograph from one of my walks on Beaver Ridge, showing the open road. Also pictured are snowmobile tracks (not mine). This is facing south on Beaver Ridge Road from the southernmost windmill. This photo is typical of the open road surface of the Beaver Ridge Road from the Hadyniak properties to Ronald Price's fields where the wind turbines are located at the top of Beaver Hill.

78. I've attached in Exhibit 34 a photograph of the southernmost windmill near the top of Beaver Hill next to Ron Price's property, to contextualize the other two photographs.

79. I've attached in Exhibit 35 a photograph facing north on Beaver Ridge road from the southernmost windmill. Clearly, this road is passable for vehicles for much of the year and hasn't been abandoned for five years, let alone the claimed "eighty."

80. Exhibit 32 also includes an excerpt from the Court Order All Pending Motions ("Court Order") which cites that the Complaint alleges some kind of action by the Select Board in 1997, the time of the correspondence with MMA. I would reiterate that no legal action or legally authorized vote was taken by the Select Board at that time, or any time, to abandon or determine the status of Beaver Ridge Road. There was not then, nor has there ever been a vote by the Select Board or the Town to rescind the public easement on Beaver Ridge Road.

81. Exhibit 32 also includes an excerpt from the Court Order that refers to Plaintiff's allegation that the Town has "never interfered with the Plaintiffs posting the Road as private property."

82. Regarding the allegation in the preceding paragraph, I called MMA's Legal Department this past summer, to ask whether the Town could remove the Hadyniaks' "No Trespassing" signs. I understood from MMA attorney Rebecca McMahon that the Select Board should not touch the Hadyniaks' personal property. I have no reason to believe that previous Boards would have been

given different advice. From the perspective of the current Select Board, the presence of these signs doesn't establish private property rights; it creates unlawful obstruction and a public nuisance as stated in the Town's Counterclaims.

83. In Exhibit 36 I have attached a second, highlighted excerpt from the Court Order which states, "the absence of facts asserting that the municipality disclaimed its interest in a public easement at the time of abandonment indicates that the Road may still be subject to a public easement." There is an absence of facts supporting this assertion because they don't exist. The Town of Freedom has never disclaimed its interest in the public easement to Beaver Ridge Road. Not by Select Board vote, not by Town vote.

84. I have attached in Exhibit 37 a highlighted excerpt from Plaintiff's Motion for Preliminary Injunction. It states, "Since January 25, 2025, there have been no less than four incidents involving members of the public using the disputed portion of Beaver Ridge Road in a manner which could be deemed a public nuisance."

85. I am confused by the Charles Hadyniak's affidavit testimony that there is no public use of the road. The quoted statement regarding multiple public uses in a week, in conjunction with the consistent legal letters and calls to law enforcement over the past year, in an attempt to police the public's use, contradict the claim of no public use. As stated above, I have used the road many times without being challenged.

86. I have attached as Exhibit 38 a thumb drive with a video taken February 2, 2025 of one of the incidents described in the pending Plaintiffs' Motions. In this video Charles Hadyniak and Tyler Hadyniak confront a snowmobiler using the Beaver Ridge Road and Charles Hadyniak takes the dangerous position of standing in front of the snowmobile and blocking its passage; this self-help

aggressive behavior is deliberately inciting confrontation. In contrast, the snowmobiler repeatedly informs the Hadyniaks that they are unsafely obstructing his passage and must repeatedly request them to move.

87. I have been subjected to threats and accusations by abutters since I began researching this matter, which I believe is an attempt to intimidate me into silence. The Hadyniaks have threatened to sue me personally.

88. In a letter from Tyler Hadyniak dated July 26, 2024 to the Select Board, in which he describes three different residents' use of the road, despite obstructions both placed and spoken by himself and his family. In this letter, he also describes his intent to sue Select Board members individually. He also expresses his disregard for what his litigation may cost our town's taxpayers. He copied law firm Preti Flaherty, which has no role in this litigation, and copied the Maine Attorney General on this letter. I believe these threats an effort at sophomoric intimidation and are done in bad faith as the Freedom Select Board merely does its duty to defend public rights in a public easement.

89. At the duly noticed public hearings pursuant to 23 MRS §3028-A, conducted by the Select Board on January 28, 2025 and February 4, 2025, six hours of testimony was offered by the public and that testimony includes and reveals the following personal knowledge commentaries with regard to personal use of the Beaver Ridge Road which covered the period from 1960s to the present:

(i) many members of the public sought clarify from public officials for the last thirty years and it was confirmed that the Beaver Ridge Road was open to the public; (ii) many residents have ignored the postings and obstructions by the Hadyniaks based on representations of open public

use, or because they would not be cowed by the Hadyniaks; (iii) as late as 1966 the Beaver Ridge Road was passable by vehicle to Ron Price's fields where the wind turbines are presently located, as testified to by long-time resident Robert Kanzler (iv) for at least the last 3 decades ATVs and snowmobiles have annually traversed the Beaver Ridge Road; (v) Ron Price has admirably allowed anyone to use his fields as a detour for ATVs and snowmobiles for travelers who come up Beaver Hill and then continue down the Deer Hill Road (as it is currently known and depicted in yellow highlighting on Exhibit 20); (iv) in the 1980s Boy Scout troops used the Beaver Ridge Road travel to the Russell Road up and over Beaver Hill; (vii) the residents have pitched in to cut brush and keep the Beaver Ridge Road open on a near-annual basis; (viii) ATV and snowmobile operators have traversed the Beaver Ridge Road up to Ron Prices fields, then traversed the fields, and continued on their travels; multiple people understood from Red Mitchell, former Selectman, that the Beaver Ridge Road was open to the public and they relied on that information to use the Road; (ix) it was stated in the hearing by Rober Kanzler that the property owner Sallyann Hadyniak was not pleased but backed down when conceded that the Beaver Ridge Road was a public easement; (x) within the last ten years or so, a Town Road committee discussed and understood that he Beaver Ridge Road was a public easement; and, (xii) the Road has been used to access property for hunting on abutting private property, horseback riding, hiking, walking, and snowshoeing, which according to the Plaintiffs was without their permission. An Attested and Select Board approved copy of the minutes/transcript of the public meetings of January 28 and February 4, 2025 public hearings are attached hereto in Exhibit 39.

90. Attached in Exhibit 40 is the summary sheet depicting the results of an on-line questionnaire as to public use of the Beaver Ridge Road that was administrated by the Town of Freedom,

91. Attached in Exhibit 41 is a map that includes the Beaver Ridge Road as part of a seven mile loop, comprised of the Mitchell Road, the Deer Hill Road, the Beaver Ridge Road, and the Greeley Road that residents use as a collection of public ways for traversing the central part of the Town of Freedom over public ways.

DATED: February 20, 2025



Heather Donahue

STATE OF MAINE

February 20, 2025

WALDO, SS

Personally appeared the above named Heather Donahue, individually and in her capacity as a Select Board Member of the Town of Freedom, Maine, who first being duly sworn, made oath that the forgoing statements are based on her personal knowledge and the facts set forth are true, with the exception of those facts which are based upon information and belief and that, as to those facts, she believes them to be true.



Notary Public

WILLIAM S. KELLY

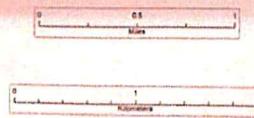
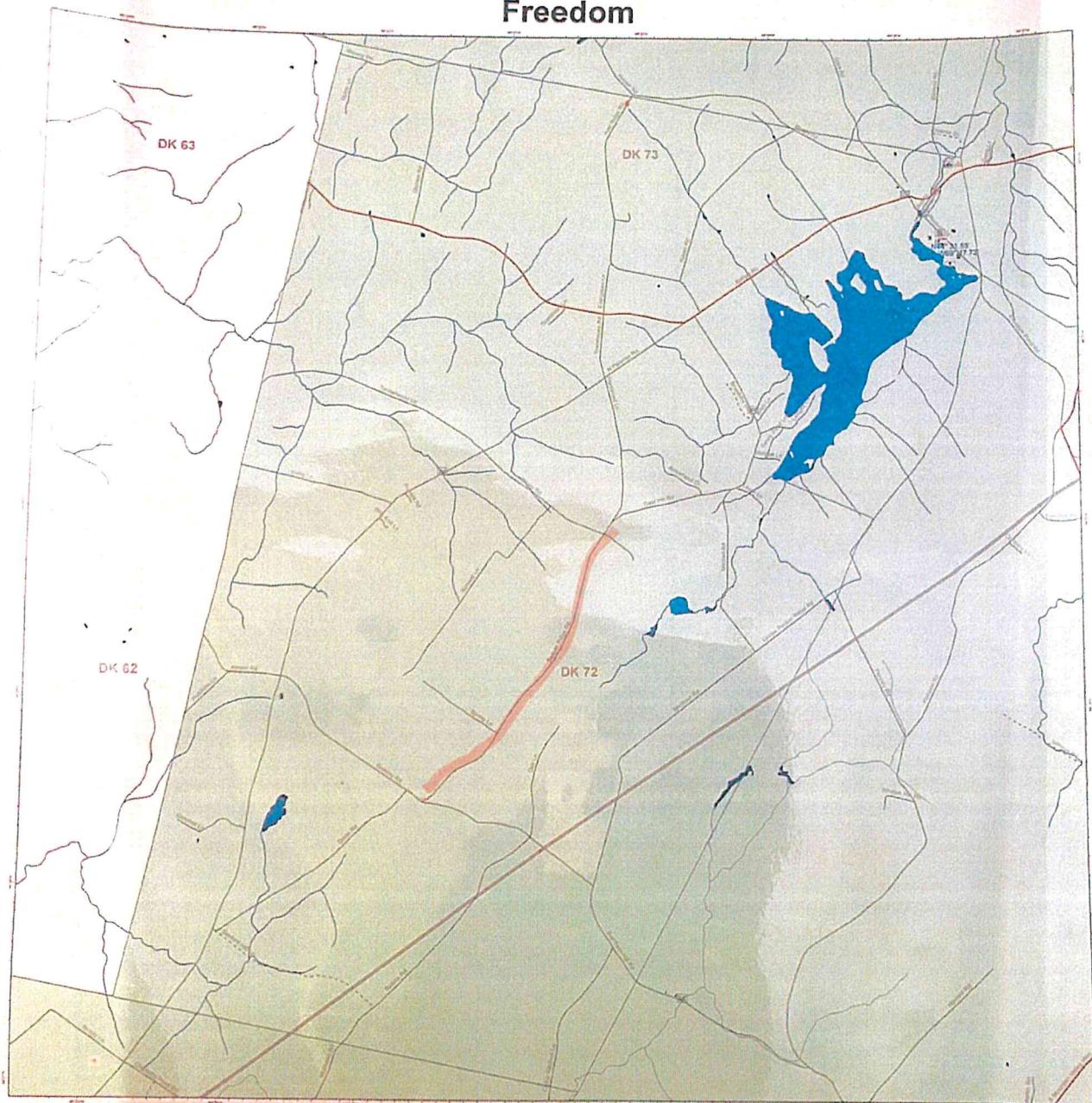
Printed Name

BAR # 2077
My Commission Expires: _____

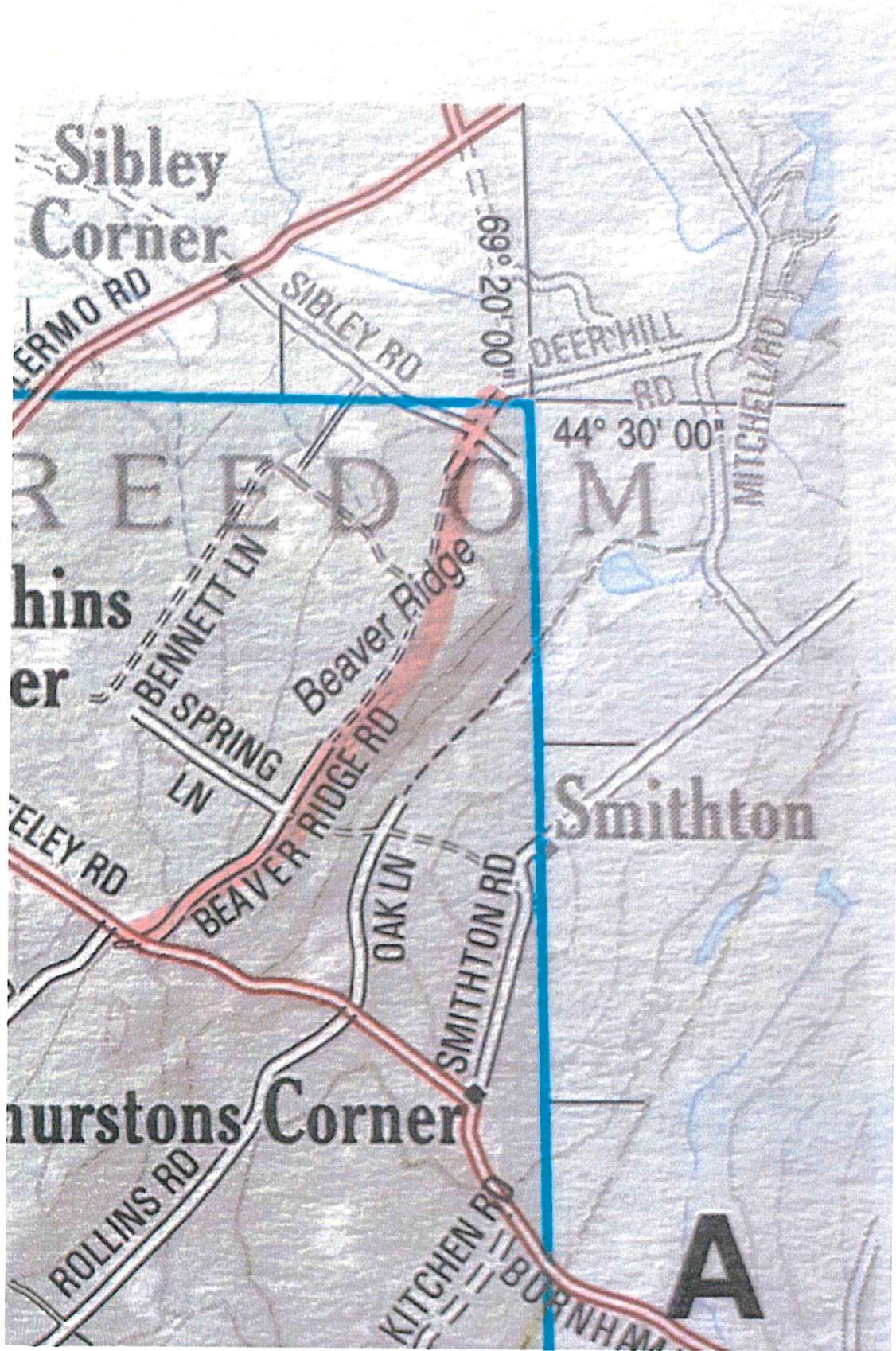
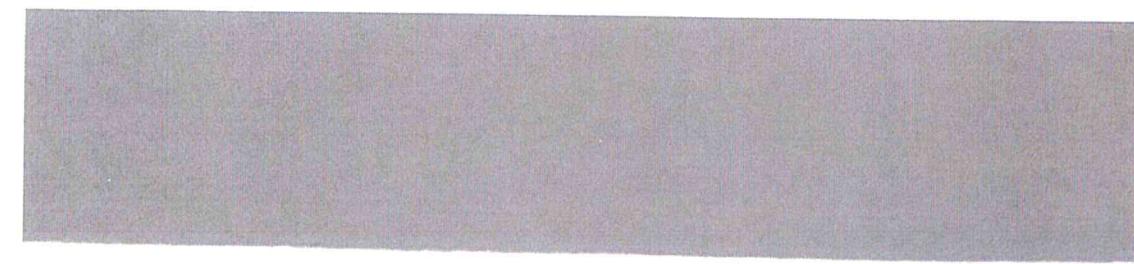
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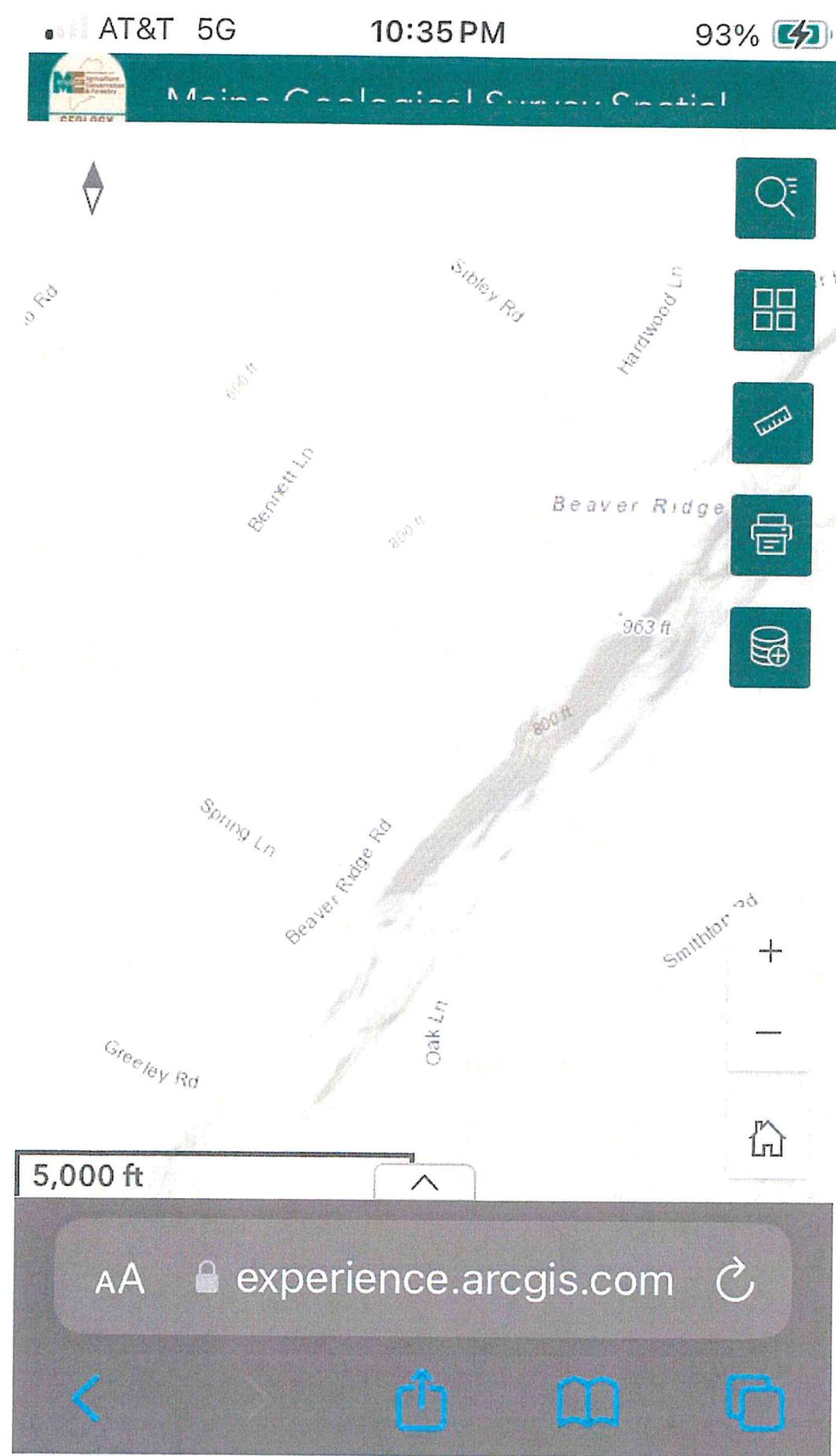
1

Emergency Operations Map Waldo Co. Maine Freedom



Author: R.E. Wiley, 23 Feb 2014
Hydrograph from National Hydrographer
Database
10003 from DNRG (Dense Rain Gauge)
Data downloaded from USGS Office of Water
10003_10003_1001





INDEX
MAP
TOWN
OF
FREEDOM

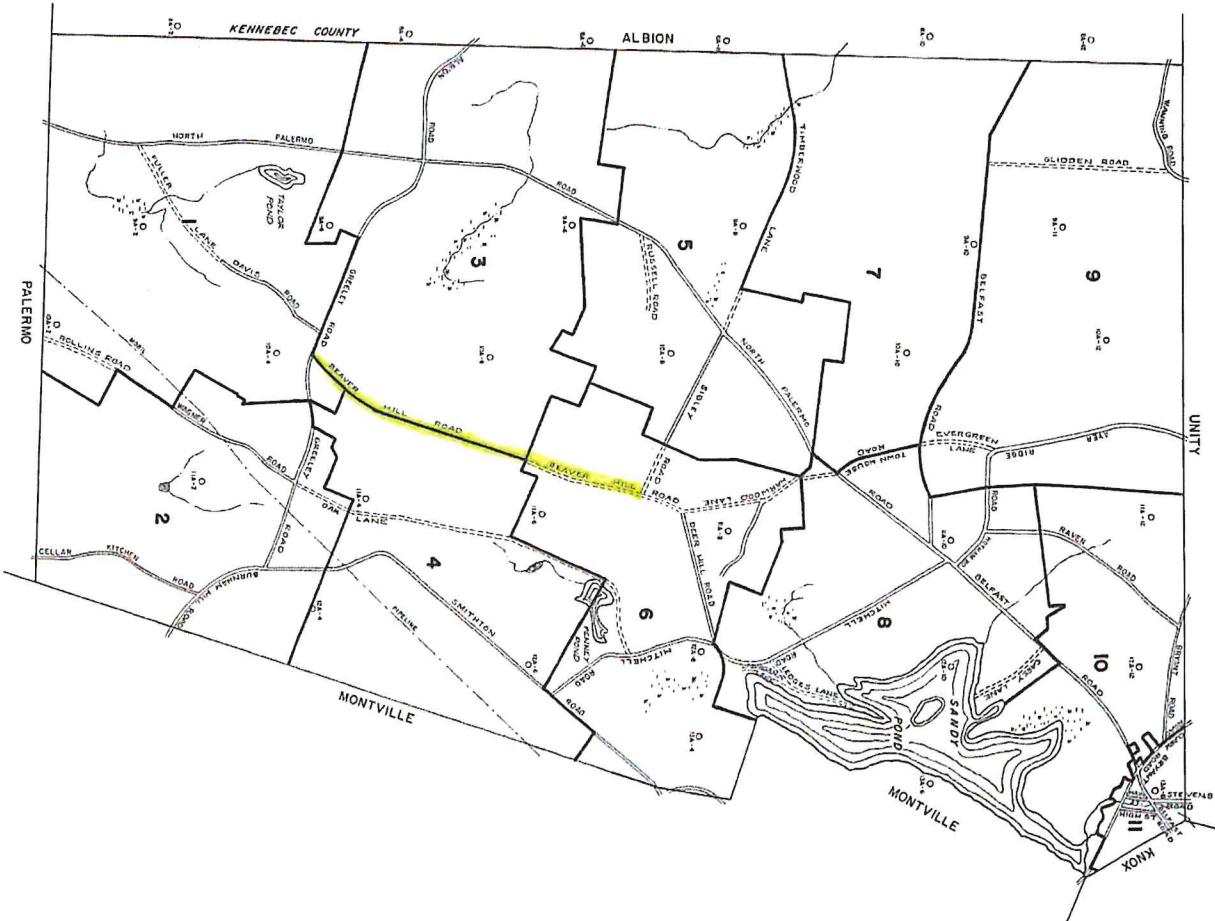
WALDO
COUNTY
MAINE
1979

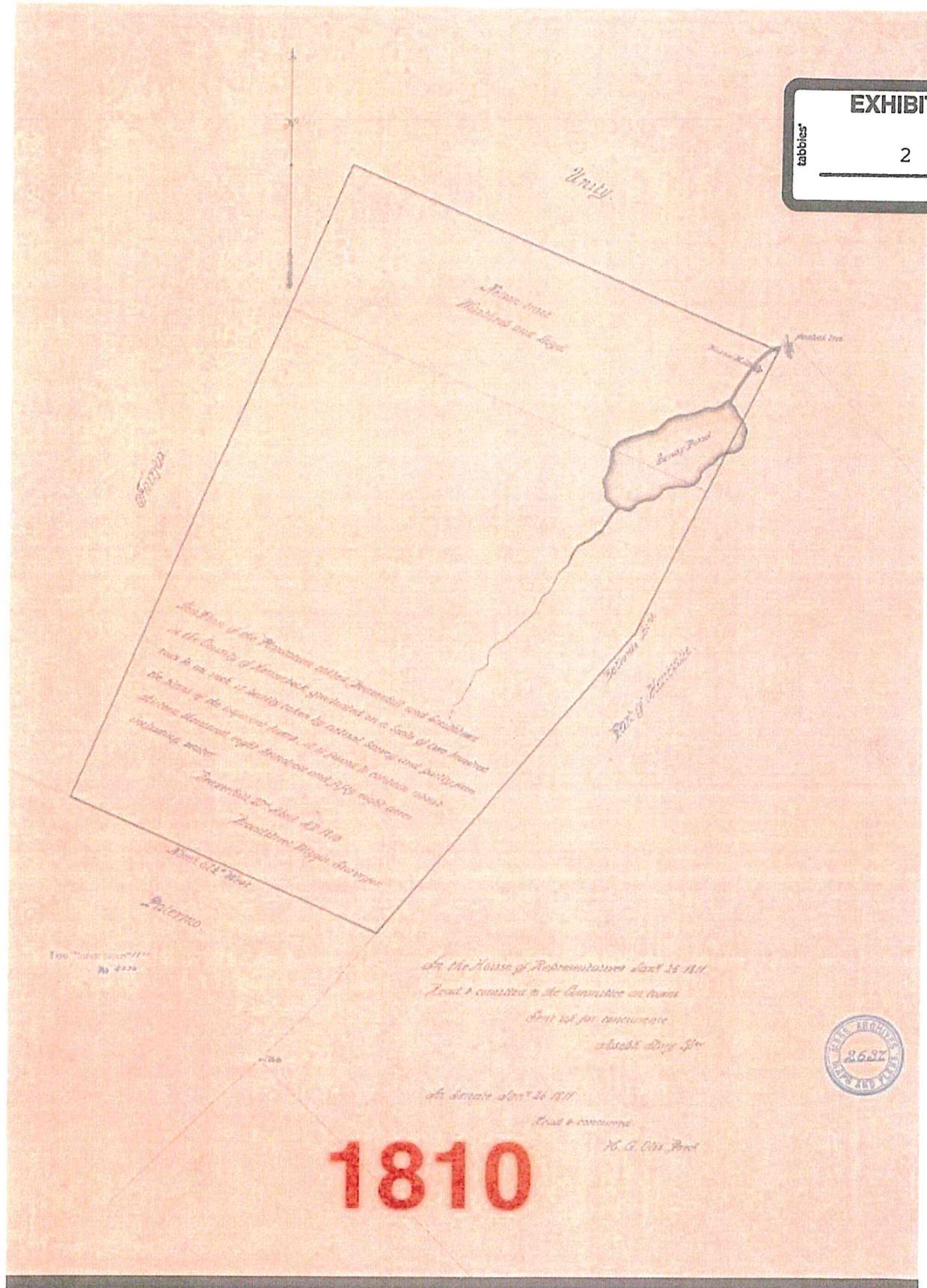
PREPARED
BY
SLF, Inc.
SOMERHILL
MAINE

SCALE
1" = 1500' $\frac{1}{12}$
75' 1500' 225'



LEGEND
MAP LIMITS
PHOTO CENTER
MAP NUMBER 3





EXHIBIT

2

tabbies

1. The first of the Government writers, Dr. Franklin, our Envoy
to the Court of France, has presented on a Scale of 100,000,000
miles to us, a map of America, which he has drawn, and which
he says is the truest map of America, and it is now being
published, and will be sent to all the
American Colonies.

Two "modern papers" were
brought in.

At the House of Representatives, Oct 25, 1871.

Read & connect to the Grammar in Boxes

Start test for consciousness

Robert Long Jr.

At 8:00 a.m. on 26.10.05

Classification

1810





1818 map of fre...



EXHIBIT

tabbies

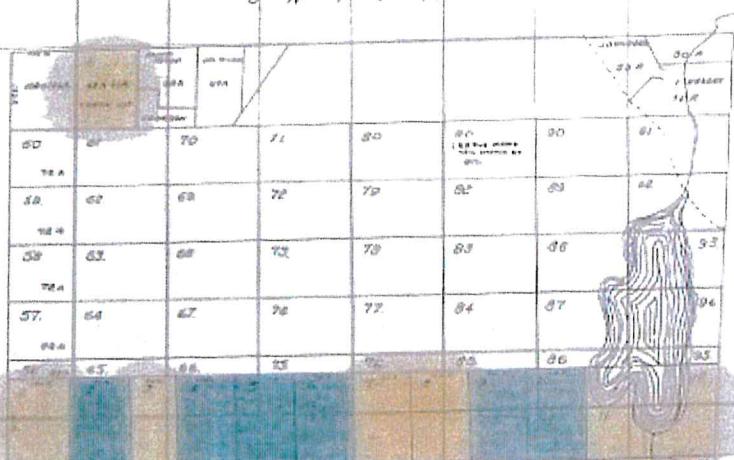
3

TOWN OF FREEDOM MAINE

COPIED FROM A PLAN AND SURVEY MADE BY CHARLES HARRIS AND
JOSEPH HARRIS BOSTON IN APRIL 1802. THE SURVEY BEING THAT
PART WHICH LIES SOUTH OF THE HALF MILE STRIP.

BY EDMUND PALMER SURVEYOR DATED 1818

U N I T Y.



THIRTY-ROD STRIP.
HALF MILE STRIP OWNED BY
JAMES SLARD AND THOMAS L. HUNTHROP,
OF BOSTON, PROPRIETORS.

THIS PART OF THE PLAN LYING SOUTH
OF THE HALF MILE STRIP AND NORTH OF
THE DIVIDING RED LINE CONTAINS 424
ACRES & 94 1/2 ACRES EXCLUSIVE OF THE GREEN
AND YELLOW LAND,
THE GREEN BEING THE SMITH LOTS,
THE YELLOW BEING PURCHASED BY THE
TOWN, CALLED SMITHFIELD,
RICHARD WILLIAMS & THOMAS L. HUNTHROP
PROPRIETORS.

BEAVER
Ridge Rd

Smithfield Rd

THIS SURVEY SOUTH OF THE HALF MILE STRIP
BEING MADE BY CHARLES HARRIS & JOSEPH HARRIS
TO ACCOMMODATE THE JEWELLARY TOWN

COPIED BY EDMUND PALMER A.D. 1818.

CHARLES HARRIS
JOSEPH HARRIS & CO SURVEYORS
OF BOSTON MASS. U.S.A.

THIS COPY MADE BY

EDMUND PALMER

CIV. ENGINEER A.D. 1818

THIS DRAWING MADE BY

GEORGE M. CLARK

A.D. 1818

1818

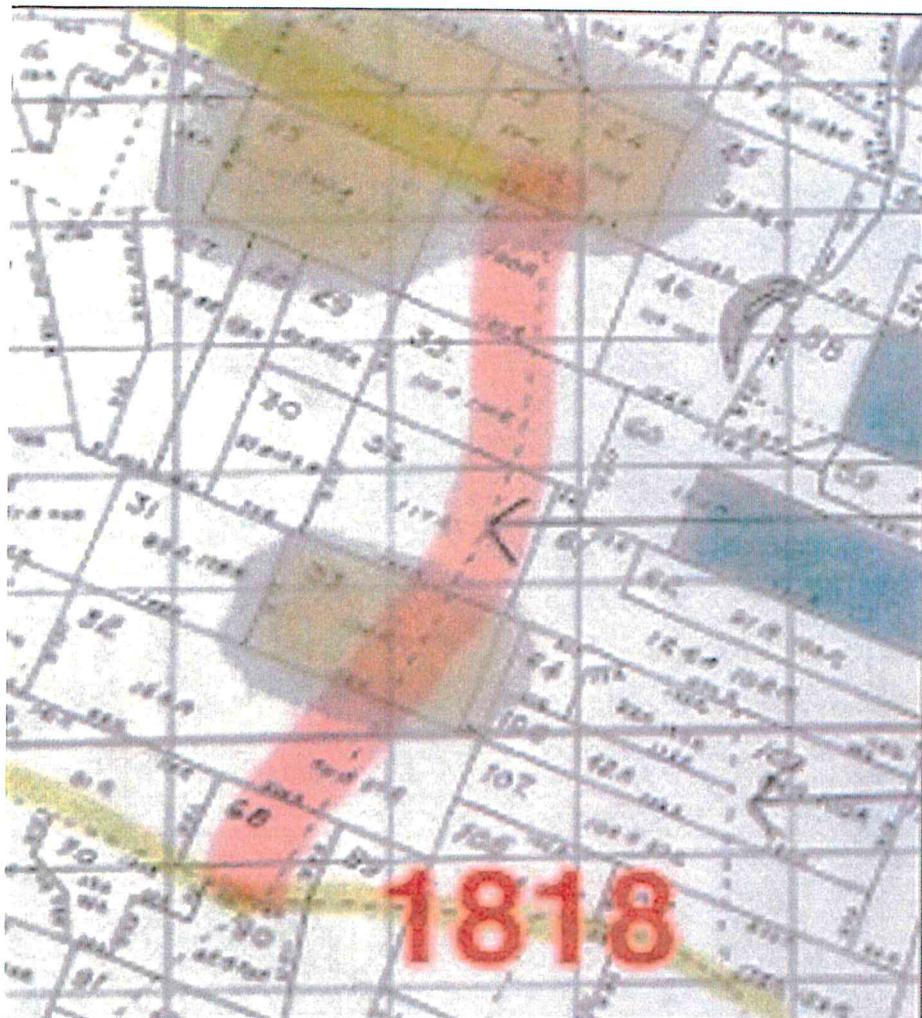
Matthews Rd.

DR

July 1st 1863
In pursuance of the annexed warrant the said James Glan-
den Church & William and Joseph H. Abbott having been first
named in the annexed warrant to all persons interested
summons and hearing given to all persons so named to appear before
of the time and place of summoning to perform the service as now
stated in the annexed warrant James Glan-
den in the County of Gloucester
ward of Barnstable beginning on the 11th instant of the year
of our Lord one thousand eight hundred and forty nine and for the next
forty days at the time of the same occurring, and for the next
forty days thereafter and for so long as the same and such freedom
of the said town shall be necessary for the same to be done
in the County of Barnstable leading from the town of Barnstable to the town
of Yarmouth passing between John Pennington's house and Yarmouth
In witness of which James Glan-
den has this 1st day of July 1863 signed and sealed
in the presence of John Pennington and John

EXHIBIT

3.5



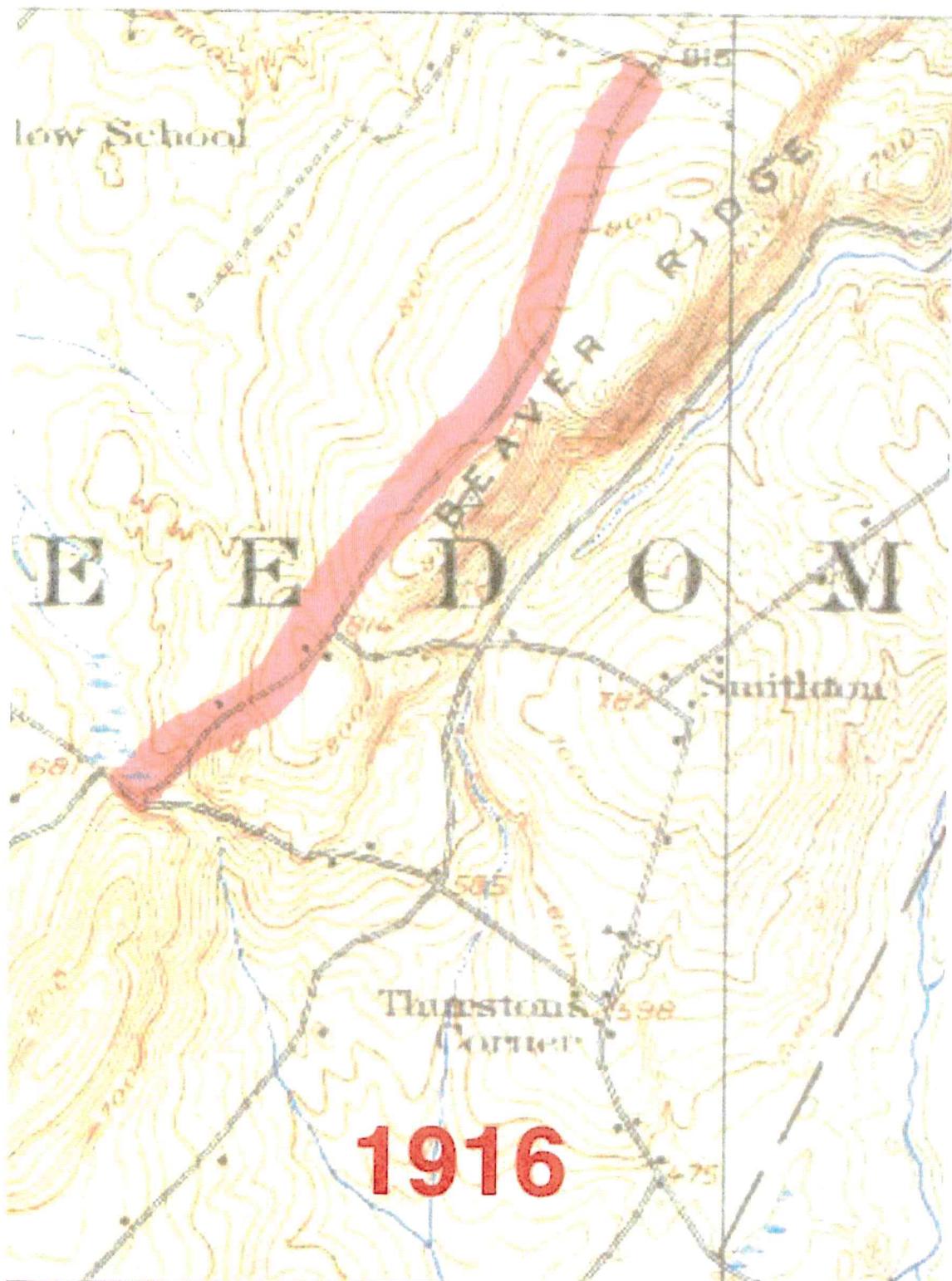
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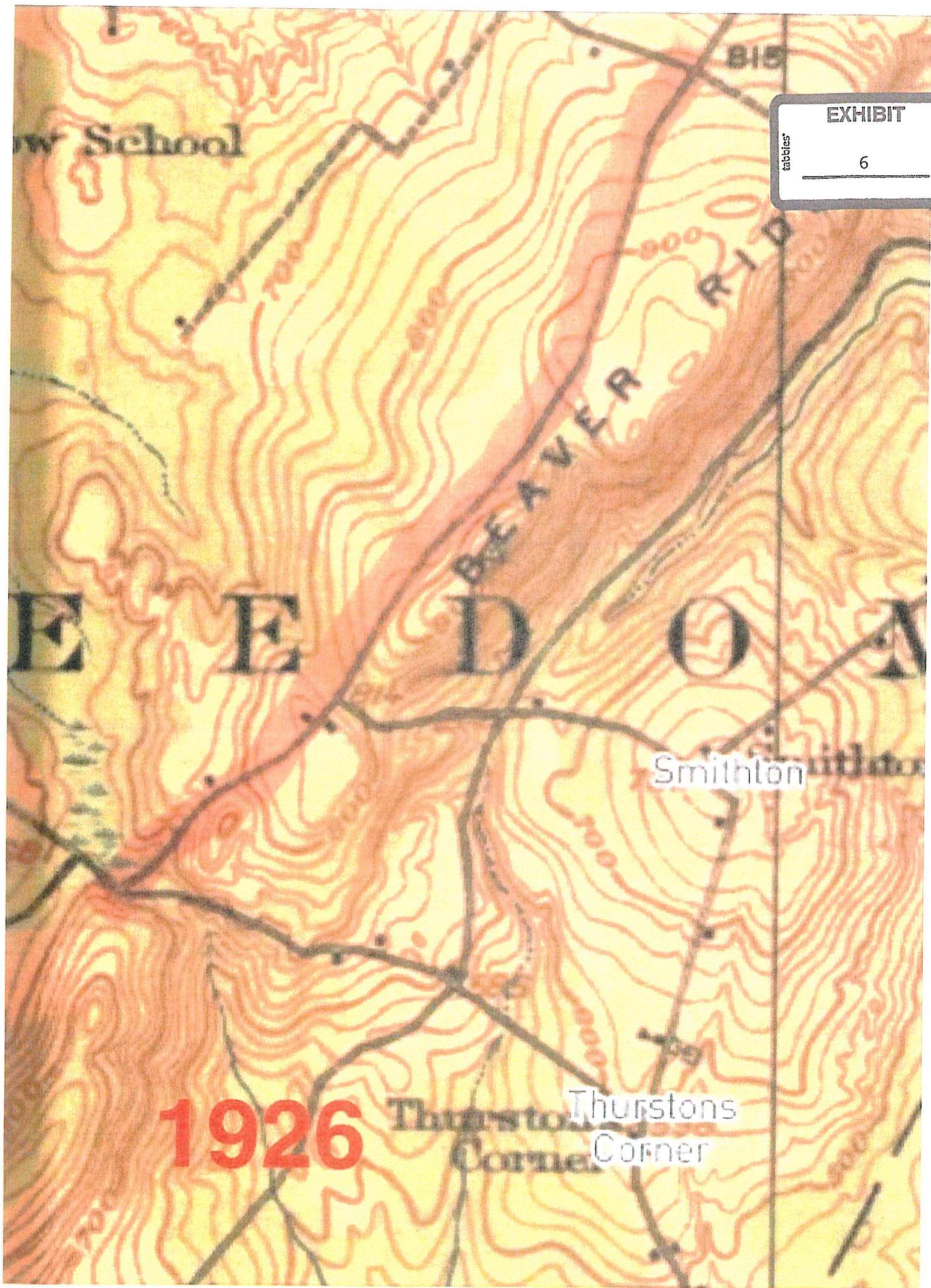
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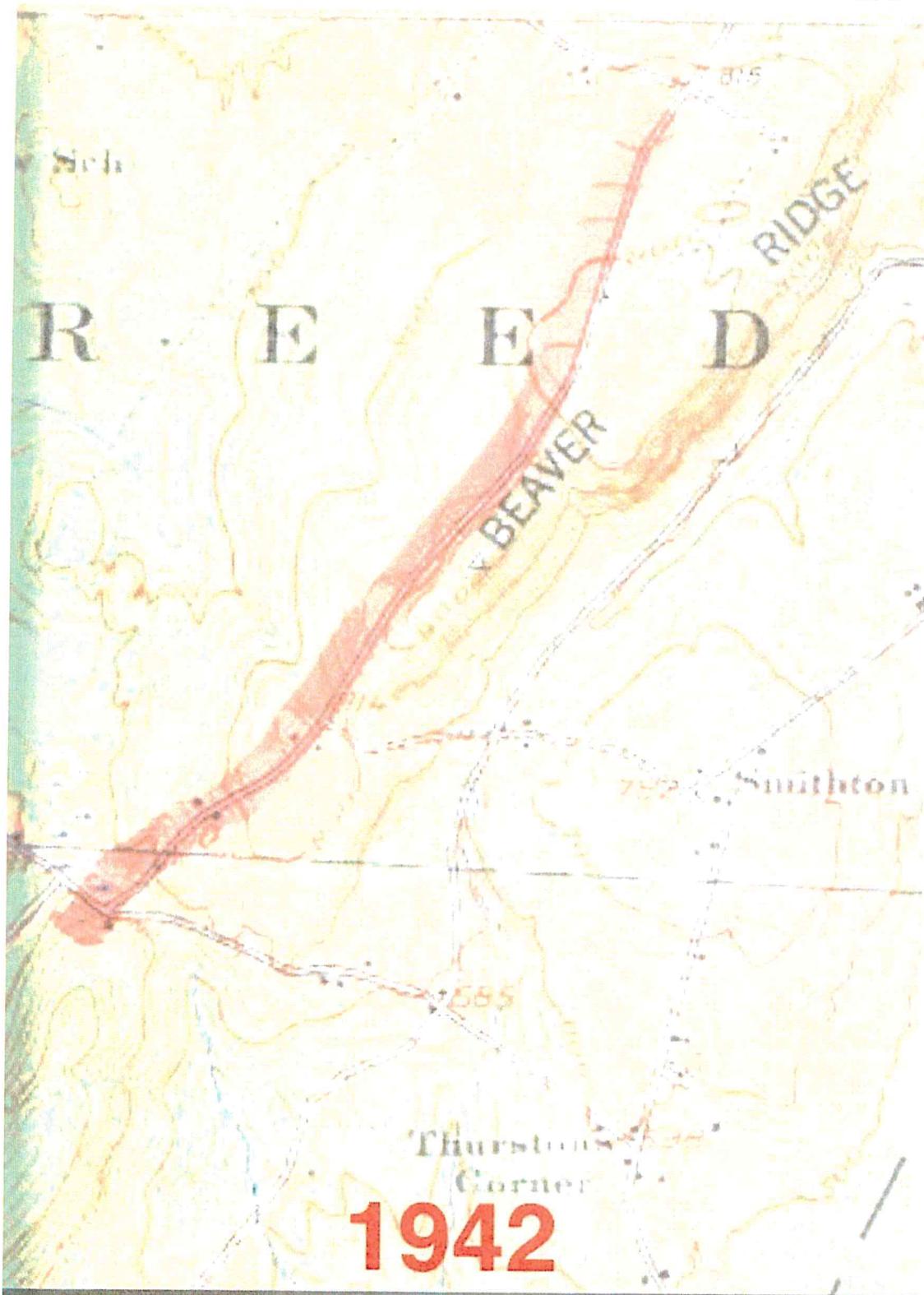
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EXHIBIT

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 ngmdb.usgs.gov

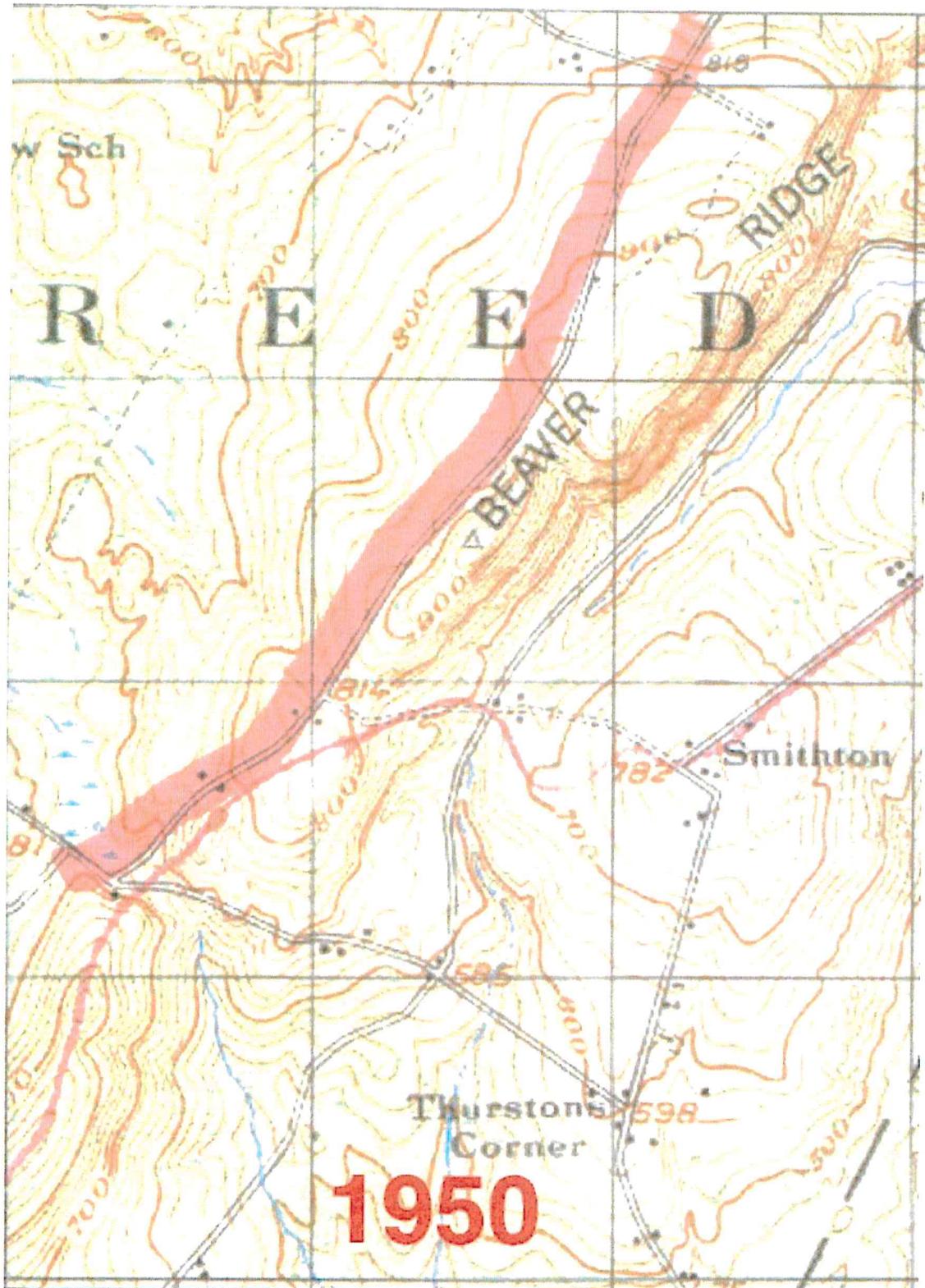


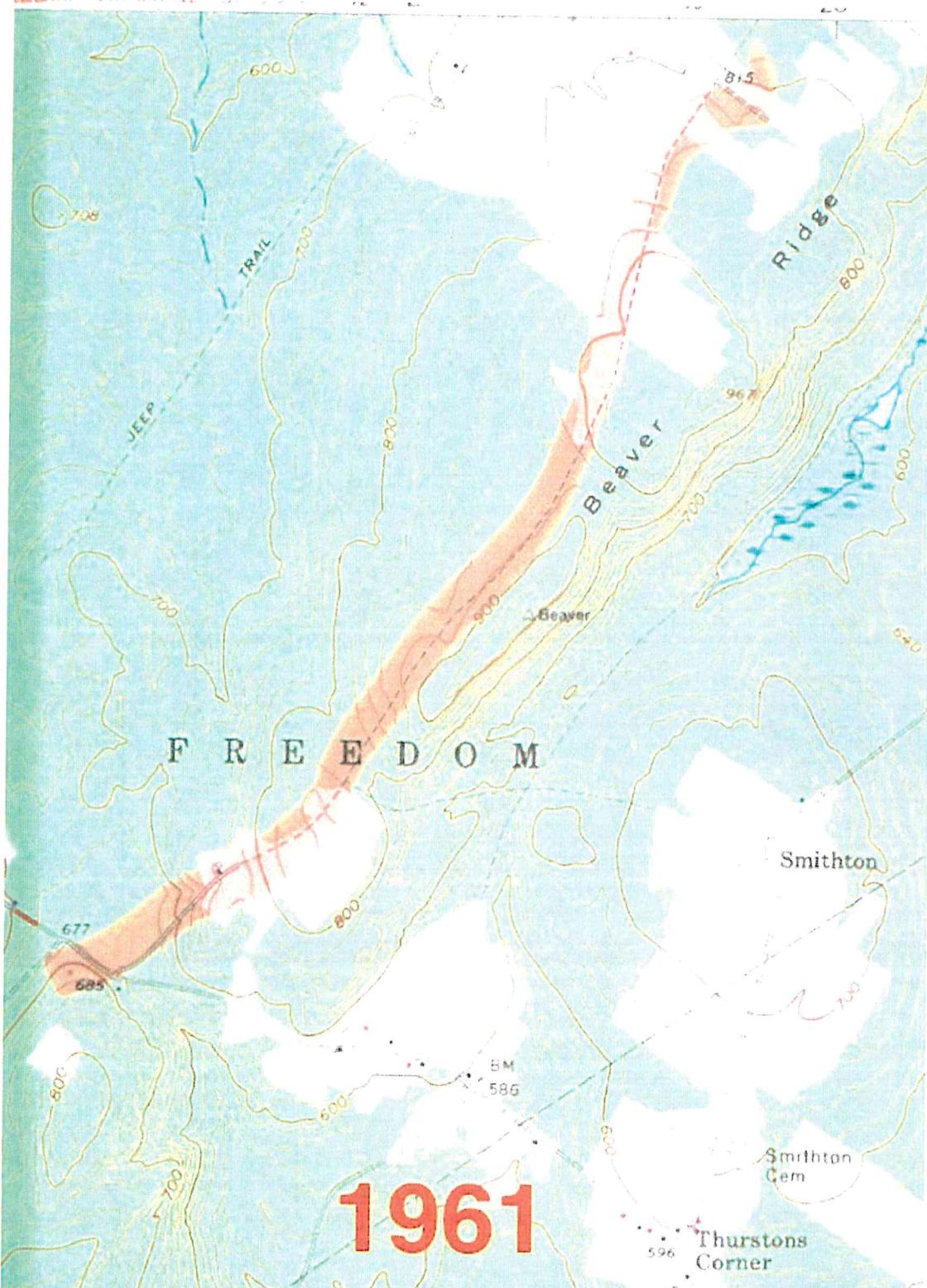


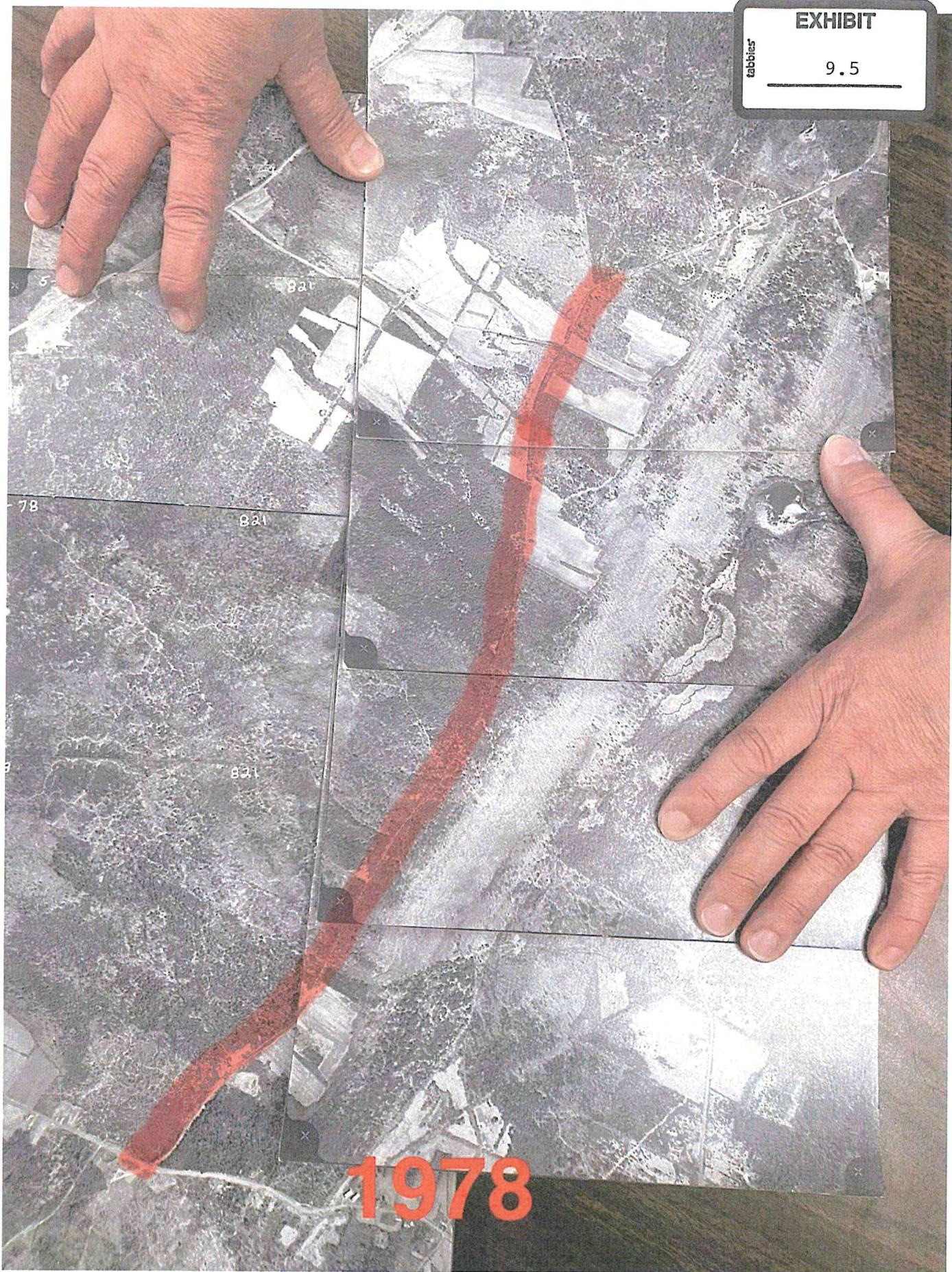
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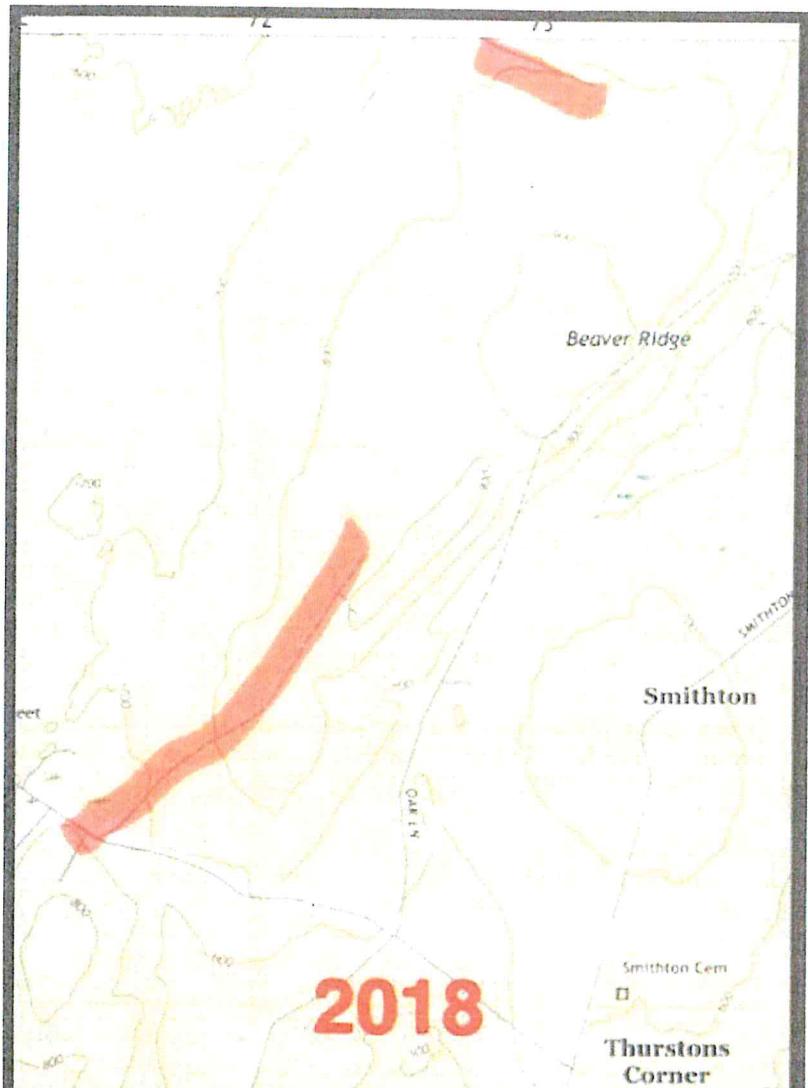
7







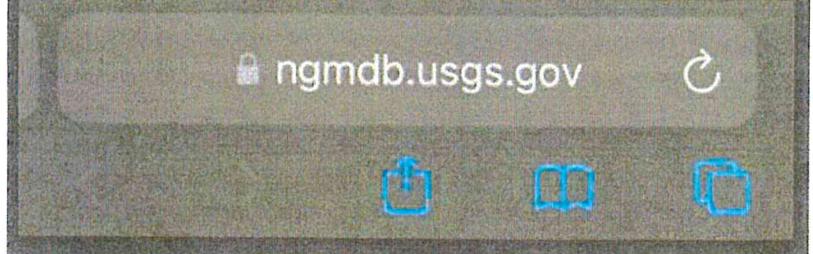




EXHIBIT

11

tabbies®



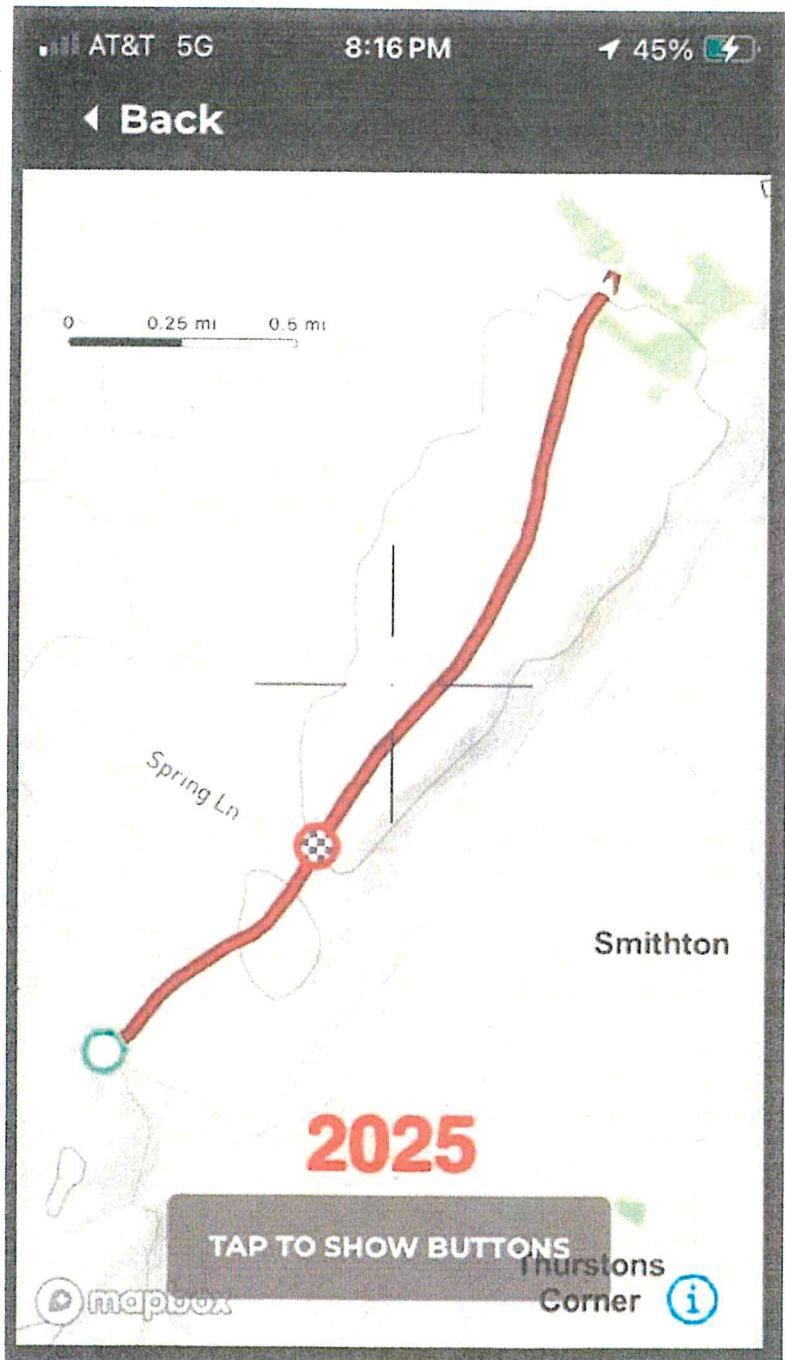


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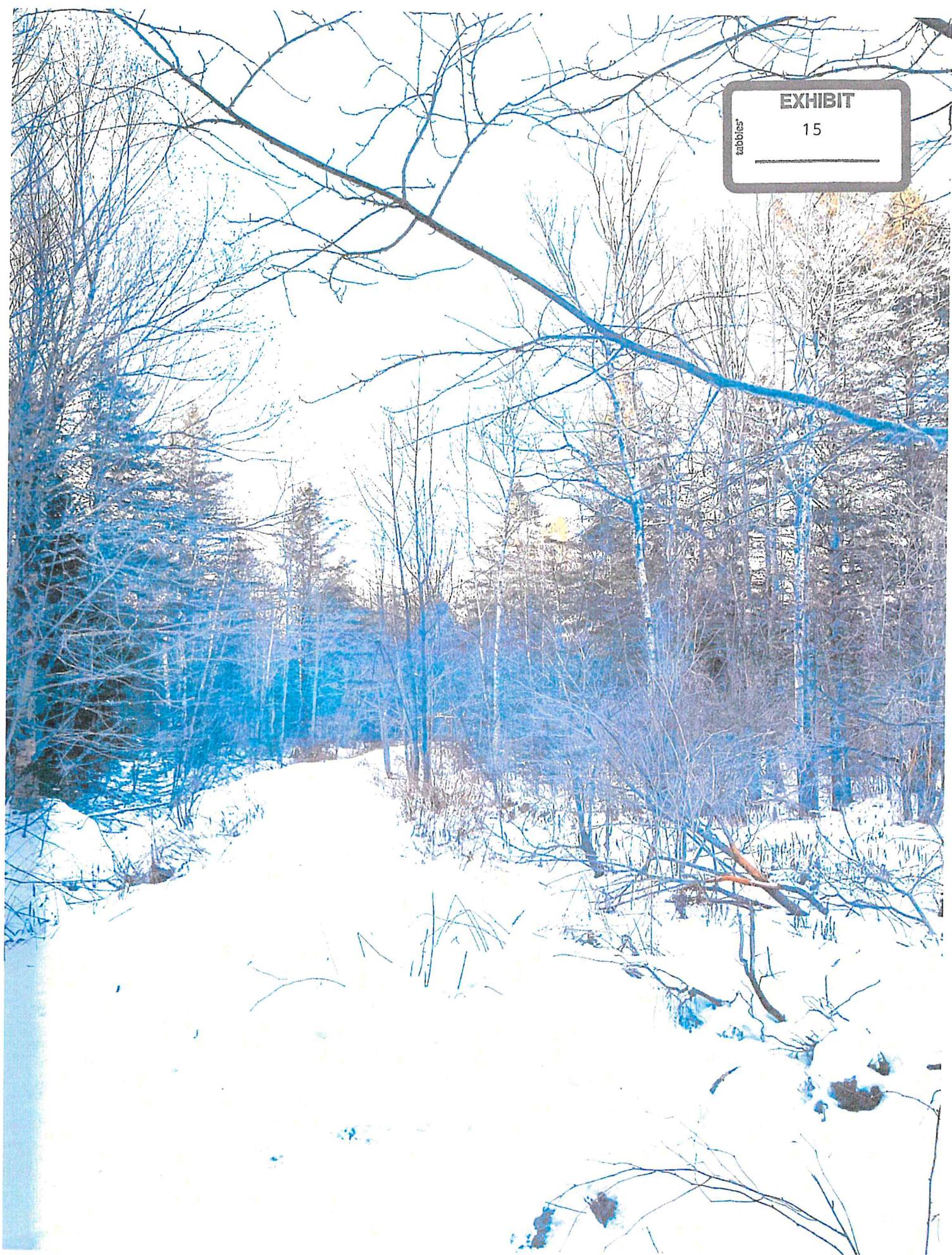
12

EXHIBIT

13







ON  HUNT

Sibley Rd

WADE,
JASONKEATI
THOM

Weather

EXHIBIT

16

BENNETT,
FT

Sat

2D

Hunt Map
Layers

Art. 34. To see if the Town will vote to discontinue the following roads as town ways now and forever but opened as public ways:

mitchell RD

(a) From Greeley's Corner to Improved road under Beaver Hill.

Timberwood (b) From Sibley Four Corners, so called, to the R. Smith place.

DAVIS (c) From Arthur Aldrich place, south west, to Palermo and Freedom State Aid road.

Rollins (d) From George Wagner's old place, so called, South to Palermo town line.

Bloomstain (e) From O. B. Ward's to discontinued road over Beaver Hill.

Art. 35. To see if the town will vote to raise and appropriate \$500.00 for power steering for F.W.D. Truck.

Art. 36. To transact any other business that may legally be brought before said meeting.

Art. 37. Motion to adjourn.

The Selectmen hereby give notice that they will be in session at the Grange Hall at 9:00 o'clock in the forenoon on the day of said meeting for the purpose of correcting and revising the list of voters.

H. L. MITCHELL

R. F. WARD

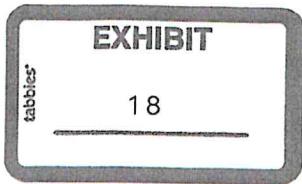
L. E. EVANS

Selectmen of Freedom

Attest:

ISAIAH JACKSON, Constable of Freedom

Freedom	1877	AUGUST	Peter W. Ayer & als	Discontinuance	#17 CARP	Denied	eo /
Freedom	1877	DECEMBER	Alfred Warren & als	Open road	#17 CARP	Closed	6/99
Freedom	1879	APRIL	Selectmen of Freedom	Discontinuance	#18 CARP	Dismissed	6/75
Freedom	1882	APRIL	J.C. Harding & als	Alteration	#18 CARP	Closed	6/326
Freedom	1882	APRIL	N.B. Gowin & als	Alteration	#18 CARP	Closed	2
Freedom	1883	AUGUST	Selectmen of Freedom	Bounds	#19 CARP	Closed	6/241
Freedom	1883	AUGUST	William Glidden & als	Alteration	#19 CARP	Closed	6/288
Freedom	1887	APRIL	J.D. Lamson & als	Repairs	#20 CARP	Closed	6/286
Freedom	1898	DECEMBER	J.B. Wiggin & als	Repairs	#23 CARP	Closed	6/411
Freedom	1904	APRIL	Selectmen of Freedom	Designation	#23 CARP	Closed	7/284
Freedom	1914	APRIL	J.W. Deane & als	Repairs	#24 CARP	Dismissed	7/385
Freedom	1915	AUGUST	Fred K. Bradstreet & als	Alteration	#24 CARP	Dismissed	8/126
Freedom	1920	AUGUST	Reuben Sibley & als	Repairs	#25 CARP	Dismissed	8/173
Freedom	1920	AUGUST	J.H. Jackson & als	Discontinuance &	#25 CARP	Dismissed	8/247
Freedom	1922	APRIL	James Postay & als	location	#25 CARP	Dismissed	8/253
Freedom	1922	SEPTEMBER	L.V. Penny & als	Repairs	#25 CARP	Repair Ordered	107
Freedom	1928	AUGUST	J.H. Jackson & als	Repairs	#25 CARP	Repairs Ordered	8/303
Freedom	1929	AUGUST	J.W. Farnacy	Repairs	#26 CARP	Repairs Ordered	119
Freedom	1932	NOVEMBER	Selectmen of Freedom	Discontinuance	#26 CARP	Discontinued	8/468
Freedom	1933	NOVEMBER	Selectmen of Freedom	Discontinuance	#26 CARP	Settled by agreement	8/490
Freedom	1944	NOVEMBER	Joseph Irving & als	Repairs	#27 CARP	Repairs Ordered	9/193
Freedom	1948	NOVEMBER	Selectmen of Freedom	Winter closure	#28 CARP	Petition Granted	9/263
Freedom	1948	NOVEMBER	Selectmen of Freedom	Winter closure	#28 CARP	Petition Granted	88



Respectfully petition to H. H. Penney & J. V. Henney
and J. H. Jackson three responsible persons
of Freedom, in said County of Maldo, that the
highway leading from the Donald's Corner, so
called, over Beaver Hill in a westerly direction
to Dibble's Corner and being a mail route,
as also the road leading from J. H. Jackson's
dwelling house in Freedom aforesaid southward
to J. V. Henney's house in Freedom aforesaid, is out
of repair, unsafe and inconvenient for travel
with horses, teams and carriages, which usually
the town of Freedom is liable to maintenance.
That the said town of Freedom has not



MAINE

TRAFFIC FLOW MAPS

Wm M. Clark

EXHIBIT

20



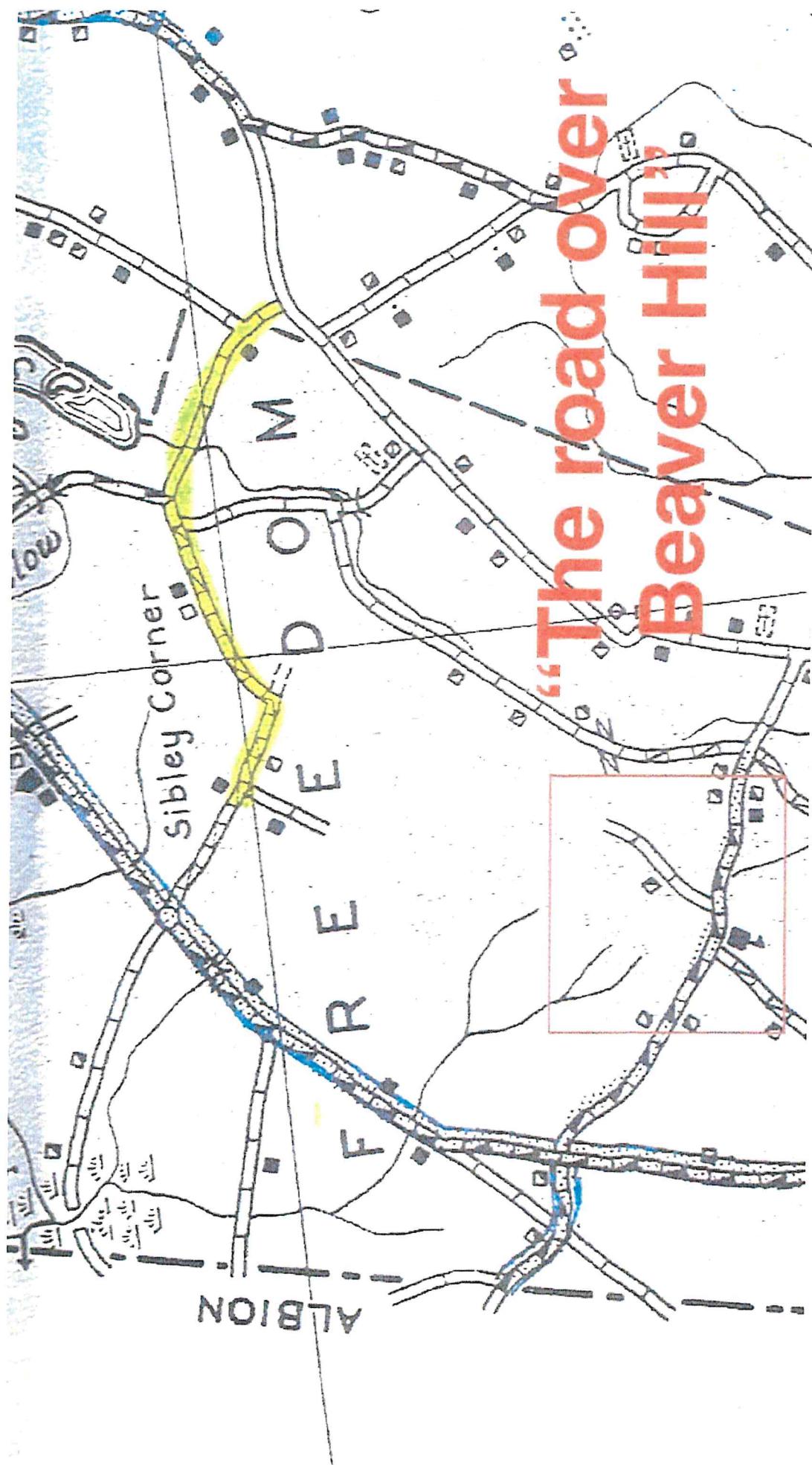
1938

STATE HIGHWAY COMMISSION

STATE-WIDE HIGHWAY PLANNING, 1938

UNITED STATES PUBLIC ROADS ADMINISTRATION

"The road over Beaver Hill"



1/24/25



To whom it may concern;

As far as I know, the "Over The Beaver Road" was washed out in 1953 from a hurricane, and never repaired. That evoked the "need" for a pass through ROU. Part of the road was shifted onto Bennett property, outside of the original road, and for Bennett use.

To open the original ROU for motorized vehicles would require extensive work to properly control erosion, with cost. Parts of the original road have become drainage for the surrounding area and would require several feet of material to bring to grade and maintained.

Sincerely:

Richard K. Martin Sr
Richard K. Martin Jr

Previous owner of property bordering
the over the beaver road and a resident
of the Town of Freedom for over 50 years

Appropriations for 1944

Highways and Bridges	800.00
Snow bills	2000.00
Town Officers bills.	800.00
Lights	250.00
Schools	3660.00
School lunch program	100.00
Maintenance 3rd Class Roads	472.00
" Special Recolor "	100.00
Cutting up burning bushes	400.00
Others did	100.00
Insurance on Schoolhouses	75.00
Repairs on "	150.00
Sur count on Taxes 1943	262.29
Statements 1943	7020
Sanity Health Nursing	35.00
Highway Patrol	530.00
Improve Beaver Hill Road	400.00
For Maine Publicity Bureau	25.00
" White Blister Rust.	<u>200.00</u>
Total.	10,429.49

Oaths of Town Officers. 1944

State of Maine, County of Waldo, Town of Friendship
March 13, 1944, 10:07 A.M.

I, Austin T. Knight, hereby certify that F. H. Flye this day personally appeared before me and took the following oaths:

I, F. H. Flye, do swear, that I will support the Constitution of the United States and of this State as long as I shall continue a citizen thereof. So help me God.

I, Fred H. Flye do swear, that I will faithfully discharge to the best of my ability the duties incumbent on me as Ballot Clerk for Annual Town Meeting according to the Constitution and Laws of the State. So help me God.

(Signed) Fred H. Flye
Before me, (Signed) Austin T. Knight, Justice of the Peace



would would \$400 i

All

News

Images

Shopping

Short

\$400 in 1944 is equivalent in purchasing power to **about \$7,172.84 today**, an increase of \$6,772.84 over 81 years. The dollar had an average inflation rate of 3.63% per year between 1944 and today, producing a cumulative price increase of 1,693.21%.

<https://www.in2013dollars.com>

\$400 in 1944 → 2025 - Inflation Calculator



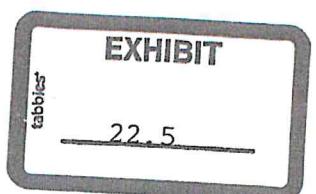
About featured snippets



Feedback



Q would would \$400 in 1944 be worth tod...



TOWN OF FREEDOM - WATKINS

Office of the Selectmen, Assessors and Overseers of the Poor

County Commissioners
Waldo County
Dear Sir:

November 6, 1948.

We, the Selectmen of the Town of Freedom, petition your Honorable Commissioners, to have the road leading from O. B. Ward residence in a North East direction to the old Davis place, so-called, a distance of approximately one half mile ($\frac{1}{2}$),

men of the Town of Freedom to close road from O. B. Ward residence during months of Jan. Feb. Mar. Apr. & Dec.

Nothing
about a
discontinued
road over
Beaver Hill

Beaver Hill
1948

There are no houses between the two places. It is unnecessary to keep said road broke out and open for travel during the months of December, January, February, March and April, or any part of such months, and praying said Commissioners, after notice and hearing on such petition, to decide whether such road shall be kept open or closed during such period or part thereof, and for how many years not to exceed ten, such closing order, if made, as prayed for, shall be operative.

'एतद्वाय

/s/ I. J. JACKSON } Selectmen
/s/ H. L. MITCHELL } of
/s/ P. S. CROSS } Freedom

No. 87
Petition of Selectmen of the Town of Freedon to close road from O.B. Ward residence during

EXHIBIT

23

Photo ▾

Done

EXHIBIT

25

1905
D. 100, 105, 110

14

35

Road Over

1

Freedom, Maine
September 24, 1992

RE: Ollie Ward/Beaver Ridge Road

Sally Ann & Charles Hadyniak
118 Washington Ave.
Cartaret, N. J. 07008

In reply to your letter, I will try to answer your questions, concerning the status of this road.

Question 1: This road was discontinued from Ollie's residence East to junction of road leading to under Beaver Hill Road, which is just down over the hill from the last house on the road. The rest of the road that continues East by your property could be considered an abandoned road. I believe you would have a right to control this road by a gate and permission only signs. Snowmobilers enjoy this route over the hill.

Question 2: The procedure for towns to accept a road for maintenance is; Road must be at least eighteen feet wide, including shoulders, eighteen inches of gravel upon a solid sub. base, also culverts and ditchesto make proper drainage. This would have to be okayed by the Selectmen and Planning Board. Then it would be inserted in an article at Town Meeting, to accept or reject.

My thoughts at this time: All towns are in an economy crunch, and I feel that voters would refrain from accepting any new liability at this time. However, I feel that maybe in the future, as more people build, in these abandoned and closed roads, the County Commissioners will demand the towns to reopen these roads to the public.

The name "Flat Landers" for out of stat people got started by some one with big mouth and not much respect for themselves. I believe the most of our citizens sometimes refer to out of staters as "Flat Landers" but do not mean any disrespect.

I have served in Town Government for fifty plus years and have had some out of staters on various committees for the town, and they are highly respected. I think the people of Freedom and Waldo County will be respectful and you can make many friends. Hope this letter introduces some of the Towns problems that we are now going through.

These are my thoughts:

My thoughts are coming from the mouth of a n eighty two year old man, who is completing forty seven years a selectman, sixty years as a registered mine guide and over fifty years as Road Commissioner or acting Commissioner or the selectmen, School Director and various other town committees. As these roads were discontinued in the fifties, I stated at the time that as the town grows these roads will be reopened. Again, I wish you and your son the best of luck on Beaver Ridge. Also would like to say that our natives are friendly caring people.

Sincerely Yours,
Harold Mitchell
Selectman
Town of Freedom

EXHIBIT

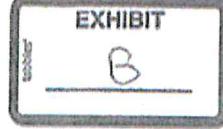
26

5/21/96

EXHIBIT

27

tables



Ms. Sallyann Hadyniak
218 Washington Avenue
Carteret, New Jersey 07008

Dear Ms. Hadyniak,

I was very pleased to hear from you regarding the discontinued portion of road to the land you purchased. The road still remains under the selectmen's control. I am very sure that you will be pleased with the work that Clayton Larrabee will do for you.

I will be looking forward to meeting you this summer.

Sincerely,

Harold Mitchell
Harold (Red) Mitchell

Selectman

Town of Freedom

Town Letterhead

August 26, 1997

Mrs. Becky Seel
Maine Municipal Association
60 Community Drive
Augusta, ME 04330

Dear Mrs. Seel:

The Town of Freedom and the residents of that portion of Ollie Ward Road (now known as Beaver Ridge Road due to the 911 designation, hereinafter referred to as "Beaver Ridge Road") after Ollie Ward place would like to submit the following question for your review and determination:

"Given the facts below, who owns Beaver Ridge Road after Ollie Ward's place?"

These are the facts as agreed upon by the Town of Freedom and the residents of Beaver Ridge Road after Ollie Ward's place:

- Until March 3, 1956, the Town of Freedom maintained the entire length of Beaver Ridge Road.
- On March 3, 1956, the Town of Freedom voted to discontinue Beaver Ridge Road from Ollie Ward's place.
- Since March 3, 1956, the Town of Freedom has had no involvement with Beaver Ridge Road after Ollie Ward's place.
- According to Statute 23 MRSA Section 3029:

It shall be prima facie evidence that a Town or County way established prior to January 1, 1946 and not kept passable for the use of motor vehicles at the expense of the municipality or county for a period of 30 or more consecutive years next prior to January 1, 1976, has been discontinued by abandonment.

- Beaver Ridge Road was established prior to January 1, 1946.

- The Town of Freedom acknowledges that they have not kept the section of Beaver Ridge Road past Ollie Ward's place passable for 30 or more years, beginning March 3, 1956.

As more than 30 years have passed since March 3, 1956, the section of Beaver Ridge Road after Ollie Ward's place is now arguably abandoned.

- According to Statute 23 MRSA Section 3026:

... If any town way was discontinued under the pre-1965 version of section 3004, no public easement would remain unless the vote approved by the legislative body expressly retained an easement. Caselaw dictated that ownership of the land reverted to the abutters to the centerline, in the absence of the showing of a greater interest. [Caselaw omitted from quote]

- There was no vote by the legislative body retaining an easement, nor was there a showing of greater interest.

Therefore, pursuant to statutes and the caselaw, the ownership of the land arguably reverted to the landowners on either side of the centerline, as of March 3, 1986.

We appreciate your time on our behalf and look forward to your response.

Sincerely yours,

Harold Mitchell
First Selectman

Everett Lingley
Second Selectman

Heidi Bruger
Third Selectman

Charles and Sallyann Hadyniak
Residents of Beaver Ridge Road after Ollie Ward's Place

Charles and Lynn Hadyniak
Residents of Beaver Ridge Road after Ollie Ward's Place

Walter and Rebecca Woods
Residents of Beaver Ridge Road after Ollie Ward's Place

EXHIBIT

29

MAINE MUNICIPAL ASSOCIATION

Legal Services
60 Community Drive
Augusta, Maine 04330-9486

Telephone (207) 623-8428

WILLIAM W. LIVENGOOD
REBECCA WARREN SEEL
RICHARD P. FLEWELLING
ELLERBE P. COLE
JOSEPH J. WATHEN

September 5, 1997

Heidi N. Brugger, Third Selectman
Town of Freedom
15 Deer Hill Road
Freedom, ME 04941

Re: Beaver Ridge Road

Dear Ms. Brugger:

Your letter of September 3rd asks about the legal status of Beaver Ridge Road. You said that that portion from the Ollie Ward property to the upper end was discontinued by vote of the 1956 annual town meeting. This would have resulted in a reversion of all public interest in the road to the respective abutting property owners to the center of the way *unless otherwise stated in the order of discontinuance (see R.S. ch. 96, § 33 (1954))*. (The 1956 town meeting records should be checked to make sure that this is not the case.) If the order of discontinuance did not state otherwise, this portion of Beaver Ridge Road would indeed be private property and subject to posting by its owner(s). Whether one abutter may erect a "Private Road" sign on another's land, however, is a private civil matter to be resolved between the parties and is of no legitimate interest to the Town. Accordingly, I would decline to advise the parties on this particular issue.

Incidentally, 30 years of non-maintenance ("abandonment") constitutes an alternative to formal discontinuance and would have no effect on an already discontinued way (see 23 M.R.S.A. § 3028).

I hope this answers your question. Please let us know if we can be of further assistance.

Yours truly,

Richard P. Flewelling
Richard P. Flewelling, Esq.

Clerk's Certification for Town Meeting March 11 & 12, 2011

Article 13. To see what sum the town will vote compensate the monthly Recycling.
Budget Committee recommends: \$3,000 year.

EXHIBIT

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Article 14. **Non-binding article-- For general information purposes only.**

To see if the town will vote to authorize an action by the select board to Discontinue (can't use abandon, as requested) a portion of the Beaver Ridge Road, pursuant to 23 MSRA Chapter 3028, beginning at its intersection with the Sibley Road., thence traveling in a westerly

Direction to its intersection with another formerly discontinued road leading from the Beaver Hill Road to Oak Lane, a distance of approximately 8,000 feet. This discontinuance (abandonment can't be used) will be conditioned upon a public hearing to be held by the Select board, and upon an agreement signed by all the abutters giving a recreational easement to the public.

Abandonment=Full Easement

This is a non-binding article intended to have the voters generally express their intent as to whether the Selectmen should pursue further discussions on easement language and the exact location of discontinuance with abutters to the portion of the road in question.

Article 15. To see if the Town will authorize the purchase of a new pumper/tanker truck, for the fire department. Up to \$75,000 to be taken from the fire department capital improvement account, for down payment, with the remaining balance to be financed. The estimated cost of the pumper/tanker \$250,000

Budget Committee recommends: No recommendation

Article 16. To see if the Town will authorize the Selectboard to borrow balance due on tanker.

Budget Committee

Article 17. To see if the Town will authorize the Selectmen to take \$11,000 from General Fund to pay discounts.

Budget recommends: YES

31. Therefore, there was no public easement expressly retained in the disputed portion of Beaver Ridge Road and the legal requirements of abandonment were met as early as 1956.

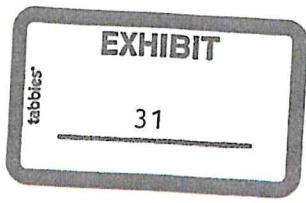
32. In 2011, I spearheaded an effort to make the disputed portion of Beaver Ridge Road formally declared abandoned, but would have left a “foot traffic” only easement.³¹

thought the road had much value as a recreational trail across the axis of town.

So did the residents in 1956³³. In the annual town meeting that year, I proposed a warrant article passed as a “non-binding” measure, but the Selectmen subsequently failed to follow-up on it.

34. In 2021, I supported the Hadyniaks effort to get the Select Board – on which I served at that time – to formally declare the disputed portion of Beaver Ridge Road abandoned.

However, this effort was itself abandoned following Tyler Hadyniak’s recusal from the



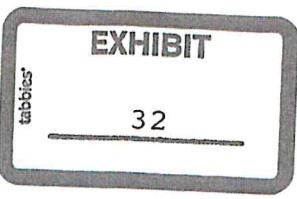
municipality abandons a town way under common law, “all rights to the way pass[] to the owners of the land that abut[s] the center line of the way.” *Martin*, 631 A.2d at 1241.

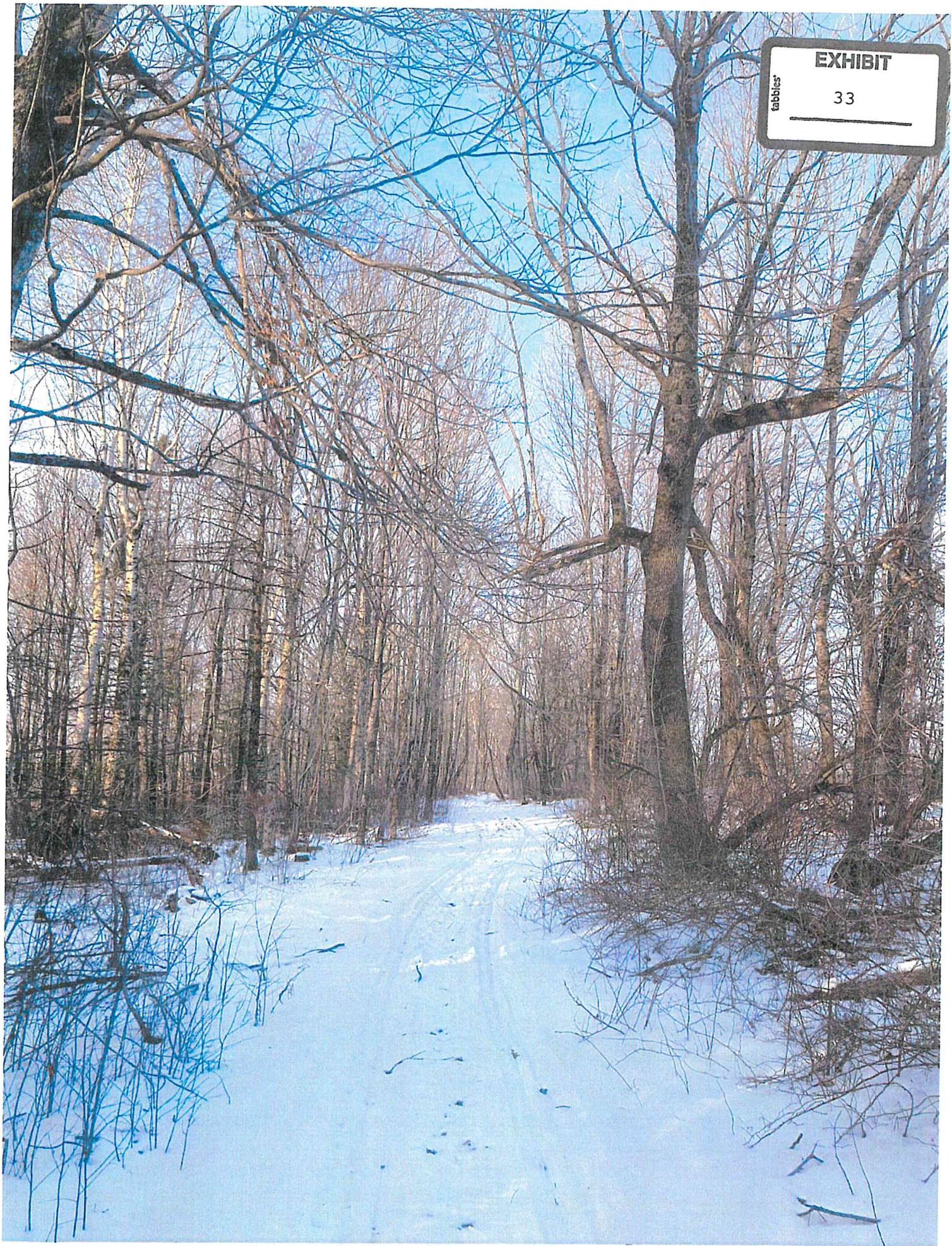
The Plaintiffs allege that “the general public has not used the . . . Road . . . for at least the past twenty years, and in fact . . . for at least the past 80 years.” (Compl. ¶ 14(b).) Such allegation of nonuse supports their claim that the Road was abandoned pursuant to common law in 1986.

support a claim of common law

abandonment due to the municipality’s “intentional and voluntary desertion” of the Road.

Therefore, the complaint is legally sufficient because it alleges facts that would entitle the Plaintiffs to relief as to their request for judgment declaring that the Road has been abandoned

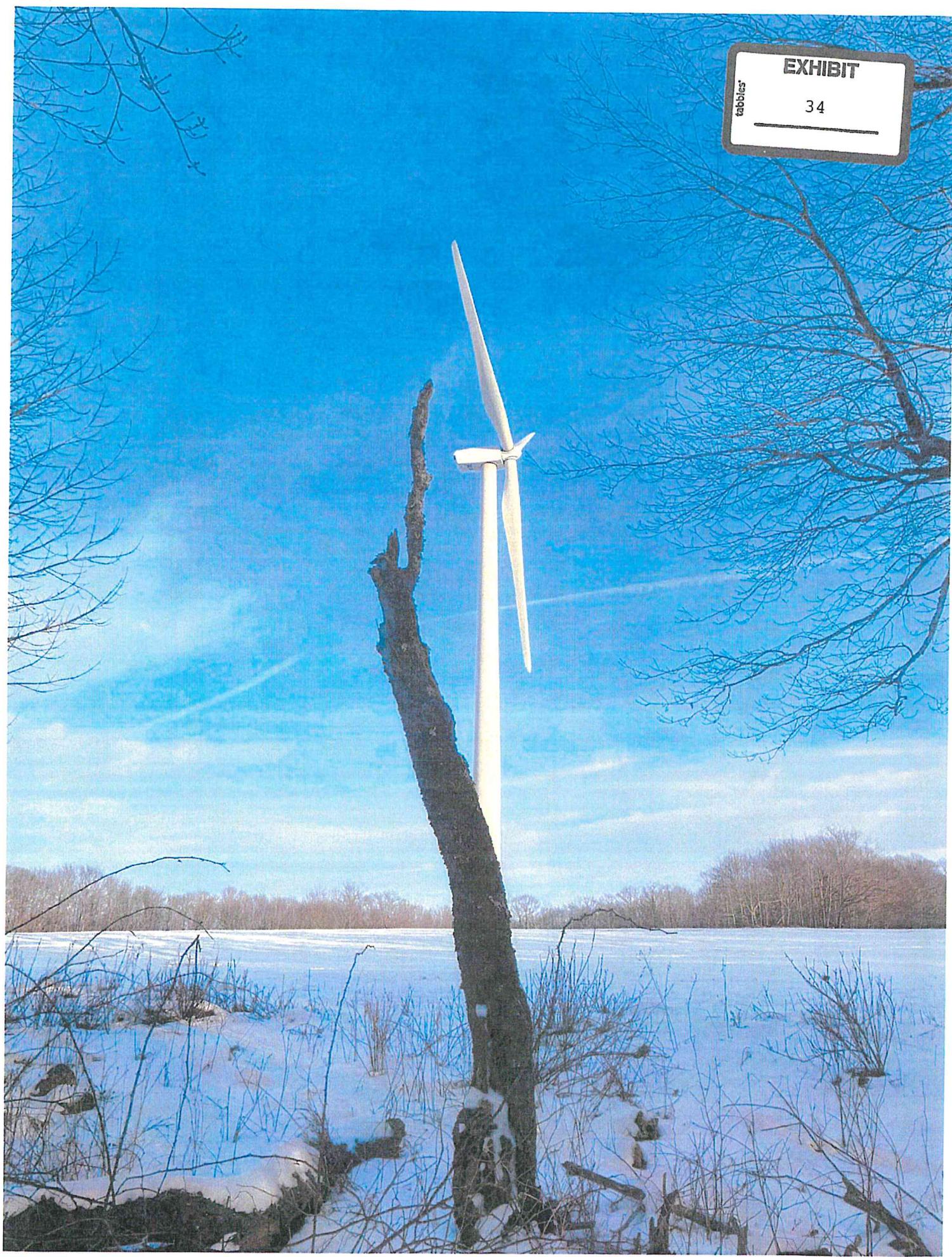


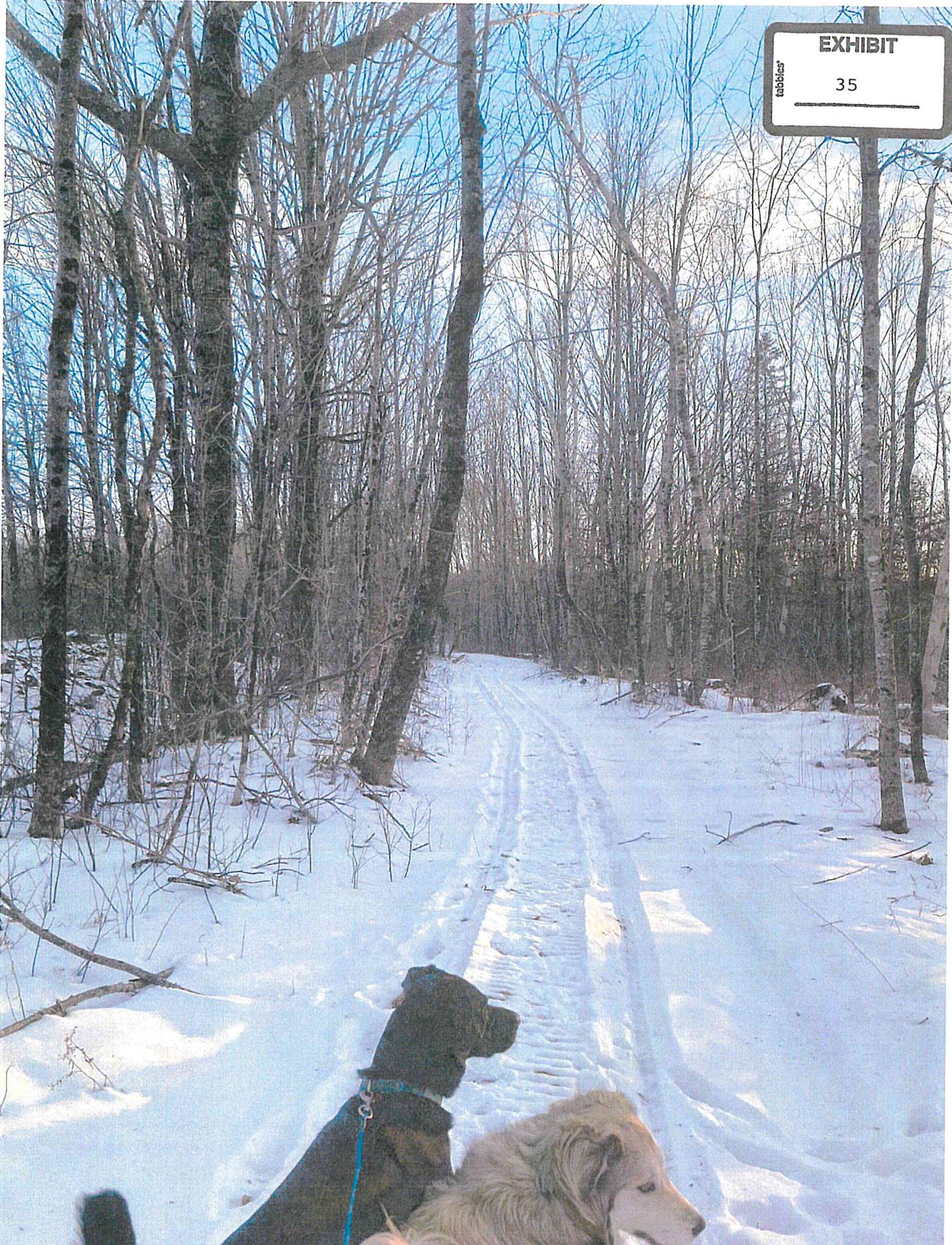


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The complaint alleges facts that would entitle the Plaintiffs to relief as to their request for judgment declaring the Road abandoned pursuant to statute. However, the absence of facts asserting that the municipality disclaimed its interest in a public easement at the time of abandonment indicates that the Road may still be subject to a public easement, and therefore the Plaintiffs' complaint does not support their request for a judgment declaring that the Road is now their private property. Regardless, pursuant to the liberal standard under which the Court must evaluate a Rule 12(b)(6) motion to dismiss, the complaint is legally sufficient in that it presents a justiciable controversy and therefore the Court DENIES the Town's motion to dismiss as to the Plaintiffs' statutory abandonment claim.

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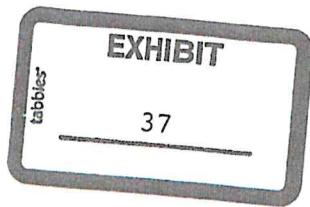


Motion for Preliminary Injunction _0001.pdf



1. The disputed portion of Beaver Ridge Road is the red line seen in the enclosed Petitioners' Exhibit 1.
2. Since January 25, 2025, there have been no less than four incidents involving members of the public using the disputed portion of Beaver Ridge Road in a manner which could be deemed a public nuisance, and/or would be subject to criminal investigation but for the pendency of Petitioners' request for declaratory judgment.

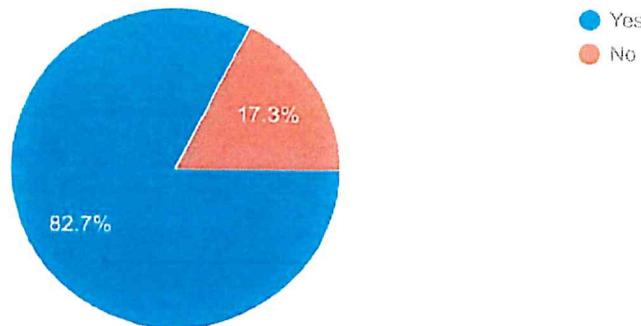
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Beaver Hill/Ridge Road Use Survey 8/19/2024

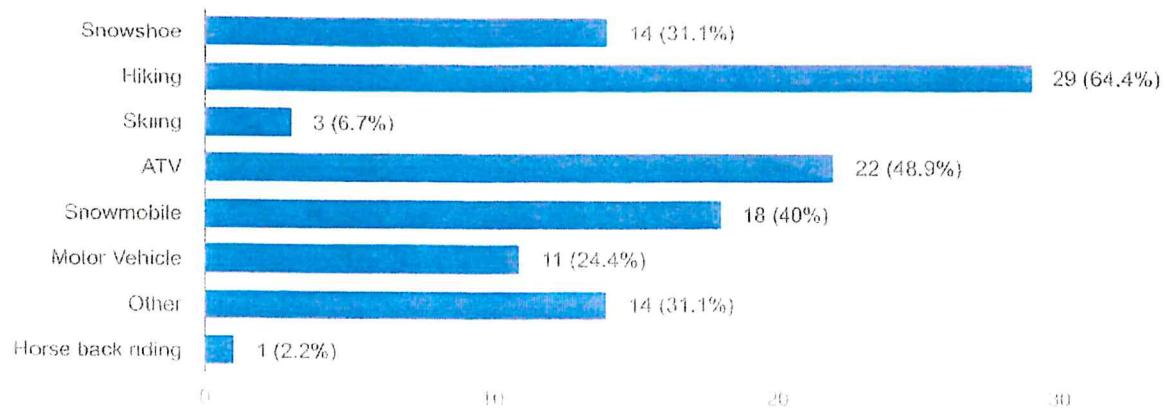
Have you ever used any portion of Beaver Hill/Ridge Rd past the paved section, up to the windmills, extending over to where it becomes Deer Hill Rd?

52 responses



How do you use the road? Check all that apply.

45 responses



Road Map Town of Freedom, Waldo County, Maine

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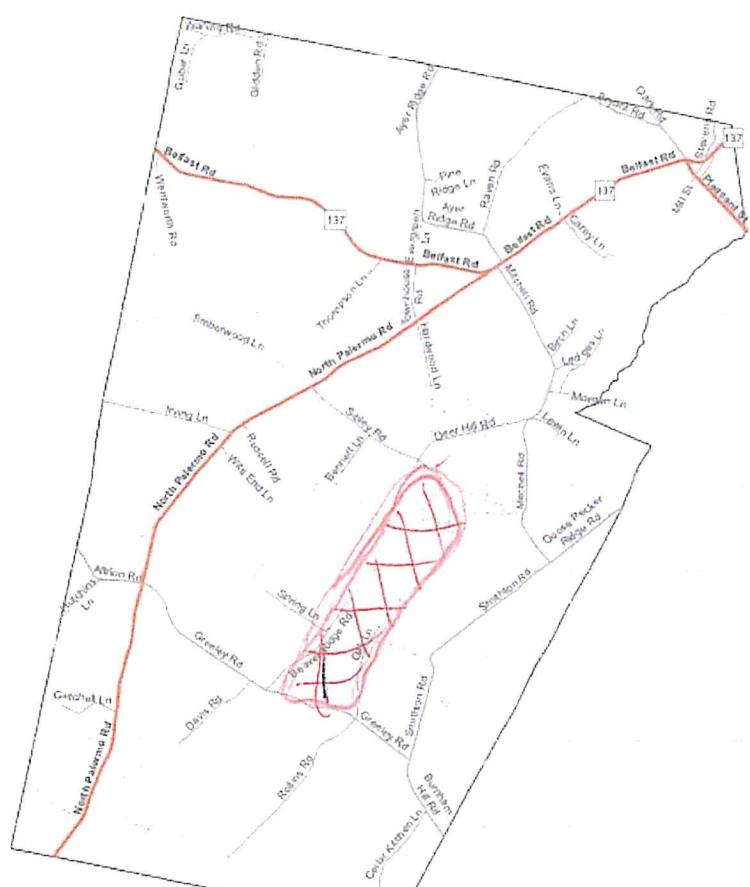
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0 500 1,000 2,000 Meters

0 0.5 1 2 Miles

US National Grid Zone: 19T
100,000m Square ID: DK

Map created by Jake Weisberg for the Waldo County Emergency Management Agency.
Data sourced from the Maine office of GIS, DeLorme Maine Atlas and Gazetteer, and local knowledge.
This version published 6-17-2009



 waldocountyme.gov

