

# ADAIR COUNTY COMMISSION MINUTES

## TUESDAY, MAY 24, 2016

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15. Laske Trail, shown on a map attached hereto, marked "Exhibit A", and incorporated herein by reference, is a road wholly located within Adair County, Missouri.

16. Defendant Kevin Baird claims Laske Trail is a private road, as evidenced by a letter, a copy of which is attached hereto, marked "Exhibit B", and incorporated herein by reference.

17. Defendant Kevin Baird claims ownership of Laske Trail, as evidenced by "Exhibit B".

18. Defendant Kelly Baird is the wife of Defendant Kevin Baird, and an owner of 17544 Laske Trail, Kirksville, Missouri, as evidenced by Kevin and Kelly Baird's deed of ownership to 17544 Laske Trail, a copy of which is attached hereto, marked "Exhibit C", and incorporated herein by reference.

19. Defendant Bank of Kirksville has an interest, or potential interest, in Laske Trail, in that it is party to a Deed of Trust concerning 17544 Laske Trail.

20. Laske Trail is the subject of an easement that runs with the land in favor of a dominant estate located at 17764 Laske Trail, Novinger, Missouri. A copy of this easement is attached hereto, marked "Exhibit D", and incorporated herein by reference.

21. Defendant Juan Bolanos has an interest, or potential interest, in Laske Trail, in that he is an owner of 17764 Laske Trail, Novinger, Missouri.

22. Defendant Johanna M. Bolanos has an interest, or potential interest, in Laske Trail, in that she is an owner of 17764 Laske Trail, Novinger, Missouri.

23. Defendant Joseph D. Tilinski has an interest, or potential interest, in Laske Trail, in that he is an owner of 17764 Laske Trail, Novinger, Missouri.

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24. Defendant American Trust Bank has an interest, or potential interest, in Laske Trail, in that it is party to a Deed of Trust concerning 17764 Laske Trail, Novinger, Missouri.

25. Defendant Northeast Missouri Rural Telephone Company has an interest, or potential interest, in Laske Trail, in that it benefits from an easement overlapping with the easement described in paragraph 20 above. A copy of Northeast Missouri Rural Telephone Company's easement concerning Laske Trail is attached hereto, marked "Exhibit E", and incorporated herein by reference.

26. Laske Trail has been used by the public continuously for ten years, within the meaning of §228.190 RSMo, in that since 2003 Laske Trail has been connected unobstructed to, and accessible from State Highway K, and has therefore been "...free and common to all citizens, and that the public has [had] actual access to it." Dayton Township v. Brown, 445 S.W.2d 322, 325 (Mo. 1969) (quoting approvingly 30 C.J.S. §18, Highways § 1).

27. Adair County has expended public money and labor upon Laske Trail continuously for ten years, within the meaning of §228.190 RSMo, in that since 2003 Adair County has from time to time:

- (a) graded Laske Trail;
- (b) placed rock on Laske Trail; and
- (c) cleared Laske Trail of snow,

thus maintaining Laske Trail "in substantial repair and condition for public travel," Brown, 445 S.W.2d at 324 (court's quotation, citation, and ellipsis omitted). A copy of

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county records documenting public money and labor expended upon Laske Trail is attached hereto, marked "Exhibit F", and incorporated herein by reference.

28. A current controversy exists as to the rights and interests of the parties to this action concerning Laske Trail in that:

- (a) Defendant Kevin Bair and Defendant Kelly Baird maintain that Laske Trail is a private road; and
- (b) Adair County maintains Laske Trail is a public road, and treats Laske Trail as a public road, as evidenced by its expenditure of public money and labor upon Laske Trail.

29. Plaintiff lacks another adequate remedy to have its rights and interests concerning Laske Trail construed and declared.

30. Laske Trail is a public road within the meaning of §228.190 RSMo.

31. Plaintiff seeks to have Laske Trail declared to be a public road.

WHEREFORE, Plaintiff prays that this Court enter judgment:

- declaring Laske Trail to be a public road
- providing a description of the said Laske Trail determined to be public;
- awarding Plaintiff its reasonable costs incurred in prosecuting this action; and
- awarding such other relief as the Court deems just and proper in the premises.

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CERTIFICATION

STATE OF MISSOURI )  
                                  ) SS.  
COUNTY OF ADAIR )

The undersigned, being duly sworn upon his oath, states that the facts stated in the foregoing Petition for Declaratory Judgment are true according to his best knowledge and belief.

*Stanley Pleber*  
Presiding Commissioner, Adair County

Sworn to and subscribed before me this 24<sup>th</sup> day of May, 2016.



*Karen K. Hammmons*  
Notary

RESPECTFULLY SUBMITTED,

Adair County Prosecuting Attorney  
300 N. Franklin  
P.O. Box 314  
Kirksville, MO 63501  
660-627-3625  
660-627-3835  
adairprosecutor@gmail.com

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ATTEST: *Andrea Collop*  
County Clerk

*Stanley Pleber*  
Presiding Commissioner