

PETITION PROCEDURE TO ESTABLISH, ALTER, OR ABANDON
A COUNTY ROAD UNDER SECTION 7-14-2601 MCA

1. Obtain a petition from the Yellowstone County Public Works Department located in Room 312 of the County Courthouse. Read the petition procedure carefully. If you have any questions or need clarification about the petition procedures, please contact the Public Works Department at (406) 256-2735. Incomplete or inaccurate petitions will cause delays in the petition process.
2. Type the complete and correct legal description for the roadway being petitioned in Section A of the petition. Petitions with incorrect or incomplete legal descriptions will be returned to the petitioner.
3. Attach a photocopy of the affected plat, Certificate of Survey, or Assessor Map to the petition. Mark and / or color the area described in the legal description. These copies do not have to be full plats but must detail the petitioned roadway and adjoining property. Copies of plats can be obtained from the Clerk and Recorder's Office in Room 401 of the County Courthouse.
4. Provide the reason for the petition in Section B of the petition.
5. Obtain at least **TEN (10)** signatures including addresses of landowners who wish to establish, alter, or abandon a county road (refer to Section C). It is recommended that more than ten signatures be on the petition so that the petition will not be voided if any signatures are invalid.
6. Consult the Public Works Department to review the plat and area affected by the petitioned roadway. This will be needed to complete steps 7 and 8 of the procedure.
7. Attach an Ownership Report from a Title Company, paid for by the petitioner, to verify current ownership of property affected by the petitioned roadway.
8. Obtain signatures and consent for the petition from all property owners affected by the roadway being petitioned in Section D.
9. Submit the petition along with a non-refundable \$25.00 fee and any necessary attachments (ownership report, warranty deeds, quit claim deeds, etc.) to the Yellowstone County Public Works Department.
10. Typically, within thirty (30) days of filing a correct and complete petition to establish, alter, or abandon a county road, the Commissioners will appoint a Board of Viewers to investigate the request.

11. The Board of Viewers will issue a report of its findings and recommendations to the Board of County Commissioners who will then schedule a public hearing. This hearing will be advertised in the newspaper and will be open to the public for comments from any persons who may speak in favor of, or in opposition to the petition.
12. Within ten (10) days after the public hearing, the Board of County Commissioners will issue a notice of decision by certified mail to all owners of land affected by the petitioned roadway. Notified owners will be those parties listed on the last county assessment roll.
13. If the petition is to abandon a subdivision or certificate of survey road, the following will be required if abandonment is granted by the County Commissioners:
 - The petitioner and / or benefiting property owners will be required to file an amended plat with the Clerk and Recorder.
 - The amended plat will reflect the adjusted lot lines affected by this abandonment.
 - This amended plat will need to be completed and filed with the Clerk and Recorder within a year of the approved petition.
 - Comply with any (and all) other specific conditions that are established by the Board of County Commissioners.

PETITION TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD

TO: YELLOWSTONE COUNTY BOARD OF COMMISSIONERS

This petition is respectfully submitted this 28 day of MAR, 2025.

Petitioner/Initiator (and/or) Contact Person:

NAME: Barbara J. Pate
ADDRESS: P.O. Box 298
Shepherd, MT 59079
PHONE NO: (406) 670-4609

I swear that all of the above information is true and correct, and all the landowner's signatures are the original true and consenting landowners.

Barbara J. Pate
Petitioner's Signature

28 MAR 2025
Date

List all attachments:

- ☒ Sections A, B, C, and D of the Petition
- ☒ Map of petitioned roadway and affected property
- ☒ Affected property Ownership Report
- ☒ Check for \$25.00 made payable to Yellowstone County Public Works Department
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____

PETITION TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD

SECTION A

Legal description of the petitioned roadway (attach additional sheets if needed)

A portion of Lucern Avenue as shown on the Plat of Shepherd, MT, found
in the records of the Clerk and Recorder of Yellowstone County, Montana,
west of Wade Street of said Plat and to the east boundary of Tract 1 of
Certificate of Survey No. 2773 of said records. The portion of Lucern Avenue
to be vacated has a uniform width of 60 feet and a total area of approximately
4,200 square feet, more or less.

PETITION TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD

SECTION B

Reason for Petition

This portion of Lucern Avenue has never been utilized by the public since it
is the dead end portion of the street and street surfacing has ever been
placed to facilitate vehicular traffic. Also, the portion of Lucern Avenue to
the east of Wade Street has been vacated and is no longer open for public
use therefore rendering this small remaining section unusable. The vacated
portion will be added to Lots 1 and 2 of Block 2 of the Plat of Shepherd.
Right-On Surveying, LLC has been contracted to create and file the amended
plat and Certificate of Survey indicating the revised property boundaries.
The vacated portion has been historically used by the owners of Lots 1 and 2
of Block 2 in Shepherd and this abandonment would formalize the tract as it
has been used for decades.

PETITION TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD

SECTION C

Signatures and addresses of landowners in Yellowstone County
who wish to establish, alter, or abandon a county road
(minimum TEN (10) landowners)

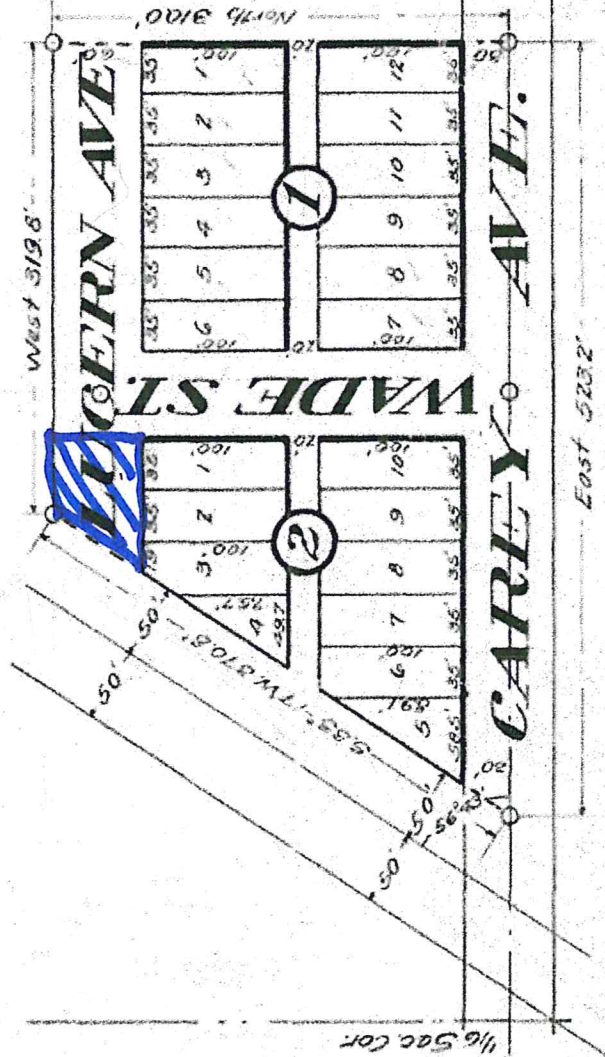
PRINTED NAME	SIGNATURE	ADDRESS
Taylor Baker	Taylor Baker	5421 Shepherd Acton Rd Shepherd, MT 59079
Bonnie LePage	Bonnie LePage	5405 Shepherd Acton Rd Shepherd, MT 59079
PHILIP HILLIS	PHILIP HILLIS	5453 CAREY AVE
Lindsay Vandersloot	Lindsay Vandersloot	6735 Pinto Dr Shepherd, MT 59079
Teri Hanks	Teri Hanks	6129 Osness Rd Shepherd MT 59079
Catherine Peil	Catherine Peil	5833 Haynes Rd Shepherd MT 59079
David F Peil	David Peil	5833 Haynes Rd Shepherd MT 59079
CONNIE mCBROW	Connie mCBrow	5206 HAYNES RD SHEPHERD, MT. 59079
SETH SIBBINS	SETH SIBBINS	3125 DUNN LN Billings MT 59105
Kelly Patten	Kelly Patten	5443 Carey Ave Shepherd, MT. 59079
REED SNIDER	Reed Snider	5435 CAREY AVE Shepherd, MT. 59079
Barbara J Pate	Barbara J. Pate	5417 Carey Ave Shepherd, MT 59079
Tina L. Husak	Tina L Husak	237 Ferry Ave Billings, MT 59101

SECTION D
Consent or non-consent of land owners in Yellowstone County
abutting and / or affected by the petitioned roadway

[illegible]

ORIGINAL TOWN OF SHEPHERD PLAT

 PORTION TO BE ABANDONED

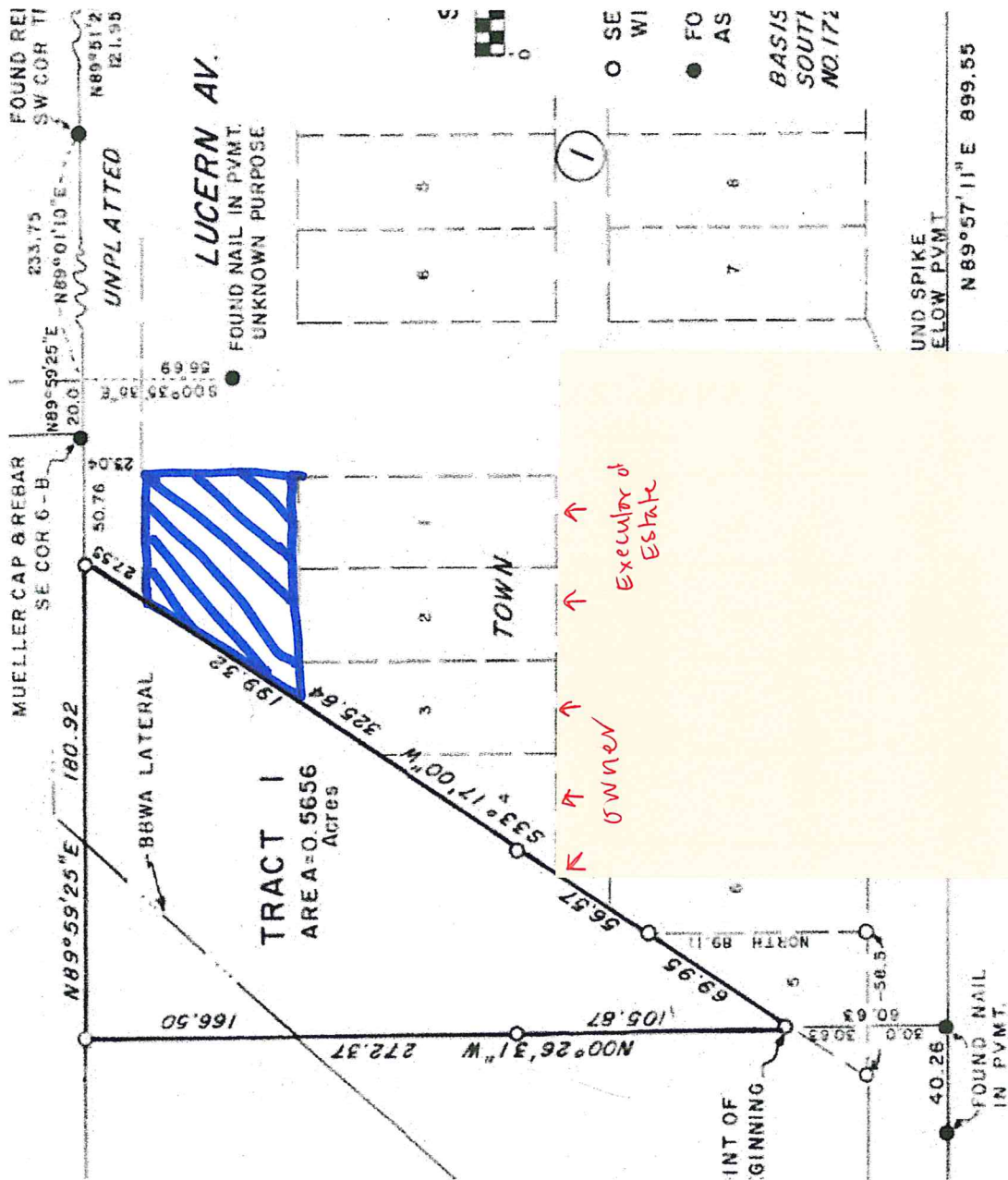


End of Billings & Central
Montana Ry.

Sec 10

COS 2773

PORTION TO BE ABANDONED



MEMORANDUM

To: Ms. Barbara J. Pate
P.O. Box 298
Shepherd, MT 59079

From: Morgan E. Tuss

Date: September 18, 2024

Re: Duties as Personal Representative of the Estate of Wesley J. Fisk

This memorandum is meant to explain your duties as a Personal Representative under the laws of the state of Montana. As Personal Representative, you are subject to the laws of Montana and the jurisdiction of the particular District Court. This memorandum is given to you to assist you in completing your duties and for answering common questions. Some of what is included herein this memorandum may have been previously discussed, but please use this as a guidepost and refreshment as needed. This memorandum is not intended to substitute professional legal advice.

Unless an interested party files a written request to the Court, the Court will not review or supervise your actions as Personal Representative. In Montana, if you are a beneficiary of an estate, you are expected to protect your own interests in the estate. The Personal Representative is required to provide sufficient information to the beneficiary to permit the beneficiary to protect his or her interests. The Court may hold a Personal Representative personally liable and responsible for any damage or loss to the estate resulting from a violation of the Personal Representative's duties.

DUTIES OF THE PERSONAL REPRESENTATIVE

The duties of the Personal Representative are found in Chapter 3, Title 72 of the Montana Code Annotated ("MCA"). You are responsible for knowing and doing your duties according to these statutes. Some of the duties are:

1. GATHER, CONTROL, PROTECT, AND MANAGE ESTATE ASSETS

As Personal Representative it is your duty to gather and control all assets that belonged to the decedent (the person who has died) at the time of his or her death. You are also charged with paying or disputing debts of the decedent and managing other claims against the estate. After the valid debts and expenses are paid, you have the duty to distribute any remaining assets according

to the decedent's Will or, if there is no Will, to the intestate heirs of the decedent. As Personal Representative, you have the authority to manage the estate assets, but you must do so for the benefit of those interested in the estate.

It is your duty to acquire possession of the estate assets and make proper arrangements to protect them. You must distribute property, pay debts, and sign court documents or other records in your capacity as Personal Representative. For example, signing in the following manner is customary: "John Doe, as Personal Representative of the Estate of Jane Doe." I advise against putting estate assets into your personal name, anyone else's name, joint accounts, trust accounts ("in trust, for"), or payable on death ("POD") accounts. Do not list yourself or any other person as joint owner or beneficiary on any bank accounts or other assets belonging to the estate. Do not mix any estate assets with your own assets or anyone else's assets. Note that assets that the decedent held as joint tenancy with right of survivorship with another party, assets transferrable or payable at death directly to a named beneficiary, or assets held by a trustee in trust are not ordinarily handled under a probate proceeding. Therefore, ordinarily, you should not handle those particular assets in your capacity as Personal Representative, because those do not concern the probate under which you act as Personal Representative. However, there are specific circumstances where the decedent's estate is not sufficient to pay debts or where certain assets or sums are claimed according to law. In that circumstance, such assets may be marshalled in your capacity as Personal Representative.

2. FIDUCIARY DUTIES

As Personal Representative you are a fiduciary. (72-3-610, MCA) This means you have a legal duty to settle and distribute the estate in accordance with the terms of the probate, existing Will and the law expeditiously and efficiently and in accordance with the best interests of the estate and its successors. In administering estate assets, you must observe the standards of care applicable to a trustee, including the prudent investor act.

You must be cautious and prudent in dealing with estate assets. As Personal Representative, the estate assets do not belong to you and must never be used for your benefit or mixed with your assets or anyone else's assets. Montana law prohibits a Personal Representative from participating in transactions that are a conflict of interest between you, as Personal Representative, and you as an individual. Other than receiving reasonable compensation for your services as Personal Representative, you may not profit from dealing with estate assets. As Personal Representative, you are entitled to reasonable compensation for your services. 72-3-631, MCA. Please let us know prior to instituting court proceedings if you disagree with any compensation or lack thereof outlined under the existing Will.

3. PROVIDE NOTICE OF APPOINTMENT

Shortly after your Appointment as Personal Representative, you must mail notice of your appointment to the heirs and devisees whose addresses are reasonably available to you. If your appointment is made in a formal proceeding, you need not give notice to those persons previously noticed of a formal appointment proceeding. Our office will assist you with this.

4. DEBTS OF THE DECEDENT

After your appointment as Personal Representative, our office will publish a notice once a week for three (3) consecutive weeks in a newspaper of general circulation in the county in which the probate is filed that announces your appointment as Personal Representative and tells creditors of the estate that unless they present their claims against the estate within the prescribed time limit, (4 months) the claims will not be paid. Our office will assist you with this. In addition, you may mail a similar notice to all persons you know are creditors of the Estate. (72-3-801, MCA)

You should notify any known creditors such as credit card companies and make arrangements to close accounts, destroy cards, and pay valid debts. Please call us with questions or if you need assistance in this regard.

You must determine which claims and expenses of the estate are valid and should be paid. You must provide to any creditor whose claims are not allowed prompt written notification they will not be paid or will not be paid in full. (72-3-805, MCA) To the extent there are enough assets in the estate, you are responsible for the payment of any valid estate debts and/or expenses you know about or can find out about.

Please consult with our office before paying any claims that you question. *You may be personally liable if you pay a debt or expense that should not be paid.* If the estate possesses insufficient assets to pay all debts and expenses, you must determine which claims have priority to be paid. (72-3-807, MCA) Please promptly contact our office with any questions concerning payment or disallowance of claims.

5. DETERMINE STATUTORY ALLOWANCES

It is a duty of the Personal Representative to marshal assets according to 72-2-412, 413, 414, MCA. These laws are called statutory allowances and exemptions, which include a homestead allowance, exempt property allowance, and a family allowance which provide rights to the surviving spouse, or if there is none, then to surviving children of the decedent. These laws take priority over claims by creditors and may modify gifts made under the Will. We will assist you with this.

Be aware that a valid premarital agreement between a surviving spouse and the decedent may modify or waive these rights. If you are aware of one, please bring it to our office's attention.

6. INVENTORY ASSETS

You will need to prepare an inventory of the assets that belonged to the decedent before death, however titled. You are required to either send a copy to interested parties, or you may file it with the Court. (72-3-607, MCA) If the estate exceeds the federal exemption amount for Federal Estate Tax, further action may be required. We will assist you with this.

The inventory should be as complete as possible and include the value of each asset calculated at the date of the decedent's death. Nominal valuations are appropriate for assets having little value such as clothing or other personal household affects.

7. PROVIDE AN ACCOUNTING OF YOUR ADMINISTRATION

You must keep detailed records of all receipts and expenses of the estate. Unless you, the Personal Representative of the estate are the sole residuary beneficiary, you are required to provide an accounting of your administration of the estate to all persons affected by the administration. (72-3-1005, MCA). In most cases where an accounting is necessary, an estate checking account should be established at the bank of your choice. The account should be titled in the name of the estate with you as Personal Representative as the signer. All cash assets of the estate should be collected and deposited in this account as quickly as possible. As other assets are sold or collected, the proceeds should be deposited in this account. All expenses of the estate should be paid from this account if possible. If it becomes necessary for you to pay any expenses personally, it is best to deposit funds into the estate account and pay the expenses from there. If you so desire, we can maintain the checkbook in our office (with no signature authority) and send checks to you for signature in payment of approved bills, etc.

8. PAY TAXES

The following is general advice concerning taxation of estates and does not supplant professional legal advice. My team does not prepare or file taxes on behalf of the estate. Tax filings should be completed with the assistance of a duly qualified and licensed Certified Public Accountant. Please inform our office with the name and contact information for the accountant you select, if any.

It is your responsibility to determine that all taxes are paid and that all tax returns for the decedent and the estate are prepared and filed. The following is a non-exhaustive list of various tax filings that may or may not be applicable to this estate:

Individual income tax returns for federal and state, as applicable, must be filed for the decedent for any income, salary, wages, etc. received by the decedent during the period he or she lived in the year he or she died.

If the estate has income, or if it is necessary to obtain a federal ID number (EIN), the estate must file a fiduciary income tax return (Form 1041).

If the value of the decedent's assets, whether part of the probate estate or not, exceed the Federal Estate Tax exemption, a Federal Estate Tax Return must be filed (Form 706). There is no Montana Estate or Inheritance Tax.

If the decedent gifted amounts during his or her lifetime exceeding the yearly federal exemption amount, a Federal Gift Tax return must also be filed (Form 709).

9. DISTRIBUTE REMAINING ASSETS

After payment of all debts or expenses of the estate, including any estate taxes due, the Personal Representative must distribute estate assets as directed in the Will or, if there is not a Will, to the intestate heirs. If there are not enough assets in the estate to make the gifts as set forth in the Will, it is your responsibility to determine how the distributions should be made as required by law. *You may be personally liable if you make an improper distribution of estate assets.* Our office will assist you with this.

10. CHANGE OF ADDRESS

Until the probate is closed and you are discharged as Personal Representative, you must notify the Court in writing if you change your home or mailing address. Please be sure to promptly notify our office of any change in your address.

11. COURT INVOLVEMENT

Usually, to reduce estate expenses, estates are administered and estate claims and expenses are paid, including the fees to the attorney and Personal Representative, with little Court involvement. The Court does not supervise probates or the conduct of a Personal Representative. However, if any interested party believes that the estate has not been properly handled or that the fees charged by the attorney or Personal Representative are not reasonable under the circumstances, that party may require that the Court review the accounting for the Personal Representative's administration of the estate. Any additional Court involvement may result in additional delay and expenses. If appropriate, the Court may assess the additional expense against the estate or the non-prevailing party.

12. CLOSE THE ESTATE


After distribution of the estate has been completed, the estate must be closed, either formally or informally. In an informal closing, the Personal Representative must complete a sworn statement to close filed with the Court, which must then be sent to all persons receiving a distribution from the estate. (72-3-1004, MCA) Under certain circumstances, a formal closing may be necessary or advisable. A formal closing procedure requires a petition to the Court. After all interested parties have been given notice, a hearing is held, and if everything is found to be in order, the estate is closed by the Judge. (72-3-1001, MCA). An estate may not be closed sooner than six (6) months or later than (2) years after appointment as Personal Representative. Estates held open longer than two (2) years after appointment may be required to account to the Court for the reasons being. Our office will assist you with closing the estate.

Failure to obey a Court Order and the statutory provisions relating to this estate may result in your removal as Personal Representative and other penalties. In some circumstances, you may be held in contempt of court. In addition, if you violate any of your fiduciary duties, you could be held personally liable for any losses for which you are responsible.

This outline does not contain each and every duty as Personal Representative and is not a substitute for obtaining professional legal advice. *If you have any questions concerning your duties as Personal Representative, please contact our office.*

INTERNAL REVENUE CIRCULAR 230 NOTICE: unless specifically indicated otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any tax-related matter addressed herein.

Sincerely,



Morgan E. Tuss, Esq.

MET: sm

LAST WILL & TESTAMENT

Wesley J fisk

I, Wesley J fisk, who resides in the City of Shepherd, County of 4066704609, State of Montana, being of full age and sound mind and memory, do hereby make, publish and declare this instrument to be my Last Will and Testament, hereby revoking all prior Wills and Codicils.

ITEM I.

At the time of execution of this Last Will & Testament, let it be known that I am currently divorced and have not remarried.

I have living children as of the date of execution of this Last Will & Testament, namely Barbara J Pate, Nancy A Hewitt, Ronald D. Fisk, Leslie G. Clark, Gerald D. Fisk, David W. Fisk; and they, along with any other child or children born to or adopted by me after the execution of this Will, shall hereinafter be referred to in this Will as 'my children'.

ITEM II.

I direct that all of my debts, funeral expenses, costs and expenses of administration be paid at my Executor's discretion from the income or principal of my estate as soon as practicable after the time of my death; all estate, inheritance, or other taxes imposed by reason of my death, together with interest and penalties thereon, shall be paid without apportionment from the income or principal of my residuary estate at my Executor's discretion.

ITEM III.

Written List

I may leave a written list signed by me disposing of certain items of tangible personal property. Any such list in existence at the time of my death shall be deemed incorporated herein by reference. This list will be designated as an "Addendum" to my Will. I shall attempt to attach this Addendum (in its most current version) to this Will. If no list is found and properly identified by my Executor within thirty (30) days after my Executor is appointed, it shall be presumed that there is no such list or Addendum and any subsequently discovered list shall be ignored.

Remaining Property Distribution

I give and bequeath all my other property, be it real, personal, mixed, tangible or intangible property of whatever kind and wherever situated, including (but not limited to) my clothing, personal effects, furniture and household furnishings, automobiles and other business and non-business property not otherwise effectively disposed of (and not listed in my written Addendum) and owned by me at the time of my death, to my children, such property to be distributed among them in as equal shares as possible as they, their Guardian or my Executor may determine and in accordance with instructions which may have been given to them by me orally or in writing from time to time during my lifetime; and if my children are unable to agree, then as my Executor shall determine; provided, however, that if any of my children are under the age of majority, such property shall be delivered to his or her guardian or the person with whom he or she resides, the receipt of whom shall constitute complete and final acquittance of my Executor hereunder. My Executor may dispose of any tangible personal property, by sale or otherwise, which in the Executor's judgment or in the judgment of my children and/or their guardian, should not be retained.

Distribution to Children

In the event that any of my children predecease me or fail to survive me for a period of thirty (30) days, then the share of that such deceased child would have received under this Will, if living, I give, devise and bequeath to the survivors of my children, per capita.

If it becomes necessary or desirable that a guardian of the Person and/or Estate for my children be appointed, then it is my wish and direction that any court having jurisdiction over such appointment appoint n/a as such guardian; and I request and direct that such person be permitted and authorized to qualify and act as such guardian in any jurisdiction even though such person may at the time be acting as the personal representative of my estate, without bond or security.

ITEM IV.

I nominate Barbara J.Pate as Executor of my estate. In the event that Barbara J.Pate should predecease me, or refuses or is unable for any reason to qualify as Executor or complete the execution of this, my Last Will and Testament, then I nominate and appoint No as Executor of my estate.

I direct that no bond be required of my Executor or successor. To the extent permitted by law, the administration of my estate shall be independent of the supervision of any

court. Any Executor of my estate shall have all of the powers from time to time conferred upon executors or administrators by law (except to the extent a power would conflict with this Will, in which case the provisions of this Will shall control), including the power to assign, bargain, sell, convey, transfer, deliver, lease or otherwise dispose of and deal with any real, personal, tangible and/or intangible property belonging to my estate, upon such terms as my Executor shall deem best, without regard to the necessity of sale or other disposition for the purpose of paying debts, taxes or legacies; or to retain any or all such property not so required, without liability for any depreciation thereof; to make distribution or division of property in kind, or partly in cash and partly in kind, where necessary, in order to facilitate any distribution or division of assets under this Will, and to exercise reasonable discretion in determining the valuation of assets distributed in kind; to deliver to the parent, guardian or other person maintaining the minor beneficiary any property; to employ agents, accountants, brokers, attorneys at law, or other assistants determined by my Executor to be necessary for the proper settlement or administration of the estate or the sale of any part of the estate; to assign or transfer certificates of stock, bonds or other securities; to adjust, arbitrate, compromise, settle or abandon all claims in favor of or against my estate; to do any and all things necessary or proper to complete the administration of my estate, all as fully as I could do if living; and to execute, acknowledge and deliver any and all instruments of conveyance, transfer, powers of attorney, proxies or other paper writings by my Executor deemed necessary or incident to the plenary exercise of the powers and authority in this, my Last Will and Testament, vested in or conferred upon my Executor.

ITEM V.

For the purposes of this Will, no person shall be deemed to have survived me if that person should die within thirty (30) days after my death.

If any individual beneficiary under this Will is a minor or is Disabled, distributions to such beneficiary may be made in whichever of the following ways as my Executor deems best:

- (a) to the beneficiary directly;
- (b) to the legally appointed guardian, conservator, or attorney-in-fact of the beneficiary; or
- (c) to a custodian for a minor beneficiary under a Uniform Gifts to Minors Act or a Uniform Transfers to Minors Act.

A receipt for payment by any of the above persons will completely discharge my Executor in respect to that payment.

A person is Disabled for purposes of this Will if either of the following is true:

- (a) he or she has been adjudicated incompetent by an appropriate court; or