

## REPORT FROM THE PRESIDENT

Since the discovery of Union Campground Cemetery in late 1993 we have been interested in obtaining proper ingress/egress.

It is our understanding, from conversations with various individuals who are descendants of early settlers in the Valley Water Mill region, that a gate and road used to be located where By-Pass 65 and Valley Water Mill Road now intersect. Wagons would enter the gate and travel along the southern edge of the cemetery and then turn to the north and eventually enter the cemetery on the eastern edge. Aerial maps taken before the construction of By-Pass 65 show this old wagon road.

During the first summer of research on the cemetery, several of our members walked the grounds and nearby area with the owner of the adjoining farm to see if an entry and road could be constructed from Valley Water Mill Road. The owner refused our request. About a year later, after the owners of the farm became incorporated, we again approached them about an entryway and road from Valley Water Mill Road. We met with refusal a second time.

The only entry the corporation suggested was for us to enter the locked gate leading onto their property. This gate is owned by them and is situated at the very end of Valley Water Mill Road. This plan was rejected by our association because it would necessitate contacting one of their members each time we would want to visit the cemetery.

It was soon realized we would have to seek legal assistance. Several contacts were made with lawyers on a pro bono basis and each contact recommended we go to court over ingress/egress. Court action is often lengthy and expensive.

At our last annual meeting one of our members suggested contacting the Attorney General of Missouri. This was done in the spring of 1996. A telephone call was received from that office in early summer with the message they would be unable to help us.

Shortly after receiving this telephone call, we made an appointment (my husband and I) to talk with Galen Thomas, attorney-at-law. We talked for about an hour-and-fifteen minutes. He seemed particularly interested in pursuing a course of action directed at the State Highway Department. It would appear the highway department did destroy an entryway into the cemetery when the By-Pass was constructed and evidently reimbursed the wrong party for easements. A man by the name of Carl Schumacher owned the adjoining farm property east of the cemetery at the time the highway was built. Money apparently was paid to him when it should have been paid to the Presbyterian Church USA. From all reports, Mr. Schumacher claimed the cemetery as part of his farm.

As we ended our consultation with Mr. Thomas we offered to pay him from our own personal funds. He refused, saying he had become interested in our situation. However, a few days later, a letter was received from him stating he could no longer work with us because of his pressing duties. Later, we learned he is closing out his office in Springfield and will be working exclusively in Christian County.

During the weeks following the contact with the Attorney General's Office, letters had also been sent to Senator Bentley, Senator Morris Westfall, Rep. Wannemacher, and Rep. Ken Legan. Replies were received from Senators Bentley and Westfall. Senator Westfall had contacted the Missouri Senate Division of Research and had them issue options for us to consider as we continue our struggle for ingress/egress. Please refer to the attached page for the list of options.

As you read them, you will notice the suggestion is made to improve an old road leading from the locked gate on Valley Water Mill Road. Bear in mind this road is very rough in places, gullies and ravines have been created by water run-off and floods have washed out portions of the road. Even if the current owners of the farm property would agree to share in the expense of road repair, our membership would be faced with large expenditures of money.

Going east from the overpass on Valley Water Mill Road the State Highway Department owns approximately 300 feet plus, and where this footage ends, the County Road Department owns the remaining 850 feet plus. The State Highway Department has refused to let us have an entryway from their right-of-way, but the County would grant us such permission. The only problem: the owners of the farm property refuse to let us cross their land with a road in order to gain entrance into the cemetery.

Note: For those who are new in our organization, mention should be made that the State Highway Department owns the right-of-way immediately west of the cemetery. The fencing on this side was installed by the highway department when By-Pass 65 was constructed.

## OPTIONS

**WORKING WITH THE PRIVATE LANDOWNERS:** This option basically refers to our working with the adjoining landowners in improving the old road which leads from the farm over to the cemetery, as well as obtaining a key to the locked gate. Improving the road would be expensive but not as expensive as going to court. In other words, if an agreement could be reached, no lawsuit.

**PETITIONING THE COUNTY COMMISSION FOR A ROAD:** Signatures of 12 registered voters of the township (3 of whom are in the immediate neighborhood) would be required, and the petition must specify the beginning, course and point of the road. Parties filing the petition would be responsible for any damages claimed by landowners resulting from establishment of the road; a highway engineer's approval is required.

**SUING THE PRIVATE LANDOWNERS:** Go to court to try and obtain an easement--most likely an easement by implication. This could prove to be very, very expensive. As a matter of interest, an inquiry was made of one of Springfield's leading real estate attorneys, and his office charges \$150.00 per hour. One eight-hour work day would mean \$1,200.00.

**SUING THE COUNTY/STATE:** If there used to be a county road leading up to the cemetery, as indicated on an aerial map of 1938, the cemetery association might be able to sue the county, or possibly the state who put in the by-pass, on a common law basis. One downside to this is that the time limitation for filing such a suit already may have passed. Also: was this actually a county road or just a wagon road leading up into the area of the cemetery?

**CEMETERY STATUTE:** Section 214.132, RSMo. requires that an owner provide reasonable access for the purpose of visiting a cemetery. This statute does not say that an owner has to build or maintain or improve a road, only that access be provided. The Missouri Senate Division of Research indicated the highway by-pass does not constitute private farmland; however, I never indicated in my letter to the senators or representatives that it was private farmland. Mention was only made that we were "boxed in" by farmland on two sides, the river on the north, and the by-pass to the west.