



Public Land/Water Access Association
PO Box 80987
Billings, MT 59108
www.plwa.org

September 28, 2020

Honorable County Commissioners
Powell County Montana
409 Missouri Ave, Suite 203
Deer Lodge, MT 59722

re: Blocked Public Access on Jake Creek Road to Avon

Dear Commissioners:

The Public Land/Water Access Association (PLWA) is a non-profit statewide organization dedicated to maintaining, restoring, and perpetuating public access to the boundaries of all Montana's public land and waters. For over 30 years, PLWA has been involved in investigating and, if needed, litigating, illegal closures of public access to Montana's public lands and waters.

In July 2020, PLWA was informed about potentially illegally blocked public access on the Jake Creek Road to Avon, formally known as the Deer Lodge to Avon road over the Dog Creek Hills, and also referred to as the Old Stage Road. PLWA Board member Carol Fox subsequently researched the public status of this road, primarily through review of relevant information in the 2018 Spotted Dog Wildlife Management Area (WMA) Habitat Plan¹ and through discussions with local members of PLWA familiar with this historical road, staff at Montana Fish, Wildlife and Parks (FWP) involved in the management of the Spotted Dog WMA, and members of the Spotted Dog Work Group. Her research indicates that ample factual documentation exists that the road in question is a county road² that has never been abandoned and that the public usage of the road is obstructed by locked, private gates occurring on the southwest (Deer Lodge) and northeast (Avon) ends of the road.³

We believe Powell County through its Commissioners is responsible for the Jake Creek Road. We request the Commissioners ensure that these locked gates illegally blocking public access be permanently opened or removed, and to ensure further that no future unauthorized closures are allowed.

We understand that the road has been illegally gated for many years. We further understand that the County has attempted to address this problem several times in the past, but has failed to take the actions needed to resolve it. We are also aware that opening this road will be a contentious issue that involves several adjacent landowners and the general public. We prefer

¹ Spotted Dog Wildlife Management Area Habitat Plan, dated March 2018, prepared by the Spotted Dog Work Group and Montana Fish, Wildlife and Parks

² Documentation includes a County Attorney Legal Opinion 2010-01, prepared by Lewis K. Smith, Powell County Attorney, dated June 16, 2010

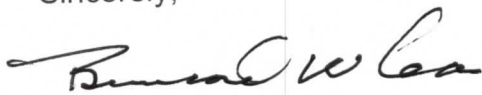
³ SW gate @ N46.45479 W112.68124 (Sec.12, T08N, R09W); NE Gate @ N46.58431 W112.58364 (Sec. 34, T10N, R08W)

to work with the County cooperatively to address this matter and understand that resolving this access problem will take some time given the difficulties involved. PLWA requests a written response from the County by **November 16, 2020** indicating the steps to be taken and time-frame for re-opening the Jake Creek Road. PLWA and its many concerned members and users of Montana's public land and waters want and deserve a clear understanding of how the County intends to live up to its responsibilities to keep legal access open to public lands over the Jake Creek Road.

If the Commission would like to meet with PLWA representatives or has questions regarding this matter, please contact Board Member Carol Fox at 406-438-3838.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bernard W. Lea". The signature is fluid and cursive, with the first name being the most prominent.

Bernard W. Lea, President
Public Land/Water Access Association

Cc: Kathryn McEnery, Powell County Attorney
Randy Arnold, Mike Thompson, Bill Schenk – MT FWP
John Hollenback, Bill Pierce – c/o Powell County Planning Board