

March 15, 2021

Madison County Commissioners
103 W. Wallace
Virginia City, MT 59755

It has come to PLWA's attention from a member that a locked gate installed by a private landowner denies the public access to Madison County Road No. 71. We believe pursuant to Montana State law, Madison County is responsible for correcting this illegal public road closure.

Sections 7-14-2133 and 7-14-2134, MCA address obstructions and encroachments on county roads and public highways. Those statutes state, in pertinent part:

7-14-2133. Removal of obstructions on county roads

(1) When a county road becomes obstructed, the board of county commissioners, or the county surveyor, if the surveyor is in charge, **shall remove** the obstruction upon being notified of the obstruction.

7-14-2134. Removal of highway encroachment

(1) . . . if any highway is encroached upon by fence, building, or otherwise, the road supervisor or county surveyor of the district must give notice, orally or in writing, requiring the encroachment to be removed from the highway.

(2) If the encroachment obstructs and prevents the use of the highway for vehicles, the road supervisor or county surveyor **shall immediately remove (emphasis added)** the encroachment.

(3) The board of county commissioners may at any time order the road supervisor or county surveyor to immediately remove any encroachment.

Based on the stated Montana Laws, we respectfully request Madison County obey the laws and remove the gate.

We look forward to working with Madison County to resolve the public access issues related to the Madison County Road 71. PLWA has decades of experience working on many public access issues in numerous Montana counties, including Madison County. Opening the Hughes Creek



Road in Ravalli County to access the Bitterroot National Forest is a recent example.^[1] We hope this issue can be resolved timely and amicably based on the facts and relevant history.

Bernard W. Lea, President, PLWA

^[1] https://mtstandard.com/news/state-and-regional/ravalli-county-removes-controversial-gate-on-hughes-creek-road/article_7396016c-7628-54f0-a4a3-ce826f0d08f3.html

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